CORPORATE TRANSPARENCY ACT OF 2019

GENERAL LEAVE

Ms. WATERS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 2513 and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 646 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 2513.

The Chair appoints the gentlewoman from Illinois (Ms. UNDERWOOD) to preside over the Committee of the Whole.

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 2513) 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, with Ms. UNDERWOOD in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

General debate shall be confined to the bill and amendments specified in House Resolution 646 and shall not exceed 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services.

The gentlewoman from California (Ms. WATERS) and the gentleman from North Carolina (Mr. MCHENRY) each will control 30 minutes.

The Chair recognizes the gentlewoman from California.

Ms. WATERS. Madam Chair, I yield myself such time as I may consume.

Madam Chair, I rise in support of H.R. 2513, the Corporate Transparency Act of 2019, a bill introduced by Representative CAROLYN B. MALONEY of New York.

H.R. 2513 closes significant loopholes in the law that are commonly abused by bad actors and will make it harder for terrorists, traffickers, corrupt officials, and other criminals to hide, launder, move, and use their money.

Today, anyone can create a company without providing any information about the company's actual owners. This ability to remain anonymous gives criminals and terrorists unimpeded, hidden access to our banking and commercial systems.

It also makes it more difficult for law enforcement and even our banks, which have a duty to know their customers and evaluate risk, to detect illicit activity.

For example, unbeknownst to authorities for years, the skyscraper at 650 Fifth Avenue in New York City was owned by Iranian-controlled entities through shell companies. The Corporate Transparency Act closes these loopholes by requiring firms which do not already report ownership, for example through public SEC filings, to share this information with the Financial Crimes Enforcement Network, FinCEN.

This beneficial ownership database created by the bill will be accessible only by FinCEN-approved law enforcement agencies and by financial institutions, with customer consent, to fulfill requirements to identify their beneficial owners. Unapproved sharing of this information would be subject to criminal penalties, as would lying on or intentional omission of beneficial ownership information. For most firms, which have only one or two owners, this process would require only a few lines of data. But for law enforcement agencies, the additional information will have great benefit, as their investigations will no longer be stymied by anonymous shell companies.

The bill has also been broadened to include the entirety of H.R. 2514, the Coordinating Oversight, Upgrading and Innovating Technology, and Examiner Reform Act of 2019, the COUNTER Act, a bill introduced by Representative EMANUEL CLEAVER. The COUNTER Act closes loopholes in the Bank Secrecy Act, the key law aimed at countering money laundering, terrorist financing, and other criminal uses of the banking system.

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For example, the bill requires the identification of owners behind high-risk commercial real estate transactions and transactions involving arts and antiquities, which are often used by criminals to launder money.

The COUNTER Act examines Chinese and Russian money laundering, an issue that is seen in opioid and methamphetamine production, as well as human and wildlife trafficking.

The bill also creates a national strategy to fight trade-based money laundering, which is considered the most pernicious but hard-to-detect form of money laundering.

Mrs. MALONEY and Mr. CLEAVER's bill also works to lower the compliance burden on financial institutions, most of which are community banks, by establishing several tools to allow for more targeted sharing of BSA-AML-related information.

The bill makes modest increases to the currency transaction reporting limit and studies ways to reduce the costs associated with researching and writing suspicious activity reports.

The bill also creates a new privacy and civil liberties officer, as well as an innovation officer in each of the Federal financial regulators.

Importantly, the bill imposes new penalties on financial institutions and personnel that violate the law and creates a whistleblower program to encourage and protect those who identify such bad acts.

H.R. 2513, as amended, has the strong support of financial institutions. It is also supported by NGOs like the AFL–CIO, Global Witness, Oxfam America, Friends of the Earth U.S., Jubilee USA Network, and the Small Business Majority, all of which are members of the transparency-focused FACT Coalition. It is widely supported by law enforcement organizations such as the Fraternal Order of Police, the National District Attorneys Association, and the Federal Law Enforcement Officers Association. In addition, this legislation is supported by the Department of the Treasury and the Federal Bureau of Investigation.

I commend Congresswoman MALONEY and Congressman CLEAVER for their very hard work on the legislation, as well as their collaboration to put together a comprehensive bill to reform how this country fights against illicit finance.

I urge passage of H.R. 2513, and I reserve the balance of my time.

Mr. MCHENRY. Mr. Chairman, I yield myself such time as I may consume. I am opposed to H.R. 2513, and I want to begin by outlining my opposition.

This bill before us is a new small business mandate on the smallest businesses in America. The bill before us today requires some of the smallest businesses in America, those with fewer than 20 employees and those with less than $5 million in receipts, to file annually a list of all of their owners with the Financial Crimes Enforcement Network, or FinCEN.

For those who are watching on C–SPAN, I have a trivia question for them, Mr. Chairman. I bet most of them have never heard of FinCEN. I bet those in the House office buildings, Mr. Chairman, have not heard of FinCEN. It is a little-known agency even here in Washington that deals with financial crimes, in the Treasury Department.

Imagine you are a small business owner. You are getting a notice from the Financial Crimes Enforcement Network mandating that you disclose the owners of your entity. This would be the first consumer-facing intelligence bureau that we would have in the Federal Government.

This bill would require small business owners and small business investors to submit their personal information to a new Federal database without adequate privacy protections. This new Federal database will be accessible to law enforcement without a warrant and without a subpoena, a disturbing violation of due process, in my view.

This has the fewest civil liberties protections of any Federal intelligence

bureau database. It is a lower standard of accountability than what Congress provides in the PATRIOT Act, which largely targets foreign actors.

According to the National Federation of Independent Business, this bill would also add more than $5.7 billion in new regulatory costs for America's small businesses.

Supporters of the bill are calling for these changes without any direct evidence to justify the mandate. There is plenty of anecdote, but no data.

For several months leading up to the committee's consideration of this bill, I sought data from the intelligence bureau called FinCEN and from the Treasury Department, along with the Department of Justice, to better understand the need for this legislation. They provided none. They gave anecdotes of very scary stories to try to compel me as a legislator to vote for what is a very specific threshold in law and a very specific new small business mandate.

I refuse to legislate based off of anecdotes. I would like to have hard data. My questions have not been answered by FinCEN, the Treasury Department, or the Department of Justice.

We have no information on how beneficial ownership information will be protected, in addition to that. We do not have information on how the privacy of small businesses will be preserved. In fact, we have an amendment here considered on the House floor that could further expose their data to the public, so even that determination is not in stone now with the bill before us.

We don't have information on how many law enforcement agencies will have access to the database, how many financial institutions will have access to the database, or what threshold for amount of sales and the number of employees will yield the most effective outcome.

In the bill, we have $5 million of revenue and under, and 20 employees and under. We have no data to back up that that is the right threshold for either the dollar amount or the number of employees.

We will have stories, and we will have Members come to the House floor telling us stories of bad actors, but that is anecdote. That is not data to provide for this threshold.

If we are going to have such an encroachment on America's personally identifiable information of small businesses across this country, shouldn't we have solid data? I believe so.

I believe we have a number of issues that need to be dealt with to make this bill sustainable and provide protections for civil liberties. I believe that combating illicit finance is a nonpartisan issue that all Members want to address. Our actions must be thoughtful and data-driven.

For example, in committee, we came together in support of H.R. 2514, the COUNTER Act, introduced by the gentleman from Missouri (Mr. CLEAVER) and the gentleman from Ohio (Mr. STIVERS). H.R. 2514 is a compilation of bipartisan policies that modernize and reform the Bank Secrecy Act and anti-money laundering regimes. It balances security and privacy. I think we have a nice bipartisan bill that was reported out of the committee without a dissenting vote. It provides the Treasury Department and other Federal agencies with the resources they need to help catch bad actors.

There have been years of work in the production of that bill that is wrapped up in this larger bill. I am disappointed that the COUNTER Act is not being considered as a standalone bill, instead being swept into this bill. Because I believe as a standalone bill, we could get that bill through the House, through the Senate, and signed by the President into law this year. I think it is unfortunate that we are not considering that as a standalone measure.

I thank my colleagues on the other side of the aisle for listening to some of our concerns on the Republican side of the aisle. We will have some Republican Members who vote for this bill. I, however, will not.

The encroachment on the question of civil liberties, the lack of separation of powers, the lack of the use of a subpoena, and the lack of regulatory relief for those who are collecting this data, both in terms of small businesses and financial institutions, has not been fixed nor dealt with.

In particular, the Rules Committee last night rejected amendments that would require law enforcement to obtain a subpoena before accessing—I am sorry, during committee, there was a rejection of a subpoena in our discussions, and then last night, the Rules Committee rejected my amendment that would provide greater certainty for small businesses and for community banks by repealing the customer due diligence rule, which requires financial institutions to collect similar data that is being required in this bill.

I believe that issue still merits a more thoughtful solution that doesn't treat legitimate small businesses as collateral damage, like the current bill does.

Mr. Chair, I am opposed to the bill, and I reserve the balance of my time.

Ms. WATERS. Mr. Chair, I yield 5 minutes to the gentlewoman from New York (Mrs. CAROLYN B. MALONEY), the sponsor of the bill and chair of the Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chairman, I thank the gentlewoman for yielding and for her leadership on the Financial Services Committee and on this bill.

Mr. Chair, I rise in support of H.R. 2513, the Corporate Transparency Act. This bill would crack down on the illicit use of anonymous shell companies. This is one of the most pressing national security problems that we face as a country because anonymous shell companies are the vehicle of choice for money launderers, criminals, and terrorists.

The reason they are so popular is because they cannot be traced back to their true owners. Shell companies allow criminals and terrorists to move money around in the United States financial system and finance their operations freely and legally.

Unfortunately, we know that the U.S. is one of the easiest places in the entire world to set up an anonymous shell company. The reason why these shell companies are anonymous is because States do not require companies to name their true beneficial owners, the individuals who are collecting the profits and who outright own the company.

As any FBI agent or prosecutor will tell you, far too many of their investigations hit a dead-end at an anonymous shell company. They know there is illegal money, yet they can't pursue and stop it.

Because they can't find out who the real owner of that shell company is, they can't follow the money past the shell company, past this pile of cash that they know is financing illegal activity. The trail goes cold, and the investigation is stopped dead in its tracks.

Treasury actually conducted a pilot program a couple of years ago when they collected beneficial ownership information for real estate transactions in Manhattan and Miami over a 6-month period. The results were stunning.

Treasury found that about 30 percent of the transactions reported in those 6 months involved a beneficial owner or purchaser representative that had previously been the subject of a suspicious activity report. In other words, these were potentially suspicious people buying these properties. And this was after the Treasury Department had announced to the world through the press that they would be collecting beneficial ownership information in these two cities for 6 months, so this didn't even capture the money launderers who simply avoided those two cities for that 6-month period.

Our bill would fix this problem by requiring companies to disclose their true beneficial owners to the Financial Crimes Enforcement Network, or FinCEN, at the time the company is formed. This information would only be available to law enforcement and to financial institutions so they can comply with their know-your-customer rules.

This bill would plug a huge hole in our national security defenses and would be a massive benefit to law enforcement.

We have a very large coalition supporting the bill. We have the support of 127 NGOs. All of the law enforcement groups in our Nation support this bill, all of the banking trade associations, the credit union trade associations, human rights groups, antitrafficking groups, State secretaries of state, and

most of the real estate industry, and many more because law enforcement has said that enacting this bill will make our residents and our country safer.

I want to specifically thank the FACT Coalition, Global Witness, and Global Financial Integrity for their support. I want to thank the Bank Policy Institute, which has been a strong supporter from the beginning. And I want to thank my personal staff, especially Ben Harney.

