

115TH CONGRESS
1ST SESSION

H. R. 3089

To amend title 31, United States Code, to ensure that persons who form corporations or limited liability companies in the United States disclose the beneficial owners of those corporations or limited liability companies, in order to prevent wrongdoers from exploiting United States corporations and limited liability companies for criminal gain, to assist law enforcement in detecting, preventing, and punishing terrorism, money laundering, and other misconduct involving United States corporations and limited liability companies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2017

Mrs. CAROLYN B. MALONEY of New York (for herself, Mr. KING of New York, Ms. MAXINE WATERS of California, Mr. ROYCE of California, and Ms. MOORE) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

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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 “Corporate Trans-
5 parency Act of 2017”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Nearly 2,000,000 corporations and limited
9 liability companies are being formed under the laws
10 of the States each year.

11 (2) Very few States obtain meaningful informa-
12 tion about the beneficial owners of the corporations
13 and limited liability companies formed under their
14 laws.

15 (3) A person forming a corporation or limited
16 liability company within the United States typically
17 provides less information to the State of incorpora-
18 tion than is needed to obtain a bank account or driv-
19 er’s license and typically does not name a single ben-
20 eficial owner.

21 (4) Criminals have exploited the weaknesses in
22 State formation procedures to conceal their identi-
23 ties when forming corporations or limited liability
24 companies in the United States, and have then used
25 the newly created entities to commit crimes affecting

1 interstate and international commerce such as ter-
2 rorism, drug trafficking, money laundering, tax eva-
3 sion, securities fraud, financial fraud, and acts of
4 foreign corruption.

5 (5) Law enforcement efforts to investigate cor-
6 porations and limited liability companies suspected
7 of committing crimes have been impeded by the lack
8 of available beneficial ownership information, as doc-
9 umented in reports and testimony by officials from
10 the Department of Justice, the Department of
11 Homeland Security, the Financial Crimes Enforce-
12 ment Network of the Department of the Treasury,
13 the Internal Revenue Service, and the Government
14 Accountability Office, and others.

15 (6) In July 2006, a leading international anti-
16 money laundering organization, the Financial Action
17 Task Force on Money Laundering (in this section
18 referred to as the “FATF”), of which the United
19 States is a member, issued a report that criticizes
20 the United States for failing to comply with a FATF
21 standard on the need to collect beneficial ownership
22 information and urged the United States to correct
23 this deficiency by July 2008. In December 2016,
24 FATF issued another evaluation of the United
25 States, which found that little progress has been

1 made over the last ten years to address this problem.
2 It identified the “lack of timely access to adequate,
3 accurate and current beneficial ownership informa-
4 tion” as a fundamental gap in United States efforts
5 to combat money laundering and terrorist finance.

6 (7) In response to the 2006 FATF report, the
7 United States has repeatedly urged the States to
8 strengthen their incorporation practices by obtaining
9 beneficial ownership information for the corporations
10 and limited liability companies formed under the
11 laws of such States.

12 (8) Many States have established automated
13 procedures that allow a person to form a new cor-
14 poration or limited liability company within the
15 State within 24 hours of filing an online application,
16 without any prior review of the application by a
17 State official. In exchange for a substantial fee, 2
18 States will form a corporation within 1 hour of a re-
19 quest.

20 (9) Dozens of Internet Web sites highlight the
21 anonymity of beneficial owners allowed under the in-
22 corporation practices of some States, point to those
23 practices as a reason to incorporate in those States,
24 and list those States together with offshore jurisdic-
25 tions as preferred locations for the formation of new

1 corporations, essentially providing an open invitation
2 to criminals and other wrongdoers to form entities
3 within the United States.

4 (10) In contrast to practices in the United
5 States, all 28 countries in the European Union are
6 required to have formation agents identify the bene-
7 ficial owners of the corporations formed under the
8 laws of the country.

9 (11) To reduce the vulnerability of the United
10 States to wrongdoing by United States corporations
11 and limited liability companies with hidden owners,
12 to protect interstate and international commerce
13 from criminals misusing United States corporations
14 and limited liability companies, to strengthen law en-
15 forcement investigations of suspect corporations and
16 limited liability companies, to set minimum stand-
17 ards for and level the playing field among State in-
18 corporation practices, and to bring the United States
19 into compliance with its international anti-money
20 laundering standards, Federal legislation is needed
21 to require the collection of beneficial ownership in-
22 formation for the corporations and limited liability
23 companies formed under the laws of such States.

