

106TH CONGRESS  
1ST SESSION

# H. R. 2896

To combat money laundering and protect the United States financial system,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 1999

Mr. LEACH (for himself, Mr. MCCOLLUM, Mr. LaFALCE, Mrs. ROUKEMA, Ms. WATERS, Mr. BEREUTER, Mr. BAKER, Mr. LAZIO, Mr. BACHUS, and Mr. CASTLE) introduced the following bill; which was referred to the Committee on Banking and Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To combat money laundering and protect the United States  
financial system, and for other purposes.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Foreign Money Laun-  
5       dering Deterrence and Anticorruption Act”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds as follows:

1           (1) Money laundering enables international or-  
2           ganized crime groups to control and legitimize pro-  
3           ceeds from a wide variety of illegal activities includ-  
4           ing theft, racketeering, terrorism, tax evasion, fraud,  
5           insider trading, and traffic in narcotics, arms, and  
6           other contraband. In many instances, these activities  
7           impact United States citizens and territory and frus-  
8           trate United States foreign policy.

9           (2) Money laundering by international criminal  
10          enterprises challenges the legitimate authority of na-  
11          tional governments, corrupts officials and profes-  
12          sionals, endangers the financial and economic sta-  
13          bility of nations, diminishes the efficiency of global  
14          interest rate markets, and routinely violates legal  
15          norms, property rights, and human rights.

16          (3) In some countries, such as Colombia, Mex-  
17          ico, and Russia, the wealth and power of organized  
18          criminal enterprises rival the wealth and power of  
19          the government of the country.

20          (4) Organized criminal enterprises, such as the  
21          Colombian and Mexican cartels, the Russian  
22          “*mafiya*”, Sicilian crime families, and Chinese  
23          gangs, are highly resistant to conventional law en-  
24          forcement techniques, and the financial management  
25          and organizational infrastructure of such enterprises

1 are highly sophisticated and difficult to track be-  
2 cause of the globalization of the financial services in-  
3 dustry.

4 (5) In addition to organized crime enterprises,  
5 corrupt government officials around the world in-  
6 creasingly employ sophisticated money laundering  
7 schemes to conceal wealth they have plundered or  
8 extorted from their nations or received as bribes,  
9 and these practices weaken the legitimacy of foreign  
10 states, threaten the integrity of international finan-  
11 cial markets, and harm foreign populations—some-  
12 times to the point of impoverishment.

13 (6) The existence of “offshore financial cen-  
14 ters” (nations, regions, zones, and cities that in  
15 many instances have virtually impenetrable financial  
16 secrecy laws and weak financial regulatory and re-  
17 porting regimes, which are tailored to violate or cir-  
18 cumvent the laws of other nations) facilitates global  
19 money laundering and, as some of the long-estab-  
20 lished offshore financial centers begin to respond to  
21 international pressure to implement internationally  
22 acceptable standards, money-laundering transactions  
23 have started migrating to new centers that have  
24 been rapidly proliferating.

1           (7) Recent advances in communications and in-  
2           formation technology, particularly in the field of on-  
3           line transactions, have meant that offshore financial  
4           centers, originally concentrated near the “onshore”  
5           nations whose rules they circumvented, are being es-  
6           tablished in increasingly remote locations that are  
7           difficult and costly for law enforcement and super-  
8           visory authorities to monitor and visit.

9   **SEC. 3. REQUIREMENTS RELATING TO TRANSACTIONS AND**  
10                   **ACCOUNTS WITH OR ON BEHALF OF FOREIGN**  
11                   **ENTITIES.**

12           (a) IN GENERAL.—Subchapter II of chapter 53 of  
13   title 31, United States Code, is amended by adding at the  
14   end the following new section:

15   **“§ 5331. Requirements relating to transactions and**  
16                   **accounts with or on behalf of foreign en-**  
17                   **tities**

18           “(a) PROHIBITION ON OPENING OR MAINTAINING  
19   ACCOUNTS BELONGING TO OR FOR THE BENEFIT OF UN-  
20   IDENTIFIED OWNERS.—A financial institution may not  
21   open or maintain any account in the United States for  
22   a foreign entity or a representative of a foreign entity,  
23   unless—

1           “(1) the institution identifies, and maintains a  
2           record of the identity of, each person having a direct  
3           or beneficial ownership interest in the account; or

4           “(2) some or all of the shares of the foreign en-  
5           tity are publicly traded.