□ 1415

I also want to thank my Republican partners on this bill, most notably PETER KING from New York and BLAINE LUETKEMEYER from Missouri. They have been both fantastic to work with, and I believe the changes that they negotiated in good faith on this bill have made it an even better bill.

The two people I want to thank the most are Congresswoman WATERS, who has been a steadfast supporter of this bill for years, and Congressman CLEAVER, who has worked so hard on the COUNTER Act, which has been added to this bill. His leadership on the anti-money laundering reforms in the COUNTER Act have been indispensable.

Mr. Chairman, this bill will make our country safer, and I urge a strong ''yes'' vote for this bill.

Mr. MCHENRY. Mr. Chair, I yield myself such time as I may consume.

Mr. Chairman, I would like to commend the chair of the Investor Protection, Entrepreneurship, and Capital Markets Subcommittee, Mrs. MALONEY, for the work that she has put into this bill. She has been willing to address many concerns from Republicans about her legislation, though we are not able to come to final terms between her and me; but, as she knows and as I have stated clearly, it is for lack of data from the Treasury Department and from FinCEN itself, and those issues still remain.

It is not because of a lack of good will on her behalf or her staff's behalf, but an enormous amount of frustration we have from one of our intelligence bureaus that is not complying with reasonable oversight from Congress.

So I want to commend Mrs. MALONEY for her work that she put into this important piece of legislation, and I do wish that we were able to come to terms on the details in the finer points of this bill.

Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky (Mr. BARR), who is the Oversight and Investigations Subcommittee ranking member.

Mr. BARR. Mr. Chairman, I thank my friend from North Carolina for yielding.

Mr. Chairman, I rise today in opposition to H.R. 2513, the Corporate Transparency Act. I do so regrettably.

While I agree with the objective of the bill to help law enforcement crack down on the financing of illegal operations, this bill's solution places undue burdens on small businesses and presents unacceptable due process concerns for millions of small business owners whose sensitive personally identifiable information will be collected and stored in a new Federal database accessible without a warrant or a Federal subpoena.

I want to thank my friend, the sponsor of this bill, for her good faith attempt to streamline beneficial ownership reporting. I agree with her that we need to do more to combat terrorist financing, money laundering, drug trafficking, and other national security threats. I am sympathetic, also, to the needs of law enforcement to identify the financing sources of illicit operations and shut them down.

That said, the bill before us today seeks to achieve these ends unnecessarily on the backs of America's small businesses. The bill would create additional regulatory reporting requirements for existing and newly created small businesses. These businesses do not have the compliance resources comparable to larger firms. This reporting requirement will take a toll on their productivity and their bottom line.

According to the U.S. Small Business Administration, 95 percent of new firms begin with fewer than 20 employees and, thus, would most likely be subject to the reporting and compliance burdens of this bill. Accounting for this growth and conservative estimates of the time and expenses associated with completing the paperwork required by the bill, the National Federation of Independent Business forecasts that the bill would cost America's small businesses $5.7 billion over 10 years and result in 131 million new hours of paperwork. These are dollars that companies could spend on making new investments or hiring new staff and time they could spend on building their businesses.

H.R. 2513 would require small business owners or officers to report personally identifiable information such as name, Social Security number, and driver's license number to a newly created Federal Government database operated by FinCEN. Law enforcement can access this database without due process, and the sensitive personal information contained in it is subject to the ever-growing threat of malicious cybercriminals.

Even with all the new requirements and privacy concerns created by this bill, it still does not fully address the root issue with current beneficial ownership reporting rules. The supposed justification of the bill is to ease the burden on financial institutions associated with implementing FinCEN's customer due diligence rule. However, H.R. 2513 fails to repeal and replace the CDD rule, and the rule will continue to coexist with the additional regulatory burdens on small businesses created by the bill.

Finally, the bill falls short if the goal is to relieve financial institutions of burdensome reporting requirements that do not materially contribute to countering money laundering and illicit finance. That is because it fails to make inflation-adjusted changes to the thresholds for filing suspicious activity reports and currency transaction reports.

While I recognize the need to combat financing of illicit operations, this bill attempts to do so by placing unjustified reporting requirements on our small businesses that could cost them time and money and hinder their growth.

The Acting CHAIR (Mr. CUELLAR). The time of the gentleman has expired.

Mr. MCHENRY. Mr. Chairman, I yield the gentleman from Kentucky an additional 30 seconds.

Mr. BARR. So, to conclude and to summarize, Mr. Chairman, we can and should update our AML/BSA laws, and we can and should give FinCEN and law enforcement better visibility into the beneficial ownership information of firms vulnerable to money laundering and illicit finance, but this is the wrong solution. I am hopeful that the concerns of Main Street small businesses can be addressed if this bill moves to the U.S. Senate.

Ms. WATERS. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. FOSTER), who is the chair on the Task Force on Artificial Intelligence.

Mr. FOSTER. Mr. Chairman, I thank the chairwoman for yielding, and I thank my friend from New York, Chairwoman MALONEY, for her leadership on this issue.

Mr. Chairman, I rise in support of H.R. 2513, which would help to end the abuse of anonymous shell companies. These entities have a well-documented history of being used to hide money in a wide variety of crimes, including sanctions evasion, terrorist financing, human trafficking, drug trafficking, illegal arms dealing, tax evasion, and corruption. Anonymous shell corporations are also being subverted by criminals in ever-evolving schemes involving emerging digital technologies.

One of the many hats that I wear is being a co-chair of the Blockchain Caucus. Just in the past week, I have had disquieting updates from officials from the FBI and FinCEN about trends in the abuse of cryptocurrencies for nefarious purposes.

What was clear from these briefings is that the use of anonymous shell companies has greatly inhibited the ability of law enforcement to go after criminals who use cryptocurrency to engage in illicit financing. The use of anonymous shell companies also makes it extremely difficult to uncover abusive trading practices in unregulated crypto exchanges.

In short, criminals and law enforcement officers are engaged in a very sophisticated cat-and-mouse game in which law enforcement is always playing catch-up. Passing the Corporate Transparency Act will give law enforcement officers a significant new

tool that could potentially lead them to taking down more of the bad guys.

Let us not forget, the use of the beneficial ownership registries is not some wild-eyed, crazy concept where the U.S. would be going out on a limb. This is an area where the U.S. is significantly behind other developed nations.

The Financial Action Task Force, a respected intergovernmental policymaking body established by the G7 countries in 2016, gave the U.S. a failing grade for its efforts to prevent the laundering of criminal proceeds by shell companies. According to FATF's report, the U.S. has not done enough to rein in corporate secrecy, which presents serious gaps in law enforcement efforts, leaving our financial system vulnerable to dirty money.

They were blunt. We were scored as noncompliant—the lowest possible score—on our ability to determine the true owners of shell companies. That is simply unacceptable.

I would like to think that the U.S. should be a standard setter amongst nations when it comes to things like anti-money laundering enforcement. The current status quo, however, woefully fails to measure up to our lofty goals. We need to do better, and that is why I support the commonsense measures put forth in H.R. 2513.

Mr. Chairman, I thank Congresswoman MALONEY for her determined and dogged leadership on this issue for many years, and I urge a ''yes'' vote on H.R. 2513.

Mr. MCHENRY. Mr. Chairman, I yield 4 minutes to the gentleman from Little Rock, Arkansas (Mr. HILL).

Mr. HILL of Arkansas. Mr. Chairman, I thank the ranking member.

I am grateful for the opportunity to come to the floor and talk about H.R. 2513, the Corporate Transparency Act.

I want to thank my good friend from New York (Mrs. CAROLYN B. MALONEY) for her leadership in this area for well over a decade, her hard work, and her determination on improving our anti-money laundering and Bank Secrecy Act rules.

I appreciate the chair of the committee and her work as well.

The legislation addresses how we might combat illicit finance activities by appropriately strengthening the collection of beneficial ownership information.

Now, Mr. Chairman, a beneficial owner is a person who enjoys the benefits of ownership even though the title to some form of property is in another name. We have long debated in Congress the best way for this information to be collected. Let's be clear here. It is being collected by our financial services industry under our know-your-customer rules.

The ability to set up legal entities without accurate beneficial ownership information, however, has long represented a key vulnerability in the U.S. financial system.

As I say, all U.S. banks, brokerage firms, and financial services companies have a know-your-customer obligation to collect ownership information and, importantly, collect beneficial ownership information. This was further defined in May 2008 by a FinCEN rule.

But not all shell companies are established for malicious purposes. Owners might create one temporarily to finance a company that has not yet started operations or to proceed with an acquisition in coming years. But in this instance, they would have no employees and no revenue, so the structure would look like a shell company, but it would be otherwise legal.

It is true, though, there are too many instances of anonymous shell companies serving as a vehicle for ill-intended activities, including money laundering and terrorist financing. The anti-money laundering system and the sanctions system, both independently and in tandem, are more important than ever before, as we have seen in recent debates.

For well over a decade, Congresswoman MALONEY, author of the legislation, has been leading and working hard to pass a bill that would enhance our AML regime, including on beneficial ownership. She and I agree, as do all the Members of this House, Mr. Chair, that it is vital to U.S. national security to have a vigorous and good AML/BSA system.

However, I cannot support the legislation as currently written. In my view, H.R. 2513 places a significant burden on small business and, in my view, unnecessarily. The rules have been outlined here.

I believe there is a better path forward, which is why I have long supported aligning tax filing with the collection of beneficial ownership information. Small businesses are already familiar with filing taxes.

A small business already files their taxes, which includes disclosing their owners, their capital, and their business structure. On their returns, they declare domestic and foreign aspects of their business—all subject to common existing processes and parameters, all subject to privacy, and all subject to existing penalties for failure to accurately report.

I think we can all agree that closing off access to illicit finance is laudable, necessary, and appropriate; and I expect that we can agree that the collection of accurate beneficial ownership information is a step in the right direction. I would just like to see us get there without subjecting small businesses to new, unnecessarily complicated reporting with the burden of exceedingly severe penalties for failure to comply.

Mr. Chairman, I hope that we can reach a simple compromise that sees stronger collection without jeopardizing small business.

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Ms. WATERS. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri (Mr. CLEAVER), who is the sponsor of the COUNTER Act which is part of this bill. He is also the chair of the Subcommittee on National Security, International Development and Monetary Policy.

Mr. CLEAVER. Mr. Speaker, I thank the chairwoman for her work in this area, and for allowing those of us who are interested in this legislation to play a major role.

As many of my colleagues are aware, national security is one of the most pressing matters facing the United States of America and the world. I am excited for the opportunities that this moment presents to address these issues head on.

Our most profound responsibility as Members of Congress is to preserve America's national security and the United States' global position as an international leader in free and fair markets.

Since the last major anti-money laundering reforms of 2001, the national security threats that face our country have evolved profoundly and significantly, and frighteningly. Cyber and technological attacks have risen to the top of our most recent worldwide threat assessment as a paramount national security risk.

Underground online trafficking now allows for simplified avenues to transport illicit material across the Nation and around the globe, and cryptocurrencies now allow for streamlined means to fund criminal organizations. With virtual currency, dark web marketplaces and illicit technologies expanding to threaten citizens safety and hard-earned savings, it is critically important, Mr. Speaker, that our federal agencies evolve to meet and conquer these new challenges.

The COUNTER Act will do just that. This legislation will empower the Treasury Department to protect our national security and explicitly safeguard our financial systems through the Bank Secrecy Act.

It codifies a voluntary information-sharing program between law enforcement, financial institutions, and the Treasury Department, better ensuring the capture of illicit activities.

It balances national security and personal privacy by requiring Treasury and financial regulators to create the position of civil liberty and privacy officer. This officer will ensure that policies being developed and implemented are not intruding or undermining citizens' constitutional rights.