24 **SEC. 3. TRANSPARENT INCORPORATION PRACTICES.**

25 (a) TRANSPARENT INCORPORATION PRACTICES.—

1 (1) IN GENERAL.—Chapter 53 of title 31,
2 United States Code, is amended by inserting after
3 section 5332 the following new section:

4 **“§ 5333. Transparent incorporation practices**

5 “(a) REPORTING REQUIREMENTS.—

6 “(1) IN GENERAL.—Not later than the begin-
7 ning of fiscal year 2019, the Secretary of the Treas-
8 ury shall issue regulations requiring each corpora-
9 tion and limited liability company formed in a State
10 that does not have a formation system described
11 under subsection (b) to file with the Financial
12 Crimes Enforcement Network such information as
13 the corporation or limited liability company would be
14 required to provide the State if such State had a for-
15 mation system described under subsection (b).

16 “(2) DISCLOSURE OF BENEFICIAL OWNERSHIP
17 INFORMATION.—Beneficial ownership information
18 reported to the Financial Crimes Enforcement Net-
19 work pursuant to paragraph (1) shall be provided by
20 the Financial Crimes Enforcement Network upon re-
21 ceipt of—

22 “(A) a civil or criminal subpoena or sum-
23 mons from a State agency, Federal agency, or
24 congressional committee or subcommittee re-
25 questing such information;

1 “(B) a written request made by a Federal
2 agency on behalf of another country under an
3 international treaty, agreement, or convention,
4 or an order under section 3512 of title 18,
5 United States Code, or section 1782 of title 28,
6 United States Code, issued in response to a re-
7 quest for assistance from a foreign country; or

8 “(C) a written request made by a financial
9 institution, with customer consent, as part of
10 the institution’s compliance with due diligence
11 requirements imposed under the Bank Secrecy
12 Act, the USA PATRIOT Act, or other applica-
13 ble Federal or State law.

14 “(3) LIMITATION.—In issuing regulations pur-
15 suant to paragraph (1), the Secretary shall not re-
16 quire such information to be filed with the Internal
17 Revenue Service.

18 “(b) FORMATION SYSTEM.—

19 “(1) IN GENERAL.—With respect to a State, a
20 formation system is described under this subsection
21 if it meets the following requirements:

22 “(A) IDENTIFICATION OF BENEFICIAL
23 OWNERS.—Except as provided in paragraphs
24 (2) and (4), and subject to paragraph (3), each
25 applicant to form a corporation or limited liabil-

1 ity company under the laws of the State is re-
2 quired to provide to the State during the forma-
3 tion process a list of the beneficial owners of
4 the corporation or limited liability company
5 that—

6 “(i) except as provided in subpara-
7 graph (F), identifies each beneficial owner
8 by—

9 “(I) name;

10 “(II) current residential or busi-
11 ness street address; and

12 “(III) a unique identifying num-
13 ber from a non-expired passport
14 issued by the United States or a non-
15 expired driver’s license issued by a
16 State; and

17 “(ii) if the applicant is not the bene-
18 ficial owner, provides the identification in-
19 formation described in clause (i) relating
20 to the applicant.

21 “(B) UPDATED INFORMATION.—For each
22 corporation or limited liability company formed
23 under the laws of the State—

24 “(i) the corporation or limited liability
25 company is required by the State to update

1 the list of the beneficial owners of the cor-
2 poration or limited liability company by
3 providing the information described in sub-
4 paragraph (A) to the State not later than
5 60 days after the date of any change in the
6 list of beneficial owners or the information
7 required to be provided relating to each
8 beneficial owner;

9 “(ii) in the case of a corporation or
10 limited liability company formed or ac-
11 quired by a formation agent and retained
12 by the formation agent as a beneficial
13 owner for transfer to another person, the
14 formation agent is required by the State to
15 submit to the State an updated list of the
16 beneficial owners and the information de-
17 scribed in subparagraph (A) for each such
18 beneficial owner not later than 10 days
19 after date on which the formation agent
20 transfers the corporation or limited liabil-
21 ity company to another person; and

22 “(iii) the corporation or limited liabil-
23 ity company is required by the State to
24 submit to the State an annual filing con-
25 taining the list of the beneficial owners of

1 the corporation or limited liability company
2 and the information described in subpara-
3 graph (A) for each such beneficial owner.

4 “(C) RETENTION OF INFORMATION.—Ben-
5 eficial ownership information relating to each
6 corporation or limited liability company formed
7 under the laws of the State is required to be
8 maintained by the State until the end of the 5-
9 year period beginning on the date that the cor-
10 poration or limited liability company terminates
11 under the laws of the State.