6           “(b) PROHIBITION ON OPENING OR MAINTAINING  
7           CORRESPONDENT ACCOUNTS OR CORRESPONDENT BANK  
8           RELATIONSHIP WITH CERTAIN FOREIGN BANKS.—

9           “(1) IN GENERAL.—A depository institution  
10          may not open or maintain a correspondent account  
11          in the United States for or on behalf of a foreign  
12          banking institution, or establish or maintain a cor-  
13          respondent bank relationship with a foreign banking  
14          institution, that—

15               “(A) is organized under the laws of a juris-  
16               diction outside the United States but is not li-  
17               censed or permitted to offer, or is not offering,  
18               any banking service to any resident of such ju-  
19               risdiction; and

20               “(B) is not subject to comprehensive su-  
21               pervision or regulation on a consolidated basis  
22               by the appropriate authorities in such jurisdic-  
23               tion.

1           “(2) EXCEPTION.—Paragraph (1) shall not  
2       apply to a foreign banking institution, if the institu-  
3       tion is an affiliate of—

4                   “(A) a depository institution; or

5                   “(B) a foreign bank (as defined in section  
6       1(b)(7) of the International Banking Act of  
7       1978) that is subject to comprehensive super-  
8       vision or regulation on a consolidated basis by  
9       the appropriate authorities in the foreign juris-  
10      diction under whose laws it is organized.

11      “(c) PROHIBITION ON OPENING OR MAINTAINING  
12      PAYABLE-THROUGH ACCOUNTS FOR FOREIGN BANKING  
13      INSTITUTIONS.—A depository institution may not open or  
14      maintain a payable-through account in the United States  
15      for a foreign banking institution, unless the depository in-  
16      stitution is able—

17                   “(1) to identify each customer of the foreign  
18      banking institution who is permitted to use the ac-  
19      count; and

20                   “(2) with respect to each such customer, to ob-  
21      tain the same information about the customer that  
22      it obtains, in the ordinary course, with respect to a  
23      customer residing in the United States who opens or  
24      maintains an account through which they are au-

1       thorized to conduct the same transactions as may be  
2       conducted through the payable-through account.

3       “(d) DEFINITIONS.—Notwithstanding any other pro-  
4 vision of this subchapter, for purposes of this section, the  
5 following definitions shall apply:

6           “(1) ACCOUNT.—The term ‘account’—

7               “(A) means a formal banking or business  
8 relationship established to provide regular serv-  
9 ices, dealings, and other financial transactions;  
10 and

11               “(B) includes a demand deposit, savings  
12 deposit, or other asset account and a credit ac-  
13 count or other extension of credit.

14           “(2) CORRESPONDENT ACCOUNT.—The term  
15 ‘correspondent account’ means an account estab-  
16 lished to receive deposits from and make payments  
17 on behalf of a correspondent bank.

18           “(3) CORRESPONDENT BANK.—The term ‘cor-  
19 respondent bank’ means a depository institution that  
20 accepts deposits from another financial institution  
21 and provides services on behalf of such other finan-  
22 cial institution.

23           “(4) DEPOSITORY INSTITUTION.—The term ‘de-  
24 pository institution’ has the meaning given such

1 term in section 19(b)(1)(A) of the Federal Reserve  
2 Act.

3 “(5) FOREIGN BANKING INSTITUTION.—The  
4 term ‘foreign banking institution’ means a foreign  
5 entity that engages in the business of banking, and  
6 includes foreign commercial banks, foreign merchant  
7 banks, and other foreign institutions that engage in  
8 banking activities usual in connection with the busi-  
9 ness of banking in the countries where they are or-  
10 ganized or operating.