While the bill will close a number of loopholes that have allowed for financial crimes to be committed, it will also pull us into the 21st century by positioning the United States to face tomorrow's challenges.

The bill encourages financial regulators to work with companies to implement innovative approaches to meet the requirements in complying with existing law and encourages the use of innovative pilot programs.

Financial regulators will establish an innovation lab that will provide outreach to law enforcement, financial institutions, and others, to coordinate on

innovative and new technologies, ensuring they comply with existing law while fostering the implementation of new technologies. An innovation council will also be created, represented by the directors from each innovation lab, who will coordinate on active Bank Secrecy Act compliance.

It is imperative that we modernize our efforts to combat financial crimes because our adversaries will continue to modernize. I am happy that this bill is coming before us, the COUNTER Act, as an amendment to Congresswoman MALONEY's bill, the Corporate Transparency Act, which I know she and her team have worked very hard to produce.

The straightforward bill, Mr. Speaker, provides needed visibility by requiring companies and the United States to disclose the financial beneficiary in order to prevent criminals and wrongdoers from exploiting their status as a company.

Mr. Speaker, these are critical proposals. I urge my colleagues to support this legislation, and I thank Chairwoman WATERS.

Mr. MCHENRY. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. STIVERS), the ranking member of Subcommittee on Housing, Community Development and Insurance.

Mr. STIVERS. Mr. Speaker, I rise in opposition to H.R. 2513, although I do want to acknowledge that the sponsor has worked hard and in good faith to try to make the bill work, and I think the bill is well-intended.

There are two primary reasons why I oppose the legislation:

Number 1, it imposes an undue burden on small business, and;

Number 2, it doesn't adequately protect personally identifiable information of millions of Americans from cyberattacks.

First, it imposes a new burden on millions of small businesses, our constituents, who aren't aware we are having this debate today. In fact, most of them don't even know what FinCen is, but they will be forced to provide sensitive personal information to FinCen, an agency almost nobody knows, and failure to do so could lead to up to 3 years of imprisonment.

I feel the bill was well-intended, though, because I know that shell companies are used by criminals to move illicit money through our financial system. But there is a better way to address the problem. In committee, the gentleman from Arkansas (Mr. HILL), my colleague, offered an amendment that would transfer the information collected under this bill from FinCen to the IRS as part of the annual tax filing process. That approach will impose less burden on our constituents, the small businesses that create jobs in this country.

But a bigger obstacle would be here on the Hill, because it would result in shared jurisdiction with the Ways and Means Committee, so that ''good idea'' couldn't work because of jurisdictional lines.

Second, my issue is this agency, FinCen, will be the repository of a lot of data from millions of Americans with personally identifiable information. It is Cybersecurity Awareness Month; yet, there is not enough adequate protections in this bill to ensure that private data is secure from cyberattacks.

For these reasons, I can't vote for the bill, but I do want to congratulate the gentlewoman from New York (Mrs. CAROLYN B. MALONEY), my colleague, and sponsor of this bill, for her hard work in trying to make the bill work.

Finally, I want to thank and recognize my colleague, Representative CLEAVER, whose bill, the COUNTER Act, H.R. 2514, was rolled into this bill. Representative CLEAVER worked with Republicans and Democrats to ensure our anti-money laundering and Bank Secrecy Act regime was reformed in a bipartisan way that makes our national security stronger.

I want to thank him and congratulate him on that work. And if that bill was a standalone bill, I think it would pass this institution nearly unanimously, if not unanimously. Again, unfortunately, I have to oppose H.R. 2513.

Ms. WATERS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. LAWSON).

Mr. LAWSON of Florida. Mr. Speaker, I thank the chairwoman for yielding me time.

Mr. Speaker, I rise to support H.R. 2513, the Corporate Transparency Act.

The bill would close loopholes that bad actors have taken advantage of in order to aid terrorist organizations, corrupt officials, and other criminal enterprises. Specifically, this bill requires that those who form corporations must disclose who the true beneficial owners are in order to thwart hidden criminal activity.

Instilling these measures in place will benefit consumers and small businesses by preventing unfair contracting practices, including false billing, fraudulent certifications, and defrauding taxpayers.

In addition, this bill will help to curb and prevent human trafficking, which is very prevalent now, by eliminating anonymous companies who hide the identities of criminals engaged in trafficking enterprises masked by a legitimate business structure.

According to a study by the University of Texas, among over 100 countries studied, the United States ranked the easiest place for suspicious individuals to incorporate an anonymous company.

Further, according to a 2017 GAO study, it found that GAO was unable to identify ownership information for about one-third of the GSA's high security leases.

Mr. Speaker, the Corporate Transparency Act will fix these issues and provide much-needed transparency into the corporate governing structure. I encourage my colleagues on both sides to support this bill.

Mr. MCHENRY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Missouri (Mrs. WAGNER), the ranking member of the Subcommittee on Diversity and Inclusion, and the vice ranking member of the Committee on Financial Services.

Mrs. WAGNER. Mr. Speaker, I thank the gentleman from North Carolina (Mr. MCHENRY), ranking member, for yielding.

Mr. Speaker, I rise today in support of H.R. 2513, the Corporate Transparency Act. I thank my friend, CAROLYN MALONEY, for her tremendous work to fight trafficking and expose criminals who make money for exploitation; and my friend and colleague, BLAINE LUETKEMEYER, the ranking member of the Subcommittee on Consumer Protection and Financial Institutions for all his work on this issue of beneficial ownership.

I agree with my colleagues that we should not place unnecessary requirements on small businesses, and I believe that this legislation strikes the right balance.

It helps hardworking law enforcement officials expose traffickers who are laundering money through shell companies without placing onerous mandates on small businesses.

Human trafficking is an incredibly lucrative industry, with profits estimated at $150 billion a year. America lags behind our peers in other countries in collecting the beneficial ownership information that helps us to go after these anonymous companies that are exploiting the most vulnerable in our society.

Mr. Speaker, my amendment further simplifies the reporting process, and prevents identity theft and fraud. It creates a fast-tracked process for beneficial ownership where any citizen who is a frequent investor can be preverified. I am glad to see my amendment included in this underlying bill today.

Mr. Speaker, I urge my colleagues to join me in voting ''yes'' so that Congress can finally close the loopholes that allow criminals to rapidly move money and conceal illicit profits in the U.S. banking process.

Ms. WATERS. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. CASTEN).

Mr. CASTEN of Illinois. Mr. Speaker, I rise in support of H.R. 2513. As a member of the Committee on Financial Services, I have witnessed firsthand Representative MALONEY's commitment to advancing this important piece of legislation, and I am so glad that we are discussing it on the floor today.

Sunlight is the best disinfectant. The need for sunlight is especially urgent today as it relates to the involvement of foreign bad actors in our economy and our political process. We have, all of us here, taken an oath to support and defend the Constitution of the United States against all enemies, foreign and domestic, but regardless of whether you take that oath, I would submit to you that all patriotic Americans feel that obligation. I certainly

do, and this bill is a furtherance of that oath.

Before I got here, I was a CEO of an LLC. In fact, I was the CEO of a lot of LLCs. I couldn't even tell you how many LLCs I was the CEO of. And the reason is, because like a lot of modern companies, we set up a corporate structure to have a nested set of LLCs that could isolate liabilities to be matched to different rounds of investors in our company.

Now, that is a great feature of LLCs, but as is so often the case, a strength is also a weakness. It is a weakness because if it allows us to hide investors who want to use our financial system in a nefarious way—like to launder money—they can take advantage of that strength.

And that is why this bill is so necessary. Because companies like mine already collect the data. Because FinCen data is already classified as FISMA high, which is the highest level of cybersecurity for government agencies. So the argument that data of all filers is not protected is simply not true. But ultimately, because sunlight is the best disinfectant, and because we are in a moment when too many powerful people are seeking to hide their sources of capital, putting the trust in our government and financial system at risk.

This is the right bill for business. It is the right bill for our financial system. And it is the right bill for our country.

Mr. MCHENRY. Mr. Speaker, I yield 2 minutes to the gentleman from Troy, Ohio (Mr. DAVIDSON).

Mr. DAVIDSON of Ohio. Mr. Speaker, I thank my colleagues for the important reforms that have been included in this bill, very thoughtfully, to reform our Bank Secrecy Act.

The United States puts heavy burdens on banks to know their customers, to protect our country and our financial system, and to make it easier for the folks in law enforcement, and, frankly, all layers of national security to defend America.

It is an important way that our sanctions regime works. It is an important way that we detect and prosecute crime. And it has worked very successfully for years in the current form.

The biggest complaint is often that we required too much of banks. And so that led to this consumer due diligence rule that FinCen put out that put an extra burden on banks, some would say a redundant burden on banks, to report the beneficial ownership of their companies.

And so that created this provision that is now blended into a single bill rather than a standalone bill that was known as the Corporate Transparency Act. This is a horrible solution to a real problem. And the solution is horrible because it presumes that everyone that would own a company that has fewer than 20 employees is somehow part of an illicit finance scheme in America. The smallest, least-sophisticated businesses are now required to report annually and more frequently if they change the composition of the beneficial owners.

This is a violation of civil liberties and constitutional rights that our body should take seriously. Historically, that has been something that has united the parties.

□ 1445

When Congress did the reforms to the PATRIOT Act and the Foreign Intelligence Surveillance Act, they put these provisions in place with great hesitation because it created a big database and collected a great deal of information.

This data would not be subject to subpoena or control. It is a horrible solution to a real problem, and I urge greater consideration of alternatives in opposition to this bill.

Mr. MCHENRY. May I inquire of the Chair the time remaining.

The Acting CHAIR. The gentleman from North Carolina has 7½ minutes remaining. The gentlewoman from California has 8½ minutes remaining.

Mr. MCHENRY. Mr. Chair, I reserve the balance of my time.

Ms. WATERS. Mr. Chair, I yield myself such time as I may consume.

Mr. Chair, the United States is vulnerable. According to a 2017 report by the Government Accountability Office, ''GAO was unable to identify ownership information for about one-third of GSA's 1,406 high-security leases as of March 2016 because ownership information was not readily available for all buildings.''

This finding was a leading factor in Congress voting to adopt a provision in the fiscal year 2018 National Defense Authorization Act for the Department of Defense to collect beneficial ownership information for all high-security office space it leases.

As a matter of fact, there is more information required to obtain a library card. According to a 2019 Global Financial Integrity analysis, ''The Library Card Project: The Ease of Forming Anonymous Companies in the United States,'' in all 50 States and the District of Columbia, ''more personal information is needed to obtain a library card than to establish a legal entity that can be used to facilitate tax evasion, money laundering, fraud, and corruption.''

The British model: The United Kingdom has a beneficial ownership directory, and an analysis found that the average number of owners per business in the U.K. is 1.13. Eighty-eight percent had two or fewer owners. The most common number of owners is one. More than 99 percent of businesses listed less than six owners.

According to the U.S. Small Business Administration, approximately 78 percent of all businesses in the U.S. are nonemployer firms, meaning there is only one person in the enterprise. This suggests that the experience in the U.S. would be similar to that in the U.K.

Mr. Chair, I would like to share with you that this legislation has tremendous support, for example, from Main Street Alliance, a network of over 30,000 small businesses; American Bankers Association; Bank Policy Institute; Mid-Size Bank Coalition of America; National Foreign Trade Council; Consumer Bankers Association; Financial Services Forum; Bankers Association for Finance and Trade; American Land Title Association; National Association of Realtors; One; FACT Coalition, a collection of 100-plus NGOs, including AFL–CIO, Global Witness, Oxfam America, Friends of the Earth U.S., Jubilee USA Network, Public Citizen, and Small Business Majority.