12 “(D) INFORMATION REQUESTS.—Bene-
13 ficial ownership information relating to each
14 corporation or limited liability company formed
15 under the laws of the State shall be provided by
16 the State upon receipt of—

17 “(i) a civil or criminal subpoena or
18 summons from a State agency, Federal
19 agency, or congressional committee or sub-
20 committee requesting such information;

21 “(ii) a written request made by a Fed-
22 eral agency on behalf of another country
23 under an international treaty, agreement,
24 or convention, or section 1782 of title 28,
25 United States Code;

1 “(iii) a written request made by the
2 Financial Crimes Enforcement Network; or

3 “(iv) a written request made by a fi-
4 nancial institution, with customer consent,
5 as part of the institution’s compliance with
6 due diligence requirements imposed under
7 the Bank Secrecy Act, the USA PATRIOT
8 Act, or other applicable Federal or State
9 law.

10 “(E) NOTICE.—The State discloses clearly
11 and conspicuously that the beneficial ownership
12 information collected under the formation sys-
13 tem may be provided to the entities described in
14 subparagraph (D), pursuant to the require-
15 ments of such subparagraph.

16 “(F) NO BEARER SHARE CORPORATIONS
17 OR LIMITED LIABILITY COMPANIES.—A cor-
18 poration or limited liability company formed
19 under the laws of the State may not issue a cer-
20 tificate in bearer form evidencing either a whole
21 or fractional interest in the corporation or lim-
22 ited liability company.

23 “(2) STATES THAT LICENSE FORMATION
24 AGENTS.—

1 “(A) IN GENERAL.—Notwithstanding para-
2 graph (1), a State described in subparagraph
3 (B) may permit an applicant to form a corpora-
4 tion or limited liability company under the laws
5 of the State, or a corporation or limited liability
6 company formed under the laws of the State, to
7 provide the required information to a licensed
8 formation agent residing in the State, instead
9 of to the State directly, if the application under
10 paragraph (1)(A) or the update under para-
11 graph (1)(B) contains—

12 “(i) the name, current business ad-
13 dress, contact information, and licensing
14 number of the licensed formation agent
15 that has agreed to maintain the informa-
16 tion required under this subsection; and

17 “(ii) a certification by the licensed
18 formation agent that the licensed forma-
19 tion agent has possession of the informa-
20 tion required under this subsection and
21 will maintain the information in the State
22 licensing the licensed formation agent in
23 accordance with State law.

24 “(B) STATES DESCRIBED.—A State de-
25 scribed in this subparagraph is a State that

1 maintains a formal licensing system for forma-
2 tion agents that requires a formation agent to
3 register with the State, meet standards for fit-
4 ness and honesty, maintain a physical office
5 and records within the State, undergo regular
6 monitoring, and be subject to sanctions for non-
7 compliance with State requirements.

8 “(C) LICENSED FORMATION AGENT DU-
9 TIES.—A licensed formation agent that receives
10 beneficial ownership information under State
11 law in accordance with this paragraph shall—

12 “(i) maintain the information in the
13 State in which the corporation or limited
14 liability company is being or has been
15 formed in the same manner as required for
16 States under paragraph (1)(C);

17 “(ii) provide the information under
18 the same circumstances as required for
19 States under paragraph (1)(D); and

20 “(iii) perform the duties of a forma-
21 tion agent under paragraph (3).

22 “(D) TERMINATION OF RELATIONSHIP.—

23 “(i) IN GENERAL.—Except as pro-
24 vided in clause (ii), a licensed formation
25 agent that receives beneficial ownership in-

1 formation relating to a corporation or lim-
2 ited liability company under State law in
3 accordance with this paragraph and that
4 resigns, dissolves, or otherwise ends a rela-
5 tionship with the corporation or limited li-
6 ability company shall promptly—

7 “(I) notify the State in writing
8 that the licensed formation agent has
9 resigned or ended the relationship;
10 and

11 “(II) transmit all beneficial own-
12 ership information relating to the cor-
13 poration or limited liability company
14 in the possession of the licensed for-
15 mation agent to the licensing State.

16 “(ii) EXCEPTION.—If a licensed for-
17 mation agent receives written instructions
18 from a corporation or limited liability com-
19 pany, the licensed formation agent may
20 transmit the beneficial ownership informa-
21 tion relating to the corporation or limited
22 liability company to another licensed for-
23 mation agent that is within the same State
24 and has agreed to maintain the informa-
25 tion in accordance with this section.