11 “(6) FOREIGN ENTITY.—The term ‘foreign en-  
12 tity’ means an entity that is not organized under the  
13 laws of the Federal Government of the United  
14 States, any State of the United States, the District  
15 of Columbia, the Commonwealth of Puerto Rico, the  
16 Virgin Islands, Guam, American Samoa, the Com-  
17 monwealth of the Northern Mariana Islands, the Re-  
18 public of the Marshall Islands, the Federated States  
19 of Micronesia, or the Republic of Palau.

20 “(7) PAYABLE-THROUGH ACCOUNT.—The term  
21 ‘payable-through account’ means an account, includ-  
22 ing a transaction account (as defined in section  
23 19(b)(1)(C) of the Federal Reserve Act), opened at  
24 a depository institution by a foreign banking institu-  
25 tion by means of which the foreign banking institu-



1       tion permits its customers to engage, either directly  
2       or through a sub-account, in banking activities usual  
3       in connection with the business of banking in the  
4       United States.”.

5       (b) CLERICAL AMENDMENT.—The table of sections  
6       for subchapter II of chapter 53 of title 31, United States  
7       Code, is amended by inserting after the item relating to  
8       section 5330 the following new item:

“5331. Requirements relating to transactions and accounts with or on behalf of  
foreign entities.”.

9       (c) EFFECTIVE DATE.—The amendments made by  
10      subsection (a) shall apply—

11           (1) with respect to accounts opened on or after  
12      the date of the enactment of this Act, as of such  
13      date; and

14           (2) with respect to accounts opened before the  
15      date of the enactment of this Act, as of the end of  
16      the 6-month period beginning on such date.

17      (d) RULE OF CONSTRUCTION.—No provision of the  
18      amendment made by subsection (a) shall be construed as  
19      requiring or authorizing a financial institution to disclose  
20      any information described in such amendment to any  
21      other entity.

22      **SEC. 4. CORRUPTION IN FOREIGN GOVERNMENTS.**

23      (a) IN GENERAL.—It is the sense of the Congress  
24      that, in deliberations between the United States Govern-

1 ment and any other country on money laundering and cor-  
2 ruption issues, the United States Government should—

3 (1) emphasize an approach that addresses not  
4 only the laundering of the proceeds of traditional  
5 criminal activity but also the increasingly endemic  
6 problem of governmental corruption and the corrup-  
7 tion of ruling elites; and

8 (2) encourage the enactment and enforcement  
9 of laws in such country to prevent money laundering  
10 and systemic corruption.

11 (b) UNITED STATES VOTES IN INTERNATIONAL FI-  
12 NANCIAL INSTITUTIONS.—The Secretary of the Treasury  
13 shall instruct the United States Executive Directors of  
14 each international financial institution (as defined in sec-  
15 tion 1701(c) of the International Financial Institutions  
16 Act) to oppose any loan, disbursement, or other utilization  
17 of resources by the international financial institution,  
18 other than to address basic human needs, for any country  
19 that the Secretary of the Treasury determines—

20 (1) has a high level of corruption;

21 (2) is not effectively implementing good govern-  
22 ance and anticorruption measures; and

23 (3) is not taking meaningful steps to improve  
24 good governance and reduce corruption.

25 (c) REPORT REQUIRED.—

1           (1) IN GENERAL.—The Secretary of the Treas-  
2       ury shall submit an annual report to the Congress  
3       on the deliberations between the United States and  
4       other countries on money laundering and corruption  
5       issues.

6           (2) CONTENTS OF REPORT.—Each report sub-  
7       mitted under paragraph (1) shall contain—

8                (A) an assessment by the Secretary of the  
9       extent of corruption in each country covered by  
10      the report; and

11               (B) an assessment by the Secretary of the  
12      extent to which such country maintains effec-  
13      tive money laundering and corruption preven-  
14      tion measures or is implementing such meas-  
15      ures.