We could go on and on and on, but I think it is important to know that members of the Financial Services Committee, Representatives Maloney, Luetkemeyer, and Cleaver, have worked in good faith, along with the Department of the Treasury, nonprofit groups, and the financial services sector, to find consensus to close a massive loophole in our anti-money laundering framework.

The resulting pieces of legislation to modernize the anti-money laundering processes and to create a secure financial ownership registry of legal entities held at the Financial Crimes Enforcement Network at the Department of the Treasury represent the best path forward to provide law enforcement with needed information to pursue money criminals looking to exploit our financial system.

Mr. Chair, I reserve the balance of my time.

Mr. MCHENRY. Mr. Chair, I include in the RECORD a letter from the National Federation of Independent Businesses in opposition to this bill and a letter dated October 18, 2019, in opposition to the bill.

NFIB,
Washington, DC, October 21, 2019.

DEAR REPRESENTATIVE: On behalf of NFIB, the nation's leading small business advocacy organization, I write in strong opposition to H.R. 2513, the Corporate Transparency Act of 2019. This bill saddles America's smallest businesses with 131.7 million new paperwork hours at a cost of $5.7 billion, and treats small business owners as criminals by threatening them with jail time and oppressive fines for paperwork violations. To make matters even worse, the legislation puts the personal information of small business owners at serious risk.

The Corporate Transparency Act of 2019 requires corporations and limited liability companies with 20 or fewer employees to file new reports with the Treasury Department's Financial Crimes Enforcement Network (FinCEN) regarding the personally identifiable information of businesses' beneficial owners and update that information every year. The legislation imposes its reporting mandates only on America's small businesses, those least equipped to handle new paperwork requirements. Moreover, the legislation makes it a federal crime to fail to provide completed and updated reports, with civil penalties of up to $10,000, criminal penalties of up to 3 years in prison, or both.

The nonpartisan Congressional Budget Office (CBO) agrees that this legislation would

impose a significant new regulatory burden on small businesses. The CBO wrote, ''Because of the high volume of businesses that must meet the new reporting requirements and the additional administrative burden to file a new report, CBO estimates that the total costs to comply with the mandate would be substantial.'' The Corporate Transparency Act would generate between 25 million to 30 million new reports annually.

NFIB members report that the burden of federal paperwork ranks in the top 20% of the problems they encounter as small business owners. While large businesses and financial institutions may have access to teams of lawyers, accountants, and compliance experts to gather beneficial ownership information and report it to the government, small business owners do not. Small business owners have difficulty affording accounting and legal experts to help them understand and comply with federal reporting requirements. And small business owners lack the time to track and gather information to fill out yet more forms for the government.

When NFIB surveyed its membership concerning beneficial ownership reporting in August 2018, 80% opposed the idea of Congress requiring small business owners to file paperwork with the Treasury Department each time they form or change ownership of a business.

The Corporate Transparency Act of 2019 raises serious privacy concerns for small businesses. This bill would allow federal, state, tribal, local, and even foreign law enforcement access to business owners' personally identifiable information, via the FinCEN database, without a subpoena or warrant. The potential for improper disclosure or misuse of private information increases as the number of people with access to the information increases.

The Corporate Transparency Act of 2019 establishes a first of its kind federal registry of small business owners. While this registry will not be publicly available initially, NFIB has serious concerns that this legislation would be a first step towards establishing a publicly accessible federal registry, which can be used to name and shame small business owners.

NFIB strongly opposes H.R. 2513, the Corporate Transparency Act of 2019 and will consider it a Key Vote for the 116th Congress.

Sincerely,

JUANITA D. DUGGAN,
President & CEO,
NFIB.

OCTOBER 18, 2019.

DEAR REPRESENTATIVE: While we support the goal of preventing wrongdoers from exploiting United States corporations and limited liability companies (LLCs) for criminal gain, the undersigned organizations write to express our strong opposition to H.R. 2513, the Corporate Transparency Act of 2019.

The Corporate Transparency Act would impose burdensome, duplicative reporting burdens on millions of small businesses in the United States and threatens the privacy of law-abiding, legitimate small business owners.

The Financial Crimes Enforcement Network's (FinCEN) Customer Due Diligence (CDD) rule became applicable on May 11, 2018. The CDD rule requires financial institutions to collect the ''beneficial ownership'' information of legal entities with which they conduct commerce. This legislation would attempt to shift the reporting requirements from large banks—those best equipped to handle reporting requirements—to millions of small businesses—those least equipped to handle reporting requirements.

The reporting requirements in the legislation would not only be duplicative, they would also be burdensome. Under this legislation, millions of small businesses would be required to register personally identifiable information with FinCEN upon incorporation and file annual reports with FinCEN for the life of the business. Failure to comply with these reporting requirements would be a federal crime with civil penalties up to $10,000, criminal penalties up to 3 years in prison, or both.

The Congressional Budget Office wrote, ''Because of the high volume of businesses that must meet the new reporting requirements and the additional administrative burden to file a new report, CBO estimates that the total costs to comply with the mandate would be substantial.'' The Corporate Transparency Act would generate between 25 million to 30 million new reports annually.

This legislation contains a definition of ''beneficial ownership'' that expands upon the current CDD rule. The CDD rule requires disclosure of individuals with a 25 percent ownership interest in a business and an individual with significant responsibilities to control a business. The Corporate Transparency Act would expand that definition, requiring disclosure of any individual who ''receives substantial economic benefits from the assets of'' a small business. The legislation defers to regulators at the Department of Treasury to determine ''substantial economic benefits.''

In addition, this legislation would impose a ''look-through'' reporting requirement, necessitating small business owners to look through every layer of corporate and LLC affiliates to identify if any individuals associated with such entities are qualifying beneficial owners. Ownership of an entity by one or more other corporations or LLCs is common. Corporate and LLC shareholders would already have their own independent reporting obligation under this bill to disclose any beneficial owners, making this provision excessively burdensome.

The Corporate Transparency Act raises significant privacy concerns as the proposed FinCEN ''beneficial ownership'' database would contain the names, dates of birth, addresses, and unexpired drivers' license numbers or passport numbers of millions of small business owners. This information would be accessible upon request ''through appropriate protocols'' to any local, state, tribal, or federal law enforcement agency or to law enforcement agencies from other countries via requests by U.S. federal agencies. This type of regime presents unacceptable privacy risks.

The Corporate Transparency Act also introduces serious data breach and cybersecurity risks. Under the legislation, FinCEN would maintain a database of private information that could be hacked for nefarious reasons. As the 2015 breach of the Office of Personnel Management demonstrated, the federal government is not immune from cyber-attacks and harmful disclosure of information. In addition, millions of American companies would be required to maintain and distribute information about owners and investors in the company, thus creating another point of vulnerability for attack. This risk is particularly acute because the Corporate Transparency Act is focused only on small businesses and those entities are often the least equipped to fight off cyber intrusions.

While this letter does not enumerate every concern, it highlights fundamental problems the Corporate Transparency Act would cause for millions of small businesses in the United States.

Because of the new reporting requirements and privacy concerns, the undersigned organizations urge a no vote on H.R. 2513, the Corporate Transparency Act.

Sincerely,

Air Conditioning Contractors of America, American Business Conference, American Farm Bureau Federation, American Foundry Society, American Hotel and Lodging Association, American Rental Association, Asian American Hotel Owners Association, Associated Builders and Contractors, Associated General Contractors of America, Auto Care Association, Family Business Coalition, International Foodservice Distributors Association, International Franchise Association.

National Apartment Association, National Association for the Self-Employed, National Association of Home Builders, National Association of Wholesaler-Distributors, NFIB, National Grocers Association, National Lumber and Building Material Dealers Association, National Pest Management Association, National Restaurant Association, National Retail Federation, National Roofing Contractors Association.

National Small Business Association, National Tooling and Machining Association, Petroleum Equipment Institute, Petroleum Marketers Association of America, Policy and Taxation Group, Precision Machined Parts Association, Precision Metalforming Association, Service Station Dealers of America and Allied Trades, S-Corporation Association, Small Business & Entrepreneurship Council, Specialty Equipment Market Association, The Real Estate Roundtable, Tire Industry Association.

Mr. MCHENRY. Mr. Chair, I include in the RECORD an article on behalf of the Due Process Institute, the American Civil Liberties Union, and FreedomWorks in opposition to this bill.

[From the Due Process Institute, ACLU, and FreedomWorks]

NO BENEFIT TO A BENEFICIAL OWNERSHIP REPORTING SYSTEM THAT INCREASES AMERICA'S OVER-INCARCERATION PROBLEM AND FAILS TO ADEQUATELY PROTECT PRIVACY

H.R. 2513 would require people who form or already own businesses, particularly small businesses, to submit extensive personal, financial, and business-related information to the government's Financial Crimes Enforcement Network (FinCEN). Legislative efforts to stop international crime by trying to ''follow the money'' such as H.R. 2513 likely have the best intentions in mind. However, the Due Process Institute, the American Civil Liberties Union, and FreedomWorks have serious concerns with several provisions of the Corporate Transparency Act of 2019 and believe the House should vote no TODAY on H.R. 2513 until these issues are fully addressed.

In sum, the creation of at least 5 new federal crimes for first-time ''paperwork'' violations that are felony criminal offenses calling for prison time is a dramatic step in the wrong direction. No matter how well-intentioned, this bill bears no real relation to combatting terrorism or money laundering and instead eliminates a significant amount of personal and financial privacy. On that score, the bill fails to adequately address how all of the personal and financial information disclosed to, and collected by, the government will be used solely for legitimate purposes or specifically address how privacy interests will be protected.

KEY TERMS ARE TOO VAGUE

Importantly, numerous key terms and phrases in the bill are poorly defined. For example, the current definition of ''beneficial owner'' includes anyone who ''directly or indirectly'' exercises substantial control or receives substantial economic benefit from an

entity. What does it mean to indirectly control an entity? The bill does not explain. We also cannot look to current FinCEN regulations to divine meaning. The bill does not replicate current FinCEN definitions of beneficial ownership and broadens the current definition to include an individual that ''receives substantial economic benefits from the assets of a corporation.'' Again, the bill does not explain the term. This lack of clarity has very serious consequences when a bill creates at least 5 new federal criminal laws that do nothing but increase this nation's overreliance on criminalization as a cure for every problem. Vague or overly broad statutory text leaves people vulnerable to unfair criminal investigations and prosecutions.

COMPLEX CRIMINAL COMPLIANCE LAWS UNFAIRLY BURDEN SMALL BUSINESSES & NONPROFITS

Furthermore, this bill exempts most large entities with the compliance teams necessary to help them navigate new and burdensome requirements. Determining what is to be reported, when, and by whom, in a complex regulatory scheme is difficult. Large corporations are exempt—leaving the reporting burdens solely to small or independent businessowners as well as many nonprofits. Compounding this problem, these new disclosure requirements would apply not only to newly formed entities but also to those that have already been in existence—yet a businessowner (even a first-time offender) who fails to comply with any aspect of the requirements could face a prison sentence, as might a non-profit organization that inadvertently fails to meet all of the requirements to qualify for an exemption in the bill. These kinds of requirements easily set traps for honest people trying to faithfully comply with complex laws, particularly owners who lack experience or significant funds and volunteer-based nonprofits also lacking in funds and expertise to retain sophisticated business lawyers who can help them.