1 “(iii) NOTICE TO STATE.—If a li-
2 censed formation agent provides beneficial
3 ownership information to another licensed
4 formation agent under clause (ii), the li-
5 censed formation agent providing the infor-
6 mation shall promptly notify in writing the
7 State under the laws of which the corpora-
8 tion or limited liability company is formed
9 of the identity of the licensed formation
10 agent receiving the information.

11 “(3) CERTAIN BENEFICIAL OWNERS.—If an ap-
12 plicant to form a corporation or limited liability com-
13 pany or a beneficial owner, officer, director, or simi-
14 lar agent of a corporation or limited liability com-
15 pany who is required to provide identification infor-
16 mation under this subsection does not have a non-
17 expired passport issued by the United States or a
18 non-expired driver’s license or identification card
19 issued by a State, each application described in
20 paragraph (1)(A) and each update described in
21 paragraph (1)(B) shall include a certification by a
22 formation agent residing in the State that the for-
23 mation agent—

24 “(A) has obtained for each such person a
25 current residential or business street address

1 and a legible and credible copy of the pages of
2 a non-expired passport issued by the govern-
3 ment of a foreign country bearing a photo-
4 graph, date of birth, and unique identifying in-
5 formation for the person;

6 “(B) has verified the name, address, and
7 identity of each such person;

8 “(C) will provide the information described
9 in subparagraph (A) and the proof of verifica-
10 tion described in subparagraph (B) upon re-
11 quest under the same circumstances as required
12 for States under paragraph (1)(D); and

13 “(D) will retain the information and proof
14 of verification under this paragraph in the
15 State in which the corporation or limited liabil-
16 ity company is being or has been formed until
17 the end of the 5-year period beginning on the
18 date that the corporation or limited liability
19 company terminates under the laws of the
20 State.

21 “(4) EXEMPT ENTITIES.—

22 “(A) IN GENERAL.—A formation system
23 described in paragraph (1) shall require that an
24 application for an entity described in subpara-
25 graph (C) or (D) of subsection (d)(2) that is

1 proposed to be formed under the laws of a
2 State and that will be exempt from the bene-
3 ficial ownership disclosure requirements under
4 this subsection shall include in the application
5 a certification by the applicant, or a prospective
6 officer, director, or similar agent of the entity—

7 “(i) identifying the specific provision
8 of subsection (d)(2) under which the entity
9 proposed to be formed would be exempt
10 from the beneficial ownership disclosure re-
11 quirements under paragraphs (1), (2), and
12 (3);

13 “(ii) stating that the entity proposed
14 to be formed meets the requirements for
15 an entity described under such provision of
16 subsection (d)(2); and

17 “(iii) providing identification informa-
18 tion for the applicant or prospective offi-
19 cer, director, or similar agent making the
20 certification in the same manner as pro-
21 vided under paragraph (1) or (3).

22 “(B) EXISTING ENTITIES.—On and after
23 the date that is 2 years after the effective date
24 of the amendments to the formation system of
25 a State made to comply with this section, an

1 entity formed under the laws of the State be-
2 fore such effective date shall be considered to
3 be a corporation or limited liability company for
4 purposes of, and shall be subject to the require-
5 ments of, this subsection unless an officer, di-
6 rector, or similar agent of the entity submits to
7 the State a certification—

8 “(i) identifying the specific provision
9 of subsection (d)(2) under which the entity
10 is exempt from the requirements under
11 paragraphs (1), (2), and (3);

12 “(ii) stating that the entity meets the
13 requirements for an entity described under
14 such provision of subsection (d)(2); and

15 “(iii) providing identification informa-
16 tion for the officer, director, or similar
17 agent making the certification in the same
18 manner as provided under paragraph (1)
19 or (3).

20 “(C) EXEMPT ENTITIES HAVING OWNER-
21 SHIP INTEREST.—If an entity described in sub-
22 paragraph (C) or (D) of subsection (d)(2) has
23 or will have an ownership interest in a corpora-
24 tion or limited liability company formed or to be
25 formed under the laws of a State, the applicant,

1 corporation, or limited liability company in
2 which the entity has or will have the ownership
3 interest shall provide the information required
4 under this subsection relating to the entity, ex-
5 cept that the entity shall not be required to pro-
6 vide information regarding any natural person
7 who has an ownership interest in, exercises sub-
8 stantial control over, or receives substantial eco-
9 nomic benefits from the entity.