16 **SEC. 5. AMENDMENTS RELATING TO REPORTING OF SUS-**  
17 **PICIOUS ACTIVITIES.**

18       (a) AMENDMENT RELATING TO CIVIL LIABILITY IM-  
19      MUNITY FOR DISCLOSURES.—Section 5318(g)(3) of title  
20      31, United States Code, is amended to read as follows:

21               “(3) LIABILITY FOR DISCLOSURES.—

22                   “(A) IN GENERAL.—Notwithstanding any  
23      other provision of law—

24                       “(i) any financial institution that—

1                   “(I) makes a disclosure of any  
2                   possible violation of law or regulation  
3                   to an appropriate government agency;  
4                   or

5                   “(II) makes a disclosure pursu-  
6                   ant to this subsection or any other au-  
7                   thority;

8                   “(ii) any director, officer, employee, or  
9                   agent of such institution who makes, or re-  
10                  quires another to make any such disclo-  
11                  sure; and

12                  “(iii) any independent public account-  
13                  ant who audits any such financial institu-  
14                  tion and makes a disclosure described in  
15                  clause (i),

16                  shall not be liable to any person under any law  
17                  or regulation of the United States, any con-  
18                  stitution, law, or regulation of any State or po-  
19                  litical subdivision thereof, or under any contract  
20                  or other legally enforceable agreement (includ-  
21                  ing any arbitration agreement), for such disclo-  
22                  sure or for any failure to notify the person who  
23                  is the subject of such disclosure or any other  
24                  person identified in the disclosure.

1           “(B) EXCEPTION.—Subparagraph (A)  
 2 shall not apply to a disclosure or communica-  
 3 tion required under Federal securities law,  
 4 other than provisions of law that specifically  
 5 refer to the Currency and Foreign Transactions  
 6 Reporting Act of 1970.

7           “(C) RULE OF CONSTRUCTION.—Subpara-  
 8 graph (A) shall not be construed as creating—

9                   “(i) any inference that the term ‘per-  
 10 son’, as used in such subparagraph, may  
 11 be construed more broadly than its ordi-  
 12 nary usage so to include any government  
 13 or agency of government; or

14                   “(ii) any immunity against, or other-  
 15 wise affecting, any civil or criminal action  
 16 brought by any government or agency of  
 17 government to enforce any constitution,  
 18 law, or regulation of such government or  
 19 agency.”.

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

23           “(2) NOTIFICATION PROHIBITED.—

24                   “(A) IN GENERAL.—If a financial institu-  
 25 tion, any director, officer, employee, or agent of

1 any financial institution, or any independent  
2 public accountant who audits any financial in-  
3 stitution, voluntarily or pursuant to this section  
4 or any other authority, reports a suspicious  
5 transaction to an appropriate government  
6 agency—

7 “(i) the financial institution, director,  
8 officer, employee, agent, or accountant  
9 may not notify any person involved in the  
10 transaction that the transaction has been  
11 reported and may not disclose any infor-  
12 mation included in the report to any such  
13 person; and

14 “(ii) any other person, including any  
15 officer or employee of any government,  
16 who has any knowledge that such report  
17 was made may not disclose to any person  
18 involved in the transaction that the trans-  
19 action has been reported or any informa-  
20 tion included in the report.

21 “(B) COORDINATION WITH PARAGRAPH  
22 (5).—Subparagraph (A) shall not be construed  
23 as prohibiting any financial institution, or any  
24 director, officer, employee, or agent of such in-  
25 stitution, from including, in a written employ-

1           ment reference that is provided in accordance  
2           with paragraph (5) in response to a request  
3           from another financial institution, information  
4           that was included in a report to which subpara-  
5           graph (A) applies, but such written employment  
6           reference may not disclose that such informa-  
7           tion was also included in any such report or  
8           that such report was made.”.

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

13                 “(5) EMPLOYMENT REFERENCES MAY INCLUDE  
14          SUSPICIONS OF INVOLVEMENT IN ILLEGAL ACTIV-  
15          ITY.—

16                 “(A) IN GENERAL.—Notwithstanding any  
17                 other provision of law and subject to subpara-  
18                 graph (B) of this paragraph and paragraph  
19                 (2)(C), any financial institution, and any direc-  
20                 tor, officer, employee, or agent of such institu-  
21                 tion, may disclose, in any written employment  
22                 reference relating to a current or former insti-  
23                 tution-affiliated party of such institution which  
24                 is provided to another financial institution in  
25                 response to a request from such other institu-

tion, information concerning the possible involvement of such institution-affiliated party in any suspicious transaction relevant to a possible violation of law or regulation.

