

106TH CONGRESS  
1ST SESSION

# S. 1663

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

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 1999

Mr. SCHUMER (for himself and Mr. COVERDELL) introduced the following bill;  
which was referred to the Committee on Banking, Housing, and Urban Affairs

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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:

8               (1) Money laundering enables international or-  
9       ganized crime groups to control and legitimize pro-  
10      ceeds from a wide variety of illegal activities includ-

ing theft, racketeering, terrorism, tax evasion, fraud, insider trading, and traffic in narcotics, arms, and other contraband. In many instances, these activities impact United States citizens and territory and frustrate United States foreign policy.

(2) Money laundering by international criminal enterprises challenges the legitimate authority of national governments, corrupts officials and professionals, endangers the financial and economic stability of nations, diminishes the efficiency of global interest rate markets, and routinely violates legal norms, property rights, and human rights.

(3) In some countries, such as Colombia, Mexico, and Russia, the wealth and power of organized criminal enterprises rival the wealth and power of the government of the country.

(4) Organized criminal enterprises, such as the Colombian and Mexican cartels, the Russian “*mafiya*”, Sicilian crime families, and Chinese gangs, are highly resistant to conventional law enforcement techniques, and the financial management and organizational infrastructure of such enterprises are highly sophisticated and difficult to track because of the globalization of the financial services industry.

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

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

22          (7) Recent advances in communications and in-  
23       formation technology, particularly in the fields of on-  
24       line transactions, have meant that offshore financial  
25       centers, originally concentrated near the “onshore”

1 nations whose rules they circumvented, are being es-  
 2 tablished in increasingly remote locations that are  
 3 difficult and costly for law enforcement and super-  
 4 visory authorities to monitor and visit.

5 **SEC. 3. REQUIREMENTS RELATING TO TRANSACTIONS AND**  
 6 **ACCOUNTS WITH OR ON BEHALF OF FOREIGN**  
 7 **ENTITIES.**

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

11 **“§ 5331. Requirements relating to transactions and**  
 12 **accounts with or on behalf of foreign en-**  
 13 **tities.**

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

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

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

1       “(b) PROHIBITION ON OPENING OR MAINTAINING  
2       CORRESPONDENT ACCOUNTS OR CORRESPONDENT BANK  
3       RELATIONSHIP WITH CERTAIN FOREIGN BANKS.—

4               “(1) IN GENERAL.—A depository institution  
5       may not open or maintain a correspondent account  
6       in the United States for or on behalf of a foreign  
7       banking institution, or establish or maintain a cor-  
8       respondent bank relationship with a foreign banking  
9       institution, that—

10              “(A) is organized under the laws of a juris-  
11       diction outside the United States but is not li-  
12       censed or permitted to offer, or is not offering,  
13       any banking service to any resident of such ju-  
14       risdiction; and

15              “(B) is not subject to comprehensive su-  
16       pervision or regulation on a consolidated basis  
17       by the appropriate authorities in such jurisdic-  
18       tion.

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

22              “(A) a depository institution; or

23              “(B) a foreign bank (as defined in section  
24       1(b)(7) of the International Banking Act of  
25       1978) that is subject to comprehensive super-

1 vision or regulation on a consolidated basis by  
 2 the appropriate authorities in the foreign juris-  
 3 diction under whose laws it is organized.

4 “(c) PROHIBITION ON OPENING OR MAINTAINING  
 5 PAYABLE-THROUGH ACCOUNTS FOR FOREIGN BANKING  
 6 INSTITUTIONS.—A depository institution may not open or  
 7 maintain a payable-through account in the United States  
 8 for a foreign banking institution, unless the depository in-  
 9 stitution is able—

10 “(1) to identify each customer of the foreign  
 11 banking institution who is permitted to use the ac-  
 12 count; and

13 “(2) with respect to each such customer, to ob-  
 14 tain the same information about the customer that  
 15 it obtains, in the ordinary course, with respect to a  
 16 customer residing in the United States who opens or  
 17 maintains an account through which they are au-  
 18 thorized to conduct the same transactions as may  
 19 be conducted through the payable-through account.