10 “(c) PENALTIES.—

11 “(1) IN GENERAL.—It shall be unlawful for—

12 “(A) any person to affect interstate or for-
13 eign commerce by—

14 “(i) knowingly providing, or attempt-
15 ing to provide, false or fraudulent bene-
16 ficial ownership information, including a
17 false or fraudulent identifying photograph,
18 to a State or licensed formation agent
19 under State law in accordance with this
20 section;

21 “(ii) willfully failing to provide com-
22 plete or updated beneficial ownership infor-
23 mation to a State or licensed formation
24 agent under State law in accordance with
25 this section; or

1 “(iii) knowingly disclosing the exist-
2 ence of a subpoena, summons, or other re-
3 quest for beneficial ownership information,
4 except—

5 “(I) to the extent necessary to
6 fulfill the authorized request;

7 “(II) as authorized by the entity
8 that issued the subpoena, summons,
9 or other request; or

10 “(III) as prescribed by a State;
11 or

12 “(B) in the case of a formation agent,
13 knowingly failing to obtain or maintain credible,
14 legible, and updated beneficial ownership infor-
15 mation, including any required identifying pho-
16 tograph.

17 “(2) CIVIL AND CRIMINAL PENALTIES.—In ad-
18 dition to any civil or criminal penalty that may be
19 imposed by a State, any person who violates para-
20 graph (1)—

21 “(A) shall be liable to the United States
22 for a civil penalty of not more than \$10,000;
23 and

1 “(B) may be fined under title 18, United
2 States Code, imprisoned for not more than 3
3 years, or both.

4 “(d) DEFINITIONS.—For the purposes of this section:

5 “(1) BENEFICIAL OWNER.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (B), the term ‘beneficial owner’
8 means a natural person who, directly or indi-
9 rectly—

10 “(i) exercises substantial control over
11 a corporation or limited liability company;
12 or

13 “(ii) has a substantial interest in or
14 receives substantial economic benefits from
15 the assets of a corporation or limited liabil-
16 ity company.

17 “(B) EXCEPTIONS.—The term ‘beneficial
18 owner’ shall not include—

19 “(i) a minor child;

20 “(ii) a person acting as a nominee,
21 intermediary, custodian, or agent on behalf
22 of another person;

23 “(iii) a person acting solely as an em-
24 ployee of a corporation or limited liability
25 company and whose control over or eco-

1 nomic benefits from the corporation or lim-
2 ited liability company derives solely from
3 the employment status of the person;

4 “(iv) a person whose only interest in
5 a corporation or limited liability company
6 is through a right of inheritance, unless
7 the person also meets the requirements of
8 subparagraph (A); or

9 “(v) a creditor of a corporation or
10 limited liability company, unless the cred-
11 itor also meets the requirements of sub-
12 paragraph (A).

13 “(2) CORPORATION; LIMITED LIABILITY COM-
14 PANY.—The terms ‘corporation’ and ‘limited liability
15 company’—

16 “(A) have the meanings given such terms
17 under the laws of the applicable State;

18 “(B) include any non-United States entity
19 eligible for registration or registered to do busi-
20 ness as a corporation or limited liability com-
21 pany under the laws of the applicable State;

22 “(C) do not include any entity that is, and
23 discloses in the application by the entity to
24 form under the laws of the State or, if the enti-
25 ty was formed before the date of the enactment

1 of this section, in a filing with the State under
2 State law—

3 “(i) a business concern that is an
4 issuer of a class of securities registered
5 under section 12 of the Securities Ex-
6 change Act of 1934 (15 U.S.C. 781) or
7 that is required to file reports under sec-
8 tion 15(d) of that Act (15 U.S.C. 78o(d));

9 “(ii) a business concern constituted or
10 sponsored by a State, a political subdivi-
11 sion of a State, under an interstate com-
12 pact between two or more States, by a de-
13 partment or agency of the United States,
14 or under the laws of the United States;

15 “(iii) a depository institution (as de-
16 fined in section 3 of the Federal Deposit
17 Insurance Act (12 U.S.C. 1813));

18 “(iv) a credit union (as defined in sec-
19 tion 101 of the Federal Credit Union Act
20 (12 U.S.C. 1752));

21 “(v) a bank holding company (as de-
22 fined in section 2 of the Bank Holding
23 Company Act of 1956 (12 U.S.C. 1841));

24 “(vi) a broker or dealer (as defined in
25 section 3 of the Securities Exchange Act of

1 1934 (15 U.S.C. 78c)) that is registered
2 under section 15 of the Securities Ex-
3 change Act of 1934 (15 U.S.C. 78o);