BENEFICIAL OWNERSHIP INFORMATION WOULD LACK SUFFICIENT PRIVACY PROTECTION

The bill currently would permit beneficial ownership information to be shared with local, Tribal, State, or Federal law enforcement under nearly any circumstances where they may assert an existing investigatory basis and agree to abide by vague privacy standards. The receiving agency may then use that information, without meaningful limitation, for any other law enforcement, national security, or intelligence purpose. These standards are entirely too broad and leave far too much personal information vulnerable to disclosure. The bill should permit FinCEN to disclose beneficial ownership information only when presented with a warrant based on probable cause. Without a clear standard limiting information disclosure, there would be few if any limits on the sharing of this information. Search warrants based on probable cause are the standard for obtaining information in criminal investigations and it would be reasonable to require them in this context. Moreover, the bill contains inadequate safeguards for protecting against the improper disclosure of information or for appropriately limiting the use of the information disclosed. At a minimum, the bill should limit use of the information to the investigative purposes for which it was collected and require the deletion of information after it is no longer useful for its investigative purpose. And it fails to provide either.

The truth is: there are already hundreds of federal criminal laws on the books, along with a wide swath of powerful investigative tools and authorities, that the government can use to adequately address or prevent money laundering and this bill is an unnecessary step in the wrong direction.

We hope you share our bipartisan concerns and oppose this legislation when voting today unless serious amendments are made.

Mr. MCHENRY. And, Mr. Chair, I include in the RECORD two newspaper pieces, or news articles, if you will, from The Wall Street Journal and from The Verge.

From The Verge, it says: ''FBI violated Americans' privacy by abusing access to NSA surveillance data, court rules.'' And the second, from The Wall Street Journal, says: ''FBI's Use of Surveillance Database Violated Americans' Privacy Rights, Court Found.'' These are two recent articles that have been published in the last 10 days.

[From The Verge, Oct. 8, 2019]

FBI VIOLATED AMERICANS' PRIVACY BY ABUSING ACCESS TO NSA SURVEILLANCE DATA, COURT RULES

(By Nick Statt)

FBI AGENTS MADE TENS OF THOUSANDS OF UNAUTHORIZED SEARCHES ON AMERICAN CITIZENS

The Federal Bureau of Investigation made tens of thousands of unauthorized searches related to US citizens between 2017 and 2018, a court ruled. The agency violated both the law that authorized the surveillance program they used and the Fourth Amendment of the US Constitution.

The ruling was made in October 2018 by the Foreign Intelligence Surveillance Court (FISC), a secret government court responsible for reviewing and authorizing searches of foreign individuals inside and outside the US. It was just made public today.

THE FBI MADE UNAUTHORIZED, WARRANTLESS ELECTRONIC SEARCHES ON AMERICAN CITIZENS

The program itself, called Section 702 and part of the broad and aggressive expansion of US spy programs in the years after 9/11, granted FBI agents the ability to search a database of electronic intelligence, including phone numbers, emails, and other identifying data. It's intended for use primarily by the National Security Agency.

There's a key limitation on Section 702: it can only be used to search for evidence of a crime or as part of an investigation into a foreign target. The idea is to monitor terrorism suspects and cyberthreats.

Yet the FBI vetted American sources using the database, according to The Wall Street Journal. The agents also used the database to search for information about themselves. Less amusingly, they also looked up friends, family, and coworkers. The court deemed this a clear violation of the Fourth Amendment, which protects against unreasonable search and seizure, because none of the searches of US citizens had proper warrants attached.

The FISC is responsible for evaluating the use of these spy tools in secret as part of the Foreign Intelligence Surveillance Act of 1978, which pushed these governmental deliberations behind closed doors under the guise of protecting national security. That's why this ruling went a full year before seeing the light of day.

It's public now because the government lost an appeal in a separate, secret appeals court, the WSJ says. The FBI must now create new oversight procedures and a compliance review team to protect against further surveillance abuse.

[From WSJ, October 8, 2019]

FBI'S USE OF SURVEILLANCE DATABASE VIOLATED AMERICANS' PRIVACY RIGHTS, COURT FOUND

(By Dustin Volz and Byron Tau)

U.S. DISCLOSES RULING LAST YEAR BY FOREIGN INTELLIGENCE SURVEILLANCE COURT THAT FBI'S DATA QUERIES OF U.S. CITIZENS WERE UNCONSTITUTIONAL

Washington—Some of the Federal Bureau of Investigation's electronic surveillance activities violated the constitutional privacy rights of Americans swept up in a controversial foreign intelligence program, a secretive surveillance court has ruled.

The ruling deals a rare rebuke to U.S. spying programs that have generally withstood legal challenge and review since they were dramatically expanded after the Sept. 11, 2001, attacks. The opinion resulted in the FBI agreeing to better safeguard privacy and apply new procedures, including recording how the database is searched to detect possible future compliance issues.

The intelligence community disclosed Tuesday that the Foreign Intelligence Surveillance Court last year found that the FBI's efforts to search data about Americans ensnared in a warrantless internet-surveillance program intended to target foreign suspects have violated the law authorizing the program, as well as the Constitution's Fourth Amendment protections against unreasonable searches. The issue was made public by the government only after it lost an appeal of the judgment earlier this year before another secret court.

The court concluded that in at least a handful of cases, the FBI had been improperly searching a database of raw intelligence for information on Americans—raising concerns about oversight of the program, which as a spy program operates in near total secrecy.

The October 2018 court ruling identifies improper searches of raw intelligence databases by the bureau in 2017 and 2018 that were deemed problematic in part because of their breadth, which sometimes involved queries related to thousands or tens of thousands of pieces of data, such as emails or telephone numbers. In one case, the ruling suggested, the FBI was using the intelligence information to vet its personnel and cooperating sources. Federal law requires that the database only be searched by the FBI as part of seeking evidence of a crime or for foreign intelligence information.

In other instances, the court ruled that the database had been improperly used by individuals. In one case, an FBI contractor ran a query of an intelligence database—searching information on himself, other FBI personnel and his relatives, the court revealed.

The Trump administration failed to make a persuasive argument that modifying the program to better protect the privacy of Americans would hinder the FBI's ability to address national security threats, wrote U.S. District Judge James Boasberg, who serves on the PISA Court, in the partially redacted 138-page opinion released Tuesday.

In one case central to the court's opinion, the FBI in March 2017 conducted a broad search for information related to more than 70,000 emails, phone numbers and other digital identifiers. The bureau appeared to be looking for data to conduct a security review of people with access to its buildings and computers—meaning the FBI was searching for data linked to its own employees.

Judge Boasberg wrote that the case demonstrated how a ''single improper decision or assessment'' resulted in a search of data belonging to a large number of individuals. He said the government had reported since April 2017 ''a large number of FBI queries that

were not reasonably likely to return foreign-intelligence information or evidence of a crime,'' the standard required for such searches.

''The court accordingly finds that the FBI's querying procedures and minimization procedures are not consistent with the requirements of the Fourth Amendment,'' Judge Boasberg concluded.

The legal fight over the FBI's use of the surveillance tool has played out in secret since the courts that adjudicate these issues under the Foreign Intelligence Surveillance Act of 1978 rarely publicize their work. It was resolved last month after the government created new procedures in the wake of losing an appeal to the U.S. Foreign Intelligence Surveillance Court of Review—a secret appeals court that is rarely consulted and seldom releases opinions publicly. That resolution cleared the way for the disclosure Tuesday.

Additionally, FBI Director Chris Wray ordered the creation of a compliance review team following the October decision, a bureau official said.

The program in question, known as Section 702 surveillance, has roots in the national-security tools set up by the George W. Bush administration following the Sept. 11, 2001, terrorist attacks. It was later enshrined in law by Congress to target the electronic communications of nonAmericans located overseas. The program is principally used by the National Security Agency to collect certain categories of foreign intelligence from international phone calls and emails about terrorism suspects, cyber threats and other security risks.

Information from that surveillance is often shared with relevant federal government agencies with the names of any U.S. persons redacted to protect their privacy, unless an agency requests that identities be unmasked.

Privacy advocates have long criticized the Section 702 law for allowing broad surveillance that can implicate Americans and doesn't require individualized warrants. U.S. intelligence officials have defended it as among the most valuable national-security tools at their disposal, even as intelligence agencies have acknowledged that some communications from Americans are swept up in the process.

The court documents released Tuesday reveal unprecedented detail about how communications from Americans were ensnared and searched by intelligence collection programs that U.S. officials have publicly said are aimed mainly at foreigners. They cast doubt on whether law-enforcement and intelligence agencies are carefully complying with privacy procedures Congress has mandated.

Sen. Ron Wyden (D., Ore.), a critic of U.S. surveillance programs, said the disclosure ''reveals serious failings in the FBI's backdoor searches, underscoring the need for the government to seek a warrant before searching through mountains of private data on Americans.''

President Trump signed into law a six-year renewal of the Section 702 program in early 2018. Changes to the law allowed the court to review the FBI's data handling ultimately led to the October ruling.

The surveillance court opinions are the latest setback for U.S. surveillance practices during the Trump administration. The NSA last year turned off a program that collects domestic phone metadata—the time and duration of a call but not its content—amid at least two compliance issues involving the overcollection of data the spy agency wasn't authorized to obtain.

The FBI has also been under intense political pressure from Mr. Trump and his allies, who allege that the bureau's surveillance of a Trump campaign associate was improper. That surveillance of the aide, Carter Page, fell under a different provision of the foreign intelligence law but has nevertheless sparked a major debate about the scope of the bureau's authorities.

CORRECTIONS & AMPLIFICATIONS

U.S District Judge James Boasberg's opinion on FBI surveillance was 138 pages long. An earlier version of this article incorrectly called it a 167-page opinion. (Oct. 8, 2019)

Mr. MCHENRY. Mr. Chair, I yield 2 minutes to the gentleman from Tennessee (Mr. JOHN W. ROSE), from Temperance Hall.

Mr. JOHN W. ROSE of Tennessee. Mr. Chair, I rise in opposition to H.R. 2513, the Corporate Transparency Act.

As a farmer and as someone who has started a small business from the ground up, I know firsthand the unnecessary burden government regulations can place on small business owners.

Unlike large corporations, America's 5 million small businesses do not have the manpower, time, or resources to comply with more undue regulatory burdens.

Furthermore, it is concerning that H.R. 2513 lacks provisions that would ensure our small business owners' privacy. Under H.R. 2513, small business owners, after submitting their personal information, cannot trust that it would be safe or protected. As offered, H.R. 2513 lacks the safeguards necessary to provide our small business owners the confidence that their personal information will be safe and protected, once submitted.

At a minimum, if Big Government demands personal information, it must protect that data.

In addition, H.R. 2513 is built around arbitrary thresholds. I have yet to see a convincing explanation for why the threshold is a maximum of 20 employees or $5 million in gross receipts.

Under this legislation, if small business owners are unable to submit the required personal information, they may face criminal penalties of $10,000 and 3 years in prison. That would kill any small business.

Let us not forget, small businesses are the heart and drivers of job creation in many rural communities, as is the case for many of the communities I proudly represent in Tennessee's Sixth District.

We cannot unleash innovation in our country when we continue to force Big Government on America's small farmers and business owners.

The esteemed ranking member from North Carolina and I urge our fellow Members to join us in voting against H.R. 2513, the latest rendition of burdensome regulations and personal privacy invasions.

Ms. WATERS. Mr. Chair, I yield 3 minutes to the gentlewoman from New York (Mrs. CAROLYN B. MALONEY) sponsor of the legislation, H.R. 2513.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, critics on the other side of the aisle have made wild claims about the bill costing small businesses millions of dollars. But in the U.K., where they already collect this information, the cost of compliance for the average small business was only about $200, and that is a one-time cost. To me, that is a very modest price to pay for national security.