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

23 “(1) ACCOUNT.—The term ‘account’—

24 “(A) means a formal banking or business  
 25 relationship established to provide regular serv-

1           ices, dealings, and other financial transactions;  
2           and

3           “(B) includes a demand deposit, savings  
4           deposit, or other asset account and a credit ac-  
5           count or other extension of credit.

6           “(2) CORRESPONDENT ACCOUNT.—The term  
7           ‘correspondent account’ means an account estab-  
8           lished to receive deposits from and make payments  
9           on behalf of a correspondent bank.

10          “(3) CORRESPONDENT BANK.—The term ‘cor-  
11          respondent bank’ means a depository institution that  
12          accepts deposits from another financial institution  
13          and provides services on behalf of such other finan-  
14          cial institution.

15          “(4) DEPOSITORY INSTITUTION.—The term ‘de-  
16          pository institution’ has the meaning given such  
17          term in section 19(b)(1)(A) of the Federal Reserve  
18          Act.

19          “(5) FOREIGN BANKING INSTITUTION.—The  
20          term ‘foreign banking institution’ means a foreign  
21          entity that engages in the business of banking, and  
22          includes foreign commercial banks, foreign merchant  
23          banks, and other foreign institutions that engage in  
24          banking activities usual in connection with the busi-

1       ness of banking in the countries where they are or-  
 2       ganized or operating.

3               “(6) FOREIGN ENTITY.—The term ‘foreign en-  
 4       tity’ means an entity that is not organized under the  
 5       laws of the Federal Government of the United  
 6       States, any State of the United States, the District  
 7       of Columbia, the Commonwealth of Puerto Rico, the  
 8       Virgin Islands, Guam, American Samoa, the Com-  
 9       monwealth of the Northern Mariana Islands, the Re-  
 10      public of the Marshall Islands, the Federated States  
 11      of Micronesia, or the Republic of Palau.

12              “(7) PAYABLE-THROUGH ACCOUNT.—The term  
 13      ‘payable-through account’ means an account, includ-  
 14      ing a transaction account (as defined in section  
 15      19(b)(1)(C) of the Federal Reserve Act), opened at  
 16      a depository institution by a foreign banking institu-  
 17      tion by means of which the foreign banking institu-  
 18      tion permits its customers to engage, either directly  
 19      or through a sub-account, in banking activities usual  
 20      in connection with the business of banking in the  
 21      United States.”.

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



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

1       (c) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall apply—

3           (1) with respect to accounts opened on or after  
4 the date of the enactment of this Act, as of such  
5 date; and

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

9       (d) RULE OF CONSTRUCTION.—No provision of the  
10 amendment made by subsection (a) shall be construed as  
11 requiring or authorizing a financial institution to disclose  
12 any information described in such amendment to any  
13 other entity.

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

15       (a) IN GENERAL.—It is the sense of the Congress  
16 that, in deliberations between the United States Govern-  
17 ment and any other country on money laundering and cor-  
18 ruption issues, the United States Government should—

19           (1) emphasize an approach that addresses not  
20 only the laundering of the proceeds of traditional  
21 criminal activity but also the increasingly endemic  
22 problem of governmental corruption and the corrup-  
23 tion of ruling elites; and

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

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

13           (1) has a high level of corruption;

14           (2) is not effectively implementing good govern-  
15      ance and anticorruption measures; and

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

18       (c) REPORT REQUIRED.—

19           (1) IN GENERAL.—The Secretary of the Treas-  
20      ury shall submit an annual report to the Congress  
21      on the deliberations between the United States and  
22      other countries on money laundering and corruption  
23      issues.