4 “(vii) an exchange or clearing agency
5 (as defined in section 3 of the Securities
6 Exchange Act of 1934 (15 U.S.C. 78c))
7 that is registered under section 6 or 17A
8 of the Securities Exchange Act of 1934
9 (15 U.S.C. 78f and 78q-1);

10 “(viii) an investment company (as de-
11 fined in section 3 of the Investment Com-
12 pany Act of 1940 (15 U.S.C. 80a-3)) or
13 an investment advisor (as defined in sec-
14 tion 202(11) of the Investment Advisors
15 Act of 1940 (15 U.S.C. 80b-2(11))), if the
16 company or adviser is registered with the
17 Securities and Exchange Commission, or
18 has filed an application for registration
19 which has not been denied, under the In-
20 vestment Company Act of 1940 (15 U.S.C.
21 80a-1 et seq.) or the Investment Advisor
22 Act of 1940 (15 U.S.C. 80b-1 et seq.);

23 “(ix) an insurance company (as de-
24 fined in section 2 of the Investment Com-
25 pany Act of 1940 (15 U.S.C. 80a-2));

1 “(x) a registered entity (as defined in
2 section 1a of the Commodity Exchange Act
3 (7 U.S.C. 1a)), or a futures commission
4 merchant, introducing broker, commodity
5 pool operator, or commodity trading advi-
6 sor (as defined in section 1a of the Com-
7 modity Exchange Act (7 U.S.C. 1a)) that
8 is registered with the Commodity Futures
9 Trading Commission;

10 “(xi) a public accounting firm reg-
11 istered in accordance with section 102 of
12 the Sarbanes-Oxley Act (15 U.S.C. 7212);

13 “(xii) a public utility that provides
14 telecommunications service, electrical
15 power, natural gas, or water and sewer
16 services, within the United States;

17 “(xiii) a church, charity, or nonprofit
18 entity that is described in section 501(c),
19 527, or 4947(a)(1) of the Internal Revenue
20 Code of 1986, has not been denied tax ex-
21 empt status, and has filed the most re-
22 cently due annual information return with
23 the Internal Revenue Service, if required to
24 file such a return;

25 “(xiv) any business concern that—

1 “(I) employs more than 20 em-
2 ployees on a full-time basis in the
3 United States;

4 “(II) files income tax returns in
5 the United States demonstrating more
6 than \$5,000,000 in gross receipts or
7 sales; and

8 “(III) has an operating presence
9 at a physical office within the United
10 States; or

11 “(xv) any corporation or limited liabil-
12 ity company formed and owned by an enti-
13 ty described in clause (i), (ii), (iii), (iv),
14 (v), (vi), (vii), (viii), (ix), (x), (xi), (xii),
15 (xiii), or (xiv); and

16 “(D) do not include any individual busi-
17 ness concern or class of business concerns
18 which the Secretary of the Treasury, with the
19 written concurrence of the Attorney General of
20 the United States, has determined in writing
21 should be exempt from the requirements of sub-
22 section (a), because requiring beneficial owner-
23 ship information from the business concern
24 would not serve the public interest and would
25 not assist law enforcement efforts to detect,

1 prevent, or punish terrorism, money laundering,
2 tax evasion, or other misconduct.

3 “(3) FORMATION AGENT.—The term ‘formation
4 agent’ means a person who, for compensation—

5 “(A) acts on behalf of another person to
6 assist in the formation of a corporation or lim-
7 ited liability company under the laws of a State;
8 or

9 “(B) purchases, sells, or transfers the pub-
10 lic records that form a corporation or limited li-
11 ability company.

12 “(4) BANK SECRECY ACT.—The term ‘Bank Se-
13 crecy Act’ means—

14 “(A) section 21 of the Federal Deposit In-
15 surance Act;

16 “(B) chapter 2 of title I of Public Law 91–
17 508; and

18 “(C) this subchapter.”.

19 (2) RULEMAKING.—To carry out this Act and
20 the amendments made by this Act, the Secretary of
21 the Treasury, in consultation with the Secretary of
22 Homeland Security and the Attorney General of the
23 United States, may issue guidance or a rule to—

1 (A) clarify the definitions under section
2 5333(d) of title 31, United States Code, as
3 added by paragraph (1); and

4 (B) specify how to verify beneficial owner-
5 ship information or other identification infor-
6 mation for purposes of such section 5333, in-
7 cluding whether the verification procedures
8 specified in section 5333(b)(3) should apply to
9 all applicants under section 5333(b)(1) or
10 whether such verification process should require
11 the notarization of signatures.