Every law enforcement agency in this country is asking for this reform, in order to make us safer.

In the U.K., the median company had 1.1 owners, which means that the vast majority of small businesses only have one owner, so that these businesses only have to file one name.

We are asking for only four pieces of information, and it is basic: name, date of birth, current address, and driver's license.

Does that sound burdensome? For most small business owners, it would take less than 5 minutes to fill out the form.

According to studies, it was pointed out earlier, you have to disclose more information to get a library card than you need to disclose to create a corporation or an LLC. And you don't hear people complaining about filling out forms for library cards.

I think the idea that the disclosure would be unduly burdensome is simply and completely false.

The bill also goes out of its way to exempt every category of business that already discloses their beneficial owners, either to regulators or the public filings. This includes banks, credit unions, insurance companies, and investment advisers, brokers, utilities, and nonprofits.

The bill even exempts companies with more than 20 employees and over $5 million in revenues because, if you have 20 employees, you are actually generating a significant amount of revenues and you are, certainly, a real business and not a shell company that is being used to launder money.

In fact, in almost all the cases where law enforcement has uncovered a shell company that is being used for illicit purposes, the company had either zero employees or one employee. That is why we felt very comfortable exempting companies with more than 20 employees.

I think we have gone way out of our way to ensure that the bill is appropriately tailored and is not burdensome to small businesses.

I would like to repeat that, usually, national security bills are bipartisan, and I am proud that we had significant support in the vote from our friends on the other side of the aisle. I urge my colleagues on both sides of the aisle to support this important bill that will make our citizens safer, will help law enforcement do their jobs, and, therefore, will save lives in our country.

This is a serious bill. Most countries already have it, and we are way behind. We are the money laundering capital of the world. It is just plain common sense to protect our citizens.

Vote for national security, and vote for this bill.

Mr. MCHENRY. Mr. Chair, I am prepared to close, and I yield myself the remainder of my time.

Mr. Chair, this is a disappointing bill. According to the National Federation of Independent Businesses, this will create $5.7 billion in new regulatory costs for America's smallest businesses.

My friend and colleague just said one or two employees, but the bill before us today says 20 or fewer employees. Traditionally, Congress has exempted small businesses from onerous government regulation, and Congress, in its wisdom, has set a threshold of small businesses that is 50 and above for most regulations that are of national import.

This bill turns all that on its head. It turns it all on its head and says: No, no, no. We are going to have a special carve-out for all small businesses, $5 billion and under of revenue and 20 employees and fewer.

The whole mindset here is absolutely wrong. We are putting a new small business mandate on America's smallest businesses, and we have an intelligence bureau that is going to go out to the public and request information directly from the public.

We don't do that with NSA to look at your cell phone records. In fact, we require the NSA to go before a court in order to look at a cell phone database, and there is an enormous amount of litigation around that.

What we have here is a new Federal Government database by an intelligence bureau most people haven't heard of, and it is a mandate on small businesses.

There are no due process protections here. You don't have to go before a court in order to look at this. In fact, they can just peruse it at will.

You have no data security standards, so we don't even know if this will be held to the same standard of data breaches that have already occurred in our intelligence bureaus and for Federal employees, nor the same liability standards for Federal users as the private sector has to protect personally identifiable information.

Again, there is not regulatory relief. Our friends in the banks want this because they want to be relieved of the burden of collecting this information. I certainly understand that. But they are still going to have to collect that information.

There is no repeal of the underlying rule that requires the banks to collect that type of information in order to transact business with those small businesses and businesses of other sizes.

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So there is no regulatory relief, with few civil liberty protections. We don't have a cybersecurity standard in the database. And it is a new mandate on small businesses.

But if you are content with that, vote ''yes,'' and if you don't think that is sufficient, vote ''no.''

I am going to stand with the NFIB, the American Farm Bureau, the National Association of Home Builders, National Association of General Contractors of America, the National Retail Federation, the Real Estate Roundtable, and other organizations here in Washington, like the ACLU, Heritage Action for America, the FreedomWorks Foundation, and the American Civil Liberties Union, as I mentioned, but I want to mention them twice so that people hear that clearly.

There is bipartisan opposition to this, and so I encourage my colleagues to vote ''no'' against this new mandate. Stand with your small business folks, and we will come to a better compromise than what we have here before us today. Please vote ''no.''

Mr. Chair, I yield back the balance of my time.

Ms. WATERS. Mr. Chairman, I would like to inquire as to how much time I have left.

The Acting CHAIR. The gentlewoman from California has 1½ minutes remaining.

Ms. WATERS. Mr. Chair, I would like to thank Representatives MALONEY and CLEAVER for their work on these reforms.

I would like to just add that H.R. 2513 is an important, commonsense measure that stops criminals from being able to hide behind anonymous shell companies. It closes loopholes in the Bank Secrecy Act, increases penalties for those who break the law, and helps provide financial institutions with new tools to more easily and accurately fulfill their obligations under the law.

Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

The amendment in the nature of a substitute recommended by the Committee on Financial Services, printed in the bill, modified by the amendment printed in part A of House Report 116–247, shall be considered as adopted. The bill, as amended, shall be considered as the original bill for the purpose of further amendment and shall be considered as read.

The text of the bill, as amended, is as follows:

H.R. 2513

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DIVISION A—CORPORATE TRANSPARENCY ACT OF 2019

SECTION 1. SHORT TITLE.

(a) IN GENERAL.—This Act may be cited as the ''Corporate Transparency Act of 2019''.

(b) REFERENCES TO THIS ACT.—In this division—

(1) any reference to ''this Act'' shall be deemed a reference to ''this division''; and

(2) except as otherwise expressly provided, any reference to a section or other provision shall be deemed a reference to that section or other provision of this division.

SEC. 2. FINDINGS.

Congress finds the following:

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

(2) Very few States require information about the beneficial owners of the corporations and limited liability companies formed under their laws.

(3) A person forming a corporation or limited liability company within the United States typically provides less information at the time of incorporation than is needed to obtain a bank account or driver's license and typically does not name a single beneficial owner.

(4) Criminals have exploited State formation procedures to conceal their identities when forming corporations or limited liability companies in the United States, and have then used the newly created entities to commit crimes affecting interstate and international commerce such as terrorism, proliferation financing, drug and human trafficking, money laundering, tax evasion, counterfeiting, piracy, securities fraud, financial fraud, and acts of foreign corruption.

(5) Law enforcement efforts to investigate corporations and limited liability companies suspected of committing crimes have been impeded by the lack of available beneficial ownership information, as documented in reports and testimony by officials from the Department of Justice, the Department of Homeland Security, the Department of the Treasury, and the Government Accountability Office, and others.

(6) In July 2006, the leading international antimoney laundering standard-setting body, the Financial Action Task Force on Money Laundering (in this section referred to as the ''FATF''), of which the United States is a member, issued a report that criticizes the United States for failing to comply with a FATF standard on the need to collect beneficial ownership information and urged the United States to correct this deficiency by July 2008. In December 2016, FATF issued another evaluation of the United States, which found that little progress has been made over the last ten years to address this problem. It identified the ''lack of timely access to adequate, accurate and current beneficial ownership information'' as a fundamental gap in United States efforts to combat money laundering and terrorist finance.

(7) In response to the 2006 FATF report, the United States has urged the States to obtain beneficial ownership information for the corporations and limited liability companies formed under the laws of such States.

(8) In contrast to practices in the United States, all 28 countries in the European Union are required to have corporate registries that include beneficial ownership information.

(9) To reduce the vulnerability of the United States to wrongdoing by United States corporations and limited liability companies with hidden owners, to protect interstate and international commerce from criminals misusing United States corporations and limited liability companies, to strengthen law enforcement investigations of suspect corporations and limited liability companies, to set a clear, universal standard for State incorporation practices, and to bring the United States into compliance with international anti-money laundering standards, Federal legislation is needed to require the collection of beneficial ownership information for the corporations and limited liability companies formed under the laws of such States.

SEC. 3. TRANSPARENT INCORPORATION PRACTICES.

(a) IN GENERAL.—

(1) AMENDMENT TO THE BANK SECRECY ACT.—Chapter 53 of title 31, United States Code, is amended by inserting after section 5332 the following new section:

''§ 5333 Transparent incorporation practices

''(a) REPORTING REQUIREMENTS.—

''(1) BENEFICIAL OWNERSHIP REPORTING.—

''(A) IN GENERAL.—Each applicant to form a corporation or limited liability company under

the laws of a State or Indian Tribe shall file a report with FinCEN containing a list of the beneficial owners of the corporation or limited liability company that—

''(i) except as provided in paragraphs (3) and (4), and subject to paragraph (2), identifies each beneficial owner by—

''(I) full legal name;

''(II) date of birth;

''(III) current residential or business street address; and

''(IV) a unique identifying number from a non-expired passport issued by the United States, a non-expired personal identification card, or a non-expired driver's license issued by a State; and

''(ii) if the applicant is not a beneficial owner, also provides the identification information described in clause (i) relating to such applicant.

''(B) UPDATED INFORMATION.—Each corporation or limited liability company formed under the laws of a State or Indian Tribe shall—

''(i) submit to FinCEN an annual filing containing a list of—

''(I) the current beneficial owners of the corporation or limited liability company and the information described in subparagraph (A) for each such beneficial owner; and

''(II) any changes in the beneficial owners of the corporation or limited liability company during the previous year; and

''(ii) pursuant to any rule issued by the Secretary of the Treasury under subparagraph (C), update the list of the beneficial owners of the corporation or limited liability company within the time period prescribed by such rule.

''(C) RULEMAKING ON UPDATING INFORMATION.—Not later than 9 months after the completion of the study required under section 4(a)(1) of the Corporate Transparency Act of 2019, the Secretary of the Treasury shall consider the findings of such study and, if the Secretary determines it to be necessary or appropriate, issue a rule requiring corporations and limited liability companies to update the list of the beneficial owners of the corporation or limited liability company within a specified amount of time after the date of any change in the list of beneficial owners or the information required to be provided relating to each beneficial owner.

''(D) STATE NOTIFICATION.—Each State in which a corporation or limited liability company is being formed shall notify each applicant of the requirements listed in subparagraphs (A) and (B).

''(2) CERTAIN BENEFICIAL OWNERS.—If an applicant to form a corporation or limited liability company or a beneficial owner, or similar agent of a corporation or limited liability company who is required to provide identification information under this subsection, does not have a nonexpired passport issued by the United States, a nonexpired personal identification card, or a non-expired driver's license issued by a State, each such person shall provide to FinCEN the full legal name, current residential or business street address, a unique identifying number from a non-expired passport issued by a foreign government, and a legible and credible copy of the pages of a non-expired passport issued by the government of a foreign country bearing a photograph, date of birth, and unique identifying information for each beneficial owner, and each application described in paragraph (1)(A) and each update described in paragraph (1)(B) shall include a written certification by a person residing in the State or Indian country under the jurisdiction of the Indian Tribe forming the entity that the applicant, corporation, or limited liability company—

''(A) has obtained for each such beneficial owner, a current residential or business street address and a legible and credible copy of the pages of a non-expired passport issued by the government of a foreign country bearing a photograph, date of birth, and unique identifying information for the person;

''(B) has verified the full legal name, address, and identity of each such person;

''(C) will provide the information described in subparagraph (A) and the proof of verification described in subparagraph (B) upon request of FinCEN; and

''(D) will retain the information and proof of verification under this paragraph until the end of the 5-year period beginning on the date that the corporation or limited liability company terminates under the laws of the State or Indian Tribe.