“(B) LIMIT ON LIABILITY FOR DISCLOSURES.—A financial institution, and any director, officer, employee, or agent of such institution, shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision thereof, or under any contract or other legally enforceable agreement (including any arbitration agreement), for any disclosure under subparagraph (A), to the extent—

“(i) the disclosure does not contain information which the institution, director, officer, employee, agent, or accountant knows to be false; and

“(ii) the institution, director, officer, employee, agent, or accountant has not acted with malice or with reckless disregard for the truth in making the disclosure.

“(C) INSTITUTION-AFFILIATED PARTY DEFINED.—For purposes of this paragraph, the



1 term ‘institution-affiliated party’ has the mean-  
2 ing given to such term in section 3(u) of the  
3 Federal Deposit Insurance Act, except such sec-  
4 tion 3(u) shall be applied by substituting ‘finan-  
5 cial institution’ for ‘insured depository institu-  
6 tion’.”.

7 (d) AMENDMENTS RELATING TO AVAILABILITY OF  
8 SUSPICIOUS ACTIVITY REPORTS FOR OTHER AGEN-  
9 CIES.—Section 5319 of title 31, United States Code, is  
10 amended—

11 (1) in the 1st sentence, by striking “5314, or  
12 5316” and inserting “5313A, 5314, 5316, or  
13 5318(g)”;

14 (2) in the last sentence, by inserting “under  
15 section 5313, 5313A, 5314, 5316, or 5318(g)” after  
16 “records of reports”; and

17 (3) by adding the following new sentence after  
18 the last sentence: “The Secretary of the Treasury  
19 may permit the dissemination of information in any  
20 such reports to any self-regulatory organization (as  
21 defined in section 3(a)(26) of the Securities Ex-  
22 change Act of 1934), if the Securities and Exchange  
23 Commission determines that such dissemination is  
24 necessary or appropriate to permit such organization  
25 to perform its function under the Securities Ex-

1 change Act of 1934 and regulations prescribed  
2 under such Act.”.

3 **SEC. 6. SPECIFIED UNLAWFUL ACTIVITIES FOR MONEY**  
4 **LAUNDERING.**

5 Section 1956(c)(7) of title 18, United States Code,  
6 is amended—

7 (1) in subparagraph (B)—

8 (A) by striking clause (ii) and inserting the  
9 following new clause:

10 “(ii) any conduct constituting a crime  
11 of violence;”; and

12 (B) by adding at the end the following new  
13 clauses:

14 “(iv) fraud, or any scheme to defraud,  
15 committed against a foreign government or  
16 foreign governmental entity;

17 “(v) bribery of a public official, or the  
18 misappropriation, theft, or embezzlement  
19 of public funds by or for the benefit of a  
20 public official;

21 “(vi) smuggling or export control vio-  
22 lations involving munitions listed in the  
23 United States Munitions List or tech-  
24 nologies with military applications, as de-

1            fined in the Commerce Control List of the  
2            Export Administration Regulations;

3            “(vii) an offense with respect to which  
4            the United States would be obligated by a  
5            multilateral treaty either to extradite the  
6            alleged offender or to submit the case for  
7            prosecution, if the offender were found  
8            within the territory of the United States;  
9            or

10           “(viii) the misuse of funds of, or pro-  
11           vided by, the International Monetary Fund  
12           in contravention of the Articles of Agree-  
13           ment of the Fund or the misuse of funds  
14           of, or provided by, any other international  
15           financial institution (as defined in section  
16           1701(c)(2) of the International Financial  
17           Institutions Act) in contravention of any  
18           international treaty or other international  
19           agreement to which the United States is a  
20           party, including any articles of agreement  
21           of the members of such international fi-  
22           nancial institution.”;