12 (3) CONFORMING AMENDMENTS.—Title 31,
13 United States Code, is amended—

14 (A) in section 5321(a)—

15 (i) in paragraph (1), by striking “sec-
16 tions 5314 and 5315” each place it ap-
17 pears and inserting “sections 5314, 5315,
18 and 5333”; and

19 (ii) in paragraph (6), by inserting
20 “(except section 5333)” after “sub-
21 chapter” each place it appears; and

22 (B) in section 5322, by striking “section
23 5315 or 5324” each place it appears and insert-
24 ing “section 5315, 5324, or 5333”.

1 (4) TABLE OF CONTENTS.—The table of con-
2 tents of chapter 53 of title 31, United States Code,
3 is amended by inserting after the item relating to
4 section 5332 the following:

“Sec. 5333. Transparent incorporation practices.”.

5 (5) RESTRICTIONS ON PUBLIC ACCESS.—A
6 State may—

7 (A) restrict public access to all or any por-
8 tion of the beneficial ownership information
9 provided to the State as described under section
10 5332 of title 31, United States Code, as added
11 by this Act; and

12 (B) by statute, regulation, order, or inter-
13 pretation adopted or issued by the State after
14 the date of enactment of this Act, provide for
15 public access to all or any portion of such infor-
16 mation.

17 (6) NO DUTY OF VERIFICATION.—This Act and
18 the amendments made by this Act do not impose
19 any obligation on a State to verify the name, ad-
20 dress, or identity of a beneficial owner whose infor-
21 mation is submitted to such State under section
22 5333 of title 31, United States Code, as added by
23 this Act.

24 (b) FUNDING AUTHORIZATION.—

1 (1) IN GENERAL.—To carry out section 5333 of
2 title 31, United States Code, during the 3-year pe-
3 riod beginning on the date of enactment of this Act,
4 funds shall be made available to each State to pay
5 reasonable costs relating to compliance with the re-
6 quirements of such section.

7 (2) FUNDING SOURCES.—To protect the United
8 States against the misuse of United States corpora-
9 tions and limited liability companies with hidden
10 owners, funds shall be provided to each State to
11 carry out the purposes described in paragraph (1)
12 from one or more of the following sources:

13 (A) Upon application by a State, and with-
14 out further appropriation, the Secretary of the
15 Treasury shall make available to the State un-
16 obligated balances described in section
17 9703(g)(4)(B) of title 31, United States Code,
18 in the Department of the Treasury Forfeiture
19 Fund established under section 9703(a) of title
20 31, United States Code.

21 (B) Upon application by a State, after con-
22 sultation with the Secretary of the Treasury,
23 and without further appropriation, the Attorney
24 General of the United States shall make avail-
25 able to the State excess unobligated balances

1 (as defined in section 524(c)(8)(D) of title 28,
2 United States Code) in the Department of Jus-
3 tice Assets Forfeiture Fund established under
4 section 524(c) of title 28, United States Code.

5 (3) MAXIMUM AMOUNTS.—

6 (A) DEPARTMENT OF THE TREASURY.—

7 The Secretary of the Treasury may not make
8 available to States a total of more than
9 \$30,000,000 under paragraph (2)(A).

10 (B) DEPARTMENT OF JUSTICE.—The At-
11 torney General of the United States may not
12 make available to States a total of more than
13 \$10,000,000 under paragraph (2)(B).

14 (4) RULEMAKING.—Not later than the end of
15 the 180-day period beginning on the date of the en-
16 actment of this Act, the Secretary of the Treasury
17 and the Attorney General shall, jointly, issue regula-
18 tions setting forth the procedures for States to apply
19 for funds under this subsection, including deter-
20 mining which State measures should be funded to
21 assess, plan, develop, test, or implement relevant
22 policies, procedures, or system modifications.

23 (c) COMPLIANCE REPORT.—Nothing in this section
24 or the amendments made by this section authorizes the
25 Secretary of the Treasury to withhold from a State any

1 funding otherwise available to the State because of a fail-
2 ure by that State to comply with section 5333 of title 31,
3 United States Code. Not later than the end of the 42-
4 month period beginning on the date of the enactment of
5 this Act, the Comptroller General of the United States
6 shall submit to the Committee on Financial Services of
7 the House of Representatives and the Committee on
8 Homeland Security and Governmental Affairs of the Sen-
9 ate a report—

10 (1) identifying which States obtain beneficial
11 ownership information as described in such section
12 5333;

13 (2) with respect to each State that does not ob-
14 tain such information, whether corporations and lim-
15 ited liability companies formed under the laws of
16 such State are in compliance with such section 5333
17 and providing the specified beneficial ownership in-
18 formation to the Financial Crimes Enforcement Net-
19 work; and

20 (3) whether the Department of the Treasury is
21 in compliance with such section 5333 and, if not,
22 what steps it must take to come into compliance
23 with this section.