''(3) EXEMPT ENTITIES.—

''(A) IN GENERAL.—With respect to an applicant to form a corporation or limited liability company under the laws of a State or Indian Tribe, if such entity is described in subparagraph (C) or (D) of subsection (d)(4) and will be exempt from the beneficial ownership disclosure requirements under this subsection, such applicant, or a prospective officer, director, or similar agent of the applicant, shall file a written certification with FinCEN—

''(i) identifying the specific provision of subsection (d)(4) under which the entity proposed to be formed would be exempt from the beneficial ownership disclosure requirements under paragraphs (1) and (2);

''(ii) stating that the entity proposed to be formed meets the requirements for an entity described under such provision of subsection (d)(4); and

''(iii) providing identification information for the applicant or prospective officer, director, or similar agent making the certification in the same manner as provided under paragraph (1) or (2).

''(B) EXISTING CORPORATIONS OR LIMITED LIABILITY COMPANIES.—On and after the date that is 2 years after the final regulations are issued to carry out this section, a corporation or limited liability company formed under the laws of the State or Indian Tribe before such date shall be subject to the requirements of this subsection unless an officer, director, or similar agent of the entity submits to FinCEN a written certification—

''(i) identifying the specific provision of subsection (d)(4) under which the entity is exempt from the requirements under paragraphs (1) and (2);

''(ii) stating that the entity meets the requirements for an entity described under such provision of subsection (d)(4); and

''(iii) providing identification information for the officer, director, or similar agent making the certification in the same manner as provided under paragraph (1) or (2).

''(C) EXEMPT ENTITIES HAVING OWNERSHIP INTEREST.—If an entity described in subparagraph (C) or (D) of subsection (d)(4) has or will have an ownership interest in a corporation or limited liability company formed or to be formed under the laws of a State or Indian Tribe, the applicant, corporation, or limited liability company in which the entity has or will have the ownership interest shall provide the information required under this subsection relating to the entity, except that the entity shall not be required to provide information regarding any natural person who has an ownership interest in, exercises substantial control over, or receives substantial economic benefits from the entity.

''(4) FINCEN ID NUMBERS.—

''(A) ISSUANCE OF FINCEN ID NUMBER.—

''(i) IN GENERAL.—FinCEN shall issue a FinCEN ID number to any individual who requests such a number and provides FinCEN with the information described under subclauses (I) through (IV) of paragraph (1)(A)(i).

''(ii) UPDATING OF INFORMATION.—An individual with a FinCEN ID number shall submit an annual filing with FinCEN updating any information described under subclauses (I) through (IV) of paragraph (1)(A)(i).

''(B) USE OF FINCEN ID NUMBER IN REPORTING REQUIREMENTS.—Any person required to report the information described under paragraph (1)(A)(i) with respect to an individual may instead report the FinCEN ID number of the individual.

''(C) TREATMENT OF INFORMATION SUBMITTED FOR FINCEN ID NUMBER.—For purposes of this section, any information submitted under subparagraph (A) shall be deemed to be beneficial ownership information.

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

''(A) RETENTION OF INFORMATION.—Beneficial ownership information relating to each corporation or limited liability company formed under the laws of the State or Indian Tribe shall be maintained by FinCEN until the end of the 5-year period (or such other period of time as the Secretary of the Treasury may, by rule, determine) beginning on the date that the corporation or limited liability company terminates.

''(B) DISCLOSURE OF INFORMATION.—Beneficial ownership information reported to FinCEN pursuant to this section shall be provided by FinCEN only upon receipt of—

''(i) subject to subparagraph (C), a request, through appropriate protocols, by a local, Tribal, State, or Federal law enforcement agency;

''(ii) a request made by a Federal agency on behalf of a law enforcement agency of another country under an international treaty, agreement, or convention, or an order under section 3512 of title 18 or section 1782 of title 28; or

''(iii) a request made by a financial institution, with customer consent, as part of the institution's compliance with due diligence requirements imposed under the Bank Secrecy Act, the USA PATRIOT Act, or other applicable Federal, State, or Tribal law.

''(C) APPROPRIATE PROTOCOLS.—

''(i) PRIVACY.—The protocols described in subparagraph (B)(i) shall—

''(I) protect the privacy of any beneficial ownership information provided by FinCEN to a local, Tribal, State, or Federal law enforcement agency;

''(II) ensure that a local, Tribal, State, or Federal law enforcement agency requesting beneficial ownership information has an existing investigatory basis for requesting such information;

''(III) ensure that access to beneficial ownership information is limited to authorized users at a local, Tribal, State, or Federal law enforcement agency who have undergone appropriate training, and that the identity of such authorized users is verified through appropriate mechanisms, such as two-factor authentication;

''(IV) include an audit trail of requests for beneficial ownership information by a local, Tribal, State, or Federal law enforcement agency, including, as necessary, information concerning queries made by authorized users at a local, Tribal, State, or Federal law enforcement agency;

''(V) require that every local, Tribal, State, or Federal law enforcement agency that receives beneficial ownership information from FinCEN conducts an annual audit to verify that the beneficial ownership information received from FinCEN has been accessed and used appropriately, and consistent with this paragraph; and

''(VI) require FinCEN to conduct an annual audit of every local, Tribal, State, or Federal law enforcement agency that has received beneficial ownership information to ensure that such agency has requested beneficial ownership information, and has used any beneficial ownership information received from FinCEN, appropriately, and consistent with this paragraph.

''(ii) LIMITATION ON USE.—Beneficial ownership information provided to a local, Tribal, State, or Federal law enforcement agency under this paragraph may only be used for law enforcement, national security, or intelligence purposes.

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

''(c) PENALTIES.—

''(1) IN GENERAL.—It shall be unlawful for any person to affect interstate or foreign commerce by—

''(A) knowingly providing, or attempting to provide, false or fraudulent beneficial ownership information, including a false or fraudulent identifying photograph, to FinCEN in accordance with this section;

''(B) willfully failing to provide complete or updated beneficial ownership information to FinCEN in accordance with this section; or

''(C) knowingly disclosing the existence of a subpoena or other request for beneficial ownership information reported pursuant to this section, except—

''(i) to the extent necessary to fulfill the authorized request; or

''(ii) as authorized by the entity that issued the subpoena, or other request.

''(2) CIVIL AND CRIMINAL PENALTIES.—Any person who violates paragraph (1)—

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

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

''(3) LIMITATION.—Any person who negligently violates paragraph (1) shall not be subject to civil or criminal penalties under paragraph (2).

''(4) WAIVER.—The Secretary of the Treasury may waive the penalty for violating paragraph (1) if the Secretary determines that the violation was due to reasonable cause and was not due to willful neglect.

''(5) CRIMINAL PENALTY FOR THE MISUSE OR UNAUTHORIZED DISCLOSURE OF BENEFICIAL OWNERSHIP INFORMATION.—The criminal penalties provided for under section 5322 shall apply to a violation of this section to the same extent as such criminal penalties apply to a violation described in section 5322, if the violation of this section consists of the misuse or unauthorized disclosure of beneficial ownership information.

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

''(1) APPLICANT.—The term 'applicant' means any natural person who files an application to form a corporation or limited liability company under the laws of a State or Indian Tribe.

''(2) BANK SECRECY ACT.—The term 'Bank Secrecy Act' means—

''(A) section 21 of the Federal Deposit Insurance Act;

''(B) chapter 2 of title I of Public Law 91–508; and

''(C) this subchapter.

''(3) BENEFICIAL OWNER.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'beneficial owner' means a natural person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise—

''(i) exercises substantial control over a corporation or limited liability company;

''(ii) owns 25 percent or more of the equity interests of a corporation or limited liability company; or

''(iii) receives substantial economic benefits from the assets of a corporation or limited liability company.

''(B) EXCEPTIONS.—The term 'beneficial owner' shall not include—

''(i) a minor child, as defined in the State or Indian Tribe in which the entity is formed;

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

''(iii) a person acting solely as an employee of a corporation or limited liability company and whose control over or economic benefits from the corporation or limited liability company derives solely from the employment status of the person;

''(iv) a person whose only interest in a corporation or limited liability company is through a right of inheritance; or

''(v) a creditor of a corporation or limited liability company, unless the creditor also meets the requirements of subparagraph (A).

''(C) SUBSTANTIAL ECONOMIC BENEFITS DEFINED.—

''(i) IN GENERAL.—For purposes of subparagraph (A)(ii), a natural person receives substantial economic benefits from the assets of a corporation or limited liability company if the person has an entitlement to more than a specified percentage of the funds or assets of the corporation or limited liability company, which the Secretary of the Treasury shall, by rule, establish.

''(ii) RULEMAKING CRITERIA.—In establishing the percentage under clause (i), the Secretary of the Treasury shall seek to—

''(I) provide clarity to corporations and limited liability companies with respect to the identification and disclosure of a natural person who receives substantial economic benefits from the assets of a corporation or limited liability company; and

''(II) identify those natural persons who, as a result of the substantial economic benefits they receive from the assets of a corporation or limited liability company, exercise a dominant influence over such corporation or limited liability company.

''(4) CORPORATION; LIMITED LIABILITY COMPANY.—The terms 'corporation' and 'limited liability company'—

''(A) have the meanings given such terms under the laws of the applicable State or Indian Tribe;

''(B) include any non-United States entity eligible for registration or registered to do business as a corporation or limited liability company under the laws of the applicable State or Indian Tribe;

''(C) do not include any entity that is—

''(i) a business concern that is an issuer of a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781) or that is required to file reports under section 15(d) of that Act (15 U.S.C. 78o(d));

''(ii) a business concern constituted, sponsored, or chartered by a State or Indian Tribe, a political subdivision of a State or Indian Tribe, under an interstate compact between two or more States, by a department or agency of the United States, or under the laws of the United States;

''(iii) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813));

''(iv) a credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752));

''(v) a bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841)) or a savings and loan holding company (as defined in section 10(a) of the Home Owners' Loan Act (12 U.S.C. 1467a(a));

''(vi) a broker or dealer (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)) that is registered under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o);

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

''(viii) an investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3)) or an investment adviser (as defined in section 202(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(11))), if the company or adviser is registered with the Securities and Exchange Commission, has filed an application for registration which has not been denied, under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) or the Investment Adviser Act of 1940 (15 U.S.C. 80b–1 et seq.), or is an investment adviser described under section 203(l) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(l));

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

''(x) a registered entity (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)), or a futures commission merchant, introducing broker, commodity pool operator, or commodity trading advisor (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)) that is registered with the Commodity Futures Trading Commission;

''(xi) a public accounting firm registered in accordance with section 102 of the Sarbanes-Oxley Act (15 U.S.C. 7212) or an entity controlling, controlled by, or under common control of such a firm;

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

''(xiii) a church, charity, nonprofit entity, or other organization that is described in section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code of 1986, that has not been denied tax exempt status, and that has filed the most recently due annual information return with the Internal Revenue Service, if required to file such a return;

''(xiv) a financial market utility designated by the Financial Stability Oversight Council under section 804 of the Dodd-Frank Wall Street Reform and Consumer Protection Act;

''(xv) an insurance producer (as defined in section 334 of the Gramm-Leach-Bliley Act);

''(xvi) any pooled investment vehicle that is operated or advised by a person described in clause (iii), (iv), (v), (vi), (viii), (ix), or (xi);''.

''(xvii) any business concern that—

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

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

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

''(xviii) any corporation or limited liability company formed and owned by an entity described in this clause or in clause (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), or (xvi); and

''(D) do not include any individual business concern or class of business concerns which the Secretary of the Treasury and the Attorney General of the United States have jointly determined, by rule of otherwise, to be exempt from the requirements of subsection (a), if the Secretary and the Attorney General jointly determine that requiring beneficial ownership information from the business concern would not serve the public interest and would not assist law enforcement efforts to detect, prevent, or prosecute terrorism, money laundering, tax evasion, or other misconduct.