23           (2) in subparagraph (D)—

24           (A) by inserting “section 541 (relating to  
25           goods falsely classified),” before “section 542”;

1 (B) by inserting “section 924(m) (relating  
2 to firearms trafficking),” before “section 956”;

3 (C) by inserting “section 1030 (relating to  
4 computer fraud and abuse),” before “1032”;  
5 and

6 (D) by inserting “any felony violation of  
7 the Foreign Agents Registration Act of 1938,  
8 as amended,” before “or any felony violation of  
9 the Foreign Corrupt Practices Act”;  
10 (3) in subparagraph (E)—

11 (A) by inserting “section 42 or 43 of this  
12 title (commonly called the Lacey Act),” after “a  
13 felony violation of”;

14 (B) by inserting “the Clean Air Act (42  
15 U.S.C. 7401 et seq.),” after “the Safe Drinking  
16 Water Act (42 U.S.C. 300f et seq.),”; and

17 (4) by adding at the end the following new sub-  
18 paragraph:

19 “(G) Any offense under any Federal law  
20 consisting of the failure to report to an appro-  
21 priate Federal agency the ownership or control  
22 of a foreign corporation, the ownership or con-  
23 trol of a foreign financial account, or a bene-  
24 ficial interest in a foreign trust.”.

1 **SEC. 7. FALSE STATEMENTS TO FINANCIAL INSTITUTIONS**  
2 **CONCERNING THE IDENTITY OF A CUS-**  
3 **TOMER.**

4 (a) IN GENERAL.—Chapter 47 of title 18, United  
5 States Code (relating to fraud and false statements) is  
6 amended by inserting after section 1007 the following new  
7 section:

8 **“§ 1008. False statements concerning the identity of**  
9 **customers of financial institutions**

10 “(a) IN GENERAL.—Whoever knowingly in any  
11 manner—

12 “(1) falsifies, conceals, or covers up, or at-  
13 tempts to falsify, conceal, or cover up, the identity  
14 of any person in connection with any transaction  
15 with a financial institution; or

16 “(2) makes, or attempts to make, any materi-  
17 ally false, fraudulent, or fictitious statement or rep-  
18 resentation of the identity of any person in connec-  
19 tion with a transaction with a financial institution;  
20 or

21 “(3) makes or uses, or attempts to make or  
22 use, any false writing or document knowing the  
23 same to contain any materially false, fictitious, or  
24 fraudulent statement or entry concerning the iden-  
25 tity of any person in connection with a transaction  
26 with a financial institution; or

1           “(4) uses or presents, or attempts to use or  
2           present, in connection with a transaction with a fi-  
3           nancial institution, an identification document or  
4           means of identification the possession of which is a  
5           violation of section 1028,  
6           shall be fined under this title, imprisoned for not more  
7           than 5 years, or both.

8           “(b) DEFINITIONS.—For purposes of this section, the  
9           following definitions shall apply:

10           “(1) IDENTIFICATION DOCUMENT AND MEANS  
11           OF IDENTIFICATION.—The terms ‘identification doc-  
12           ument’ and ‘means of identification’ have the mean-  
13           ings given to such terms in section 1028(d).

14           “(2) FINANCIAL INSTITUTION.—In addition to  
15           the meaning given to the term ‘financial institution’  
16           by section 20, the term ‘financial institution’ also  
17           has the meaning given to such term in section  
18           5312(a)(2) of title 31.”.

19           (b) TECHNICAL AND CONFORMING AMENDMENT.—  
20           Section 1956(c)(7)(D) of title 18, United States Code (as  
21           amended by section 6(2) of this Act) is amended by strik-  
22           ing “1014 (relating to fraudulent loan” and inserting  
23           “section 1008 (relating to false statements concerning the  
24           identity of customers of financial institutions), section  
25           1014 (relating to fraudulent loan”.

1       (c) CLERICAL AMENDMENT.—The table of sections  
2 for chapter 47 of title 18, United States Code, is amended  
3 by inserting after the item relating to section 1007 the  
4 following new item:

“1008. False statements concerning the identity of customers of financial institutions.”.