24 (d) FEDERAL CONTRACTORS.—Not later than the
25 first day of the first full fiscal year beginning at least one

1 year after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall revise the Federal Acquisition Regulation maintained under section 1303(a)(1) of title 41, United States Code, to require any contractor who is subject to the requirement to disclose beneficial ownership information under section 5333 of title 31, United States Code, to provide the information required to be disclosed under such section to the Federal Government as part of any bid or proposal for a contract with a value threshold in excess of the simplified acquisition threshold under section 134 of title 41, United States Code.

13 (e) ANTI-MONEY LAUNDERING OBLIGATIONS OF
14 FORMATION AGENTS.—

15 (1) IN GENERAL.—Section 5312(a)(2) of title
16 31, United States Code, is amended—

17 (A) in subparagraph (Y), by striking “or”
18 at the end;

19 (B) by redesignating subparagraph (Z) as
20 subparagraph (AA); and

21 (C) by inserting after subparagraph (Y)
22 the following:

23 “(Z) any person who, for compensation—

24 “(i) acts on behalf of another person
25 to form, or assist in formation of, a cor-

poration or limited liability company under
the laws of a State; or

“(ii) purchases, sells, or transfers the
public records that form a corporation or
limited liability company; or”.

(2) DEADLINE FOR ANTI-MONEY LAUNDERING
RULE FOR FORMATION AGENTS.—

(A) PROPOSED RULE.—Not later than 120
days after the date of enactment of this Act,
the Secretary of the Treasury, in consultation
with the Attorney General of the United States
and the Commissioner of the Internal Revenue
Service, shall publish a proposed rule in the
Federal Register requiring persons described in
section 5312(a)(2)(Z) of title 31, United States
Code, as amended by this subsection, to estab-
lish anti-money laundering programs under sub-
section (h) of section 5318 of that title.

(B) FINAL RULE.—Not later than 270
days after the date of enactment of this Act,
the Secretary of the Treasury shall publish the
rule described in this subsection in final form in
the Federal Register.

(C) EXCLUSIONS.—Any rule promulgated
under this subsection shall exclude from the

category of persons involved in forming a corporation or limited liability company—

(i) any government agency; and

(ii) any attorney or law firm that uses a paid formation agent operating within the United States to form the corporation or limited liability company.

SEC. 4. STUDIES AND REPORTS.

(a) OTHER LEGAL ENTITIES.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and submit to the Congress a report—

(1) identifying each State that has procedures that enable persons to form or register under the laws of the State partnerships, trusts, or other legal entities, and the nature of those procedures;

(2) identifying each State that requires persons seeking to form or register partnerships, trusts, or other legal entities under the laws of the State to provide information about the beneficial owners (as that term is defined in section 5333(d)(1) of title 31, United States Code, as added by this Act) or beneficiaries of such entities, and the nature of the required information;

1 (3) evaluating whether the lack of available
2 beneficial ownership information for partnerships,
3 trusts, or other legal entities—

4 (A) raises concerns about the involvement
5 of such entities in terrorism, money laundering,
6 tax evasion, securities fraud, or other mis-
7 conduct; and

8 (B) has impeded investigations into enti-
9 ties suspected of such misconduct; and

10 (4) evaluating whether the failure of the United
11 States to require beneficial ownership information
12 for partnerships and trusts formed or registered in
13 the United States has elicited international criticism
14 and what steps, if any, the United States has taken
15 or is planning to take in response.

16 (b) EFFECTIVENESS OF INCORPORATION PRAC-
17 TICES.—Not later than 5 years after the date of enact-
18 ment of this Act, the Comptroller General of the United
19 States shall conduct a study and submit to the Congress
20 a report assessing the effectiveness of incorporation prac-
21 tices implemented under this Act and the amendments
22 made by this Act in—

23 (1) providing law enforcement agencies with
24 prompt access to reliable, useful, and complete bene-
25 ficial ownership information; and

1 (2) strengthening the capability of law enforce-
2 ment agencies to combat incorporation abuses, civil
3 and criminal misconduct, and detect, prevent, or
4 punish terrorism, money laundering, tax evasion, or
5 other misconduct.

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