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

1 (A) an assessment by the Secretary of the  
 2 extent of corruption in each country covered by  
 3 the report; and

4 (B) an assessment by the Secretary of the  
 5 extent to which such country maintains effective  
 6 money laundering and corruption prevention  
 7 measures or is implementing such measures.  
 8

9 **SEC. 5. AMENDMENTS RELATING TO REPORTING OF SUS-**  
 10 **PICIOUS ACTIVITIES.**

11 (a) AMENDMENT RELATING TO CIVIL LIABILITY IM-  
 12 MUNITY FOR DISCLOSURES.—Section 5318(g)(3) of title  
 13 31, United States Code, is amended to read as follows:

14 “(3) LIABILITY FOR DISCLOSURES.—

15 “(A) IN GENERAL.—Notwithstanding any  
 16 other provision of law—

17 “(i) any financial institution that—

18 “(I) makes a disclosure of any  
 19 possible violation of law or regulation  
 20 to an appropriate government agency;  
 21 or

22 “(II) makes a disclosure pursuant to this subsection or any other authority;  
 23  
 24

1           “(ii) any director, officer, employee, or  
2           agent of such institution who makes, or re-  
3           quires another to make any such disclo-  
4           sure; and

5           “(iii) any independent public account-  
6           ant who audits any such financial institu-  
7           tion and makes a disclosure described in  
8           clause (i),

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

18          “(B)   EXCEPTION.—Subparagraph    (A)  
19          shall not apply to a disclosure or communica-  
20          tion required under Federal securities law,  
21          other than provisions of law that specifically  
22          refer to the Currency and Foreign Transactions  
23          Reporting Act of 1970.

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

1 “(i) any inference that the term ‘per-  
 2 son’, as used in such subparagraph, may  
 3 be construed more broadly than its ordi-  
 4 nary usage so to include any government  
 5 or agency of government; or

6 “(ii) any immunity against, or other-  
 7 wise affecting, any civil or criminal action  
 8 brought by any government or agency of  
 9 government to enforce any constitution,  
 10 law, or regulation of such government or  
 11 agency.”.

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

15 “(2) NOTIFICATION PROHIBITED.—

16 “(A) IN GENERAL.—If a financial institu-  
 17 tion, any director, officer, employee, or agent of  
 18 any financial institution, or any independent  
 19 public accountant who audits any financial in-  
 20 stitution, voluntarily or pursuant to this section  
 21 or any other authority, reports a suspicious  
 22 transaction to an appropriate government  
 23 agency—

24 “(i) the financial institution, director,  
 25 officer, employee, agent, or accountant

1           may not notify any person involved in the  
2           transaction that the transaction has been  
3           reported and may not disclose any infor-  
4           mation included in the report to any such  
5           person; and

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

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

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

5           “(5) EMPLOYMENT REFERENCES MAY INCLUDE  
6 SUSPICIONS OF INVOLVEMENT IN ILLEGAL ACTIV-  
7 ITY.—

8           “(A) IN GENERAL.—Notwithstanding any  
9 other provision of law and subject to subpara-  
10 graph (B) of this paragraph and paragraph  
11 (2)(C), any financial institution, and any direc-  
12 tor, officer, employee, or agent of such institu-  
13 tion, may disclose, in any written employment  
14 reference relating to a current or former insti-  
15 tution-affiliated party of such institution which  
16 is provided to another financial institution in  
17 response to a request from such other institu-  
18 tion,  
19 information concerning the possible involvement  
20 of such institution-affiliated party in any sus-  
21 picious transaction relevant to a possible viola-  
22 tion of law or regulation.

23           “(B) LIMIT ON LIABILITY FOR DISCLO-  
24 SURES.—A financial institution, and any direc-  
25 tor, officer, employee, or agent of such institu-

tion, 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 term ‘institution-affiliated party’ has the meaning given to such term in section 3(u) of the Federal Deposit Insurance Act, except such section 3(u) shall be applied by substituting ‘financial institution’ for ‘insured depository institution’.”.



1 (d) AMENDMENTS RELATING TO AVAILABILITY OF  
 2 SUSPICIOUS ACTIVITY REPORTS FOR OTHER AGEN-  
 3 CIES.—Section 5319 of title 31, United States Code, is  
 4 amended—

5 (1) in the 1st sentence, by striking “5314, or  
 6 5316” and inserting “5313A, 5314, 5316, or  
 7 5318(g)”;

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

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

22 **SEC. 6. SPECIFIED UNLAWFUL ACTIVITIES FOR MONEY**  
 23 **LAUNDERING.**

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

1 (1) in subparagraph (B)—

2 (A) by striking clause (ii) and inserting the  
3 following new clause:

4 “(ii) any conduct constituting a crime  
5 of violence;”; and

6 (B) by adding at the end the following new  
7 clauses:

8 “(iv) fraud, or any scheme to defraud,  
9 committed against a foreign government or  
10 foreign governmental entity;

11 “(v) bribery of a public official, or the  
12 misappropriation, theft, or embezzlement  
13 of public funds, by or for the benefit of a  
14 public official;

15 “(vi) smuggling or export control vio-  
16 lations involving munitions listed in the  
17 United States Munitions List or tech-  
18 nologies with military applications, as de-  
19 fined in the Commerce Control List of the  
20 Export Administration Regulations;

21 “(vii) an offense with respect to which  
22 the United States would be obligated by a  
23 multilateral treaty either to extradite the  
24 alleged offender or to submit the case for  
25 prosecution, if the offender were found

1 within the territory of the United States;  
2 or

3 “(viii) the misuse of funds of, or pro-  
4 vided by, the International Monetary Fund  
5 in contravention of the Articles of Agree-  
6 ment of the Fund or the misuse of funds  
7 of, or provided by, any other international  
8 financial institution (as defined in section  
9 1701(c)(2) of the International Financial  
10 Institutions Act) in contravention of any  
11 international treaty or other international  
12 agreement to which the United States is a  
13 party, including any article of agreement  
14 of the members of such international fi-  
15 nancial institution.”;

16 (2) in subparagraph (D)—

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

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

21 (C) by inserting “section 1030 (relating to  
22 computer fraud and abuse),” before “1032”;

23 and

24 (D) by inserting “any felony violation of  
25 the Foreign Agents Registration Act of 1938,

as amended,” before “or any felony violation of the Foreign Corrupt Practices Act”;

(3) in subparagraph (E)—

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

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

(4) by adding at the end the following new subparagraph:

“(G) Any offense under any Federal law consisting of the failure to report to an appropriate Federal agency the ownership or control of a foreign corporation, the ownership or control of a foreign financial account, or a beneficial interest in a foreign trust.”.

**SEC. 7. FALSE STATEMENTS TO FINANCIAL INSTITUTIONS  
CONCERNING THE IDENTITY OF A CUSTOMER.**

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

1   **“§ 1008. False statements concerning the identity of**  
2                   **customers of financial institutions**

3           “(a) IN GENERAL.—Whoever knowingly in any  
4 manner—

5           “(1) falsifies, conceals, or covers up, or at-  
6 tempts to falsify, conceal, or cover up, the identity  
7 of any person in connection with any transaction  
8 with a financial institution; or

9           “(2) makes, or attempts to make, any materi-  
10 ally false, fraudulent, or fictitious statement or rep-  
11 resentation of the identity of any person in connec-  
12 tion with a transaction with a financial institution;  
13 or

14           “(3) makes or uses, or attempts to make or  
15 use, any false writing or document knowing the  
16 same to contain any materially false, fictitious, or  
17 fraudulent statement or entry concerning the iden-  
18 tity of any person in connection with a transaction  
19 with a financial institution; or

20           “(4) uses or presents, or attempts to use or  
21 present, in connection with a transaction with a fi-  
22 nancial institution, an identification document or  
23 means of identification the possession of which is a  
24 violation of section 1028,

25 shall be fined under this title, imprisoned for not more  
26 than 5 years, or both.

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

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

7               “(2) FINANCIAL INSTITUTION.—In addition to  
8 the meaning given to the term ‘financial institution’  
9 by section 20, the term ‘financial institution’ also  
10 has the meaning given to such term in section  
11 5312(a)(2) of title 31.”.

12       (b) TECHNICAL AND CONFORMING AMENDMENT.—  
13 Section 1956(c)(7)(D) of title 18, United States Code (as  
14 amended by section 6(2) of this Act) is amended by strik-  
15 ing “1014 (relating to fraudulent loan” and inserting  
16 “section 1008 (relating to false statements concerning the  
17 identity of customers of financial institutions), section  
18 1014 (relating to fraudulent loan”.

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

“1008. False statements concerning the identity of customers of financial insti-  
tutions.”.

○