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

''(6) INDIAN COUNTRY.—The term 'Indian country' has the meaning given that term in section 1151 of title 18.

''(7) INDIAN TRIBE.—The term 'Indian Tribe' has the meaning given that term under section 102 of the Federally Recognized Indian Tribe List Act of 1994.

''(8) PERSONAL IDENTIFICATION CARD.—The term 'personal identification card' means an identification document issued by a State, Indian Tribe, or local government to an individual solely for the purpose of identification of that individual.

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

(2) RULEMAKING.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall issue regulations to carry out this Act and the amendments made by this

Act, including, to the extent necessary, to clarify the definitions in section 5333(d) of title 31, United States Code.

(B) REVISION OF FINAL RULE.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall revise the final rule titled ''Customer Due Diligence Requirements for Financial Institutions'' (May 11, 2016; 81 Fed. Reg. 29397) to—

(i) bring the rule into conformance with this Act and the amendments made by this Act;

(ii) account for financial institutions' access to comprehensive beneficial ownership information filed by corporations and limited liability companies, under threat of civil and criminal penalties, under this Act and the amendments made by this Act; and

(iii) reduce any burdens on financial institutions that are, in light of the enactment of this Act and the amendments made by this Act, unnecessary or duplicative.

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

(A) in section 5321(a)—

(i) in paragraph (1), by striking ''sections 5314 and 5315'' each place it appears and inserting ''sections 5314, 5315, and 5333''; and

(ii) in paragraph (6), by inserting ''(except section 5333)'' after ''subchapter'' each place it appears; and

(B) in section 5322, by striking ''section 5315 or 5324'' each place it appears and inserting ''section 5315, 5324, or 5333''.

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

''5333. Transparent incorporation practices.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $20,000,000 for each of fiscal years 2020 and 2021 to the Financial Crimes Enforcement Network to carry out this Act and the amendments made by this Act.

(c) FEDERAL CONTRACTORS.—Not later than the first day of the first full fiscal year beginning at least 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 or subcontractor 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.

SEC. 4. STUDIES AND REPORTS.

(a) UPDATING OF BENEFICIAL OWNERSHIP INFORMATION.—

(1) STUDY.—The Secretary of the Treasury, in consultation with the Attorney General of the United States, shall conduct a study to evaluate—

(A) the necessity of a requirement for corporations and limited liability companies to update the list of their beneficial owners within a specified amount of time after the date of any change in the list of beneficial owners or the information required to be provided relating to each beneficial owner, taking into account the annual filings required under section 5333(a)(1)(B)(i) of title 31, United States Code, and the information contained in such annual filings; and

(B) the burden that a requirement to update the list of beneficial owners within a specified period of time after a change in such list of beneficial owners would impose on corporations and limited liability companies.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall submit a report on the study required under paragraph (1) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate

(3) PUBLIC COMMENT.—The Secretary of the Treasury shall seek and consider public input, comments, and data in order to conduct the study required under subparagraph paragraph (1).

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

(2) identifying each State or Indian Tribe that requires persons seeking to form or register partnerships, trusts, or other legal entities under the laws of the State or Indian Tribe 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;

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

(A) raises concerns about the involvement of such entities in terrorism, money laundering, tax evasion, securities fraud, or other misconduct;

(B) has impeded investigations into entities suspected of such misconduct; and

(C) increases the costs to financial institutions of complying with due diligence requirements imposed under the Bank Secrecy Act, the USA PATRIOT Act, or other applicable Federal, State, or Tribal law; and

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

(c) EFFECTIVENESS OF INCORPORATION PRACTICES.—Not later than 5 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 assessing the effectiveness of incorporation practices implemented under this Act and the amendments made by this Act in—

(1) providing law enforcement agencies with prompt access to reliable, useful, and complete beneficial ownership information; and

(2) strengthening the capability of law enforcement agencies to combat incorporation abuses, civil and criminal misconduct, and detect, prevent, or punish terrorism, money laundering, tax evasion, or other misconduct.

SEC. 5. DEFINITIONS.

In this Act, the terms ''Bank Secrecy Act'', ''beneficial owner'', ''corporation'', and ''limited liability company'' have the meaning given those terms, respectively, under section 5333(d) of title 31, United States Code.

DIVISION B—COUNTER ACT OF 2019

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Coordinating Oversight, Upgrading and Innovating Technology, and Examiner Reform Act of 2019'' or the ''COUNTER Act of 2019''.

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

(c) REFERENCES TO THIS ACT.—In this division—

(1) any reference to ''this Act'' shall be deemed a reference to ''this division''; and

(2) except as otherwise expressly provided, any reference to a section or other provision shall be deemed a reference to that section or other provision of this division.

SEC. 2. BANK SECRECY ACT DEFINITION.

Section 5312(a) of title 31, United States Code, is amended by adding at the end the following:

''(7) BANK SECRECY ACT.—The term 'Bank Secrecy act' means—

''(A) section 21 of the Federal Deposit Insurance Act;

''(B) chapter 2 of title I of Public Law 91–508; and

''(C) this subchapter.''.

TITLE I—STRENGTHENING TREASURY

SEC. 101. IMPROVING THE DEFINITION AND PURPOSE OF THE BANK SECRECY ACT.

Section 5311 of title 31, United States Code, is amended—

(1) by inserting ''to protect our national security, to safeguard the integrity of the international financial system, and'' before ''to require''; and

(2) by inserting ''to law enforcement and'' before ''in criminal''.

SEC. 102. SPECIAL HIRING AUTHORITY.

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

(1) by redesignating subsection (d) as subsection (g); and

(2) by inserting after subsection (c) the following:

''(d) SPECIAL HIRING AUTHORITY.—

''(1) IN GENERAL.—The Secretary of the Treasury may appoint, without regard to the provisions of sections 3309 through 3318 of title 5, candidates directly to positions in the competitive service (as defined in section 2102 of that title) in FinCEN.

''(2) PRIMARY RESPONSIBILITIES.—The primary responsibility of candidates appointed pursuant to paragraph (1) shall be to provide substantive support in support of the duties described in subparagraphs (A), (B), (E), and (F) of subsection (b)(2).''.

(b) REPORT.—Not later than 360 days after the date of enactment of this Act, and every year thereafter for 7 years, the Director of the Financial Crimes Enforcement Network shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate that includes—

(1) the number of new employees hired since the preceding report through the authorities described under section 310(d) of title 31, United States Code, along with position titles and associated pay grades for such hires; and

(2) a copy of any Federal Government survey of staff perspectives at the Office of Terrorism and Financial Intelligence, including findings regarding the Office and the Financial Crimes Enforcement Network from the most recently administered Federal Employee Viewpoint Survey.

SEC. 103. CIVIL LIBERTIES AND PRIVACY OFFICER.

(a) APPOINTMENT OF OFFICERS.—Not later than the end of the 3-month period beginning on the date of enactment of this Act, a Civil Liberties and Privacy Officer shall be appointed, from among individuals who are attorneys with expertise in data privacy laws—

(1) within each Federal functional regulator, by the head of the Federal functional regulator;

(2) within the Financial Crimes Enforcement Network, by the Secretary of the Treasury; and

(3) within the Internal Revenue Service Small Business and Self-Employed Tax Center, by the Secretary of the Treasury.

(b) DUTIES.—Each Civil Liberties and Privacy Officer shall, with respect to the applicable regulator, Network, or Center within which the Officer is located—

(1) be consulted each time Bank Secrecy Act or anti-money laundering regulations affecting civil liberties or privacy are developed or reviewed;

(2) be consulted on information-sharing programs, including those that provide access to personally identifiable information;

(3) ensure coordination and clarity between anti-money laundering, civil liberties, and privacy regulations;

(4) contribute to the evaluation and regulation of new technologies that may strengthen data privacy and the protection of personally identifiable information collected by each Federal functional regulator; and

(5) develop metrics of program success.

(c) DEFINITIONS.—For purposes of this section:

(1) BANK SECRECY ACT.—The term ''Bank Secrecy Act'' has the meaning given that term under section 5312 of title 31, United States Code.

(2) FEDERAL FUNCTIONAL REGULATOR.—The term ''Federal functional regulator'' means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Securities and Exchange Commission, and the Commodity Futures Trading Commission.

SEC. 104. CIVIL LIBERTIES AND PRIVACY COUNCIL.

(a) ESTABLISHMENT.—There is established the Civil Liberties and Privacy Council (hereinafter in this section referred to as the ''Council''), which shall consist of the Civil Liberties and Privacy Officers appointed pursuant to section 103.

(b) CHAIR.—The Director of the Financial Crimes Enforcement Network shall serve as the Chair of the Council.

(c) DUTY.—The members of the Council shall coordinate on activities related to their duties as Civil Liberties Privacy Officers, but may not supplant the individual agency determinations on civil liberties and privacy.

(d) MEETINGS.—The meetings of the Council—

(1) shall be at the call of the Chair, but in no case may the Council meet less than quarterly;

(2) may include open and partially closed sessions, as determined necessary by the Council; and

(3) shall include participation by public and private entities and law enforcement agencies.

(e) REPORT.—The Chair of the Council shall issue an annual report to the Congress on the program and policy activities, including the success of programs as measured by metrics of program success developed pursuant to section 103(b)(5), of the Council during the previous year and any legislative recommendations that the Council may have.

(f) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

SEC. 105. INTERNATIONAL COORDINATION.

(a) IN GENERAL.—The Secretary of the Treasury shall work with the Secretary's foreign counterparts, including through the Financial Action Task Force, the International Monetary Fund, the World Bank, the Egmont Group of Financial Intelligence Units, the Organisation for Economic Co-operation and Development, and the United Nations, to promote stronger anti-money laundering frameworks and enforcement of anti-money laundering laws.

(b) COOPERATION GOAL.—In carrying out subsection (a), the Secretary of the Treasury may work directly with foreign counterparts and other organizations where the goal of cooperation can best be met.

(c) INTERNATIONAL MONETARY FUND.—

(1) SUPPORT FOR CAPACITY OF THE INTERNATIONAL MONETARY FUND TO PREVENT MONEY LAUNDERING AND FINANCING OF TERRORISM.—Title XVI of the International Financial Institutions Act (22 U.S.C. 262p et seq.) is amended by adding at the end the following:

''SEC. 1629. SUPPORT FOR CAPACITY OF THE INTERNATIONAL MONETARY FUND TO PREVENT MONEY LAUNDERING AND FINANCING OF TERRORISM.

''The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to support the increased use of the administrative budget of the Fund for technical assistance that strengthens the capacity of Fund members to prevent money laundering and the financing of terrorism.''.

(2) NATIONAL ADVISORY COUNCIL REPORT TO CONGRESS.—The Chairman of the National Advisory Council on International Monetary and Financial Policies shall include in the report required by section 1701 of the International Financial Institutions Act (22 U.S.C. 262r) a description of—

(A) the activities of the International Monetary Fund in the most recently completed fiscal year to provide technical assistance that strengthens the capacity of Fund members to prevent money laundering and the financing of terrorism, and the effectiveness of the assistance; and

(B) the efficacy of efforts by the United States to support such technical assistance through the use of the Fund's administrative budget, and the level of such support.

(3) SUNSET.—Effective on the date that is the end of the 4-year period beginning on the date of enactment of this Act, section 1629 of the International Financial Institutions Act, as added by paragraph (1), is repealed.

SEC. 106. TREASURY ATTACHÉS PROGRAM.

(a) IN GENERAL.—Title 31, United States Code, is amended by inserting after section 315 the following:

''§ 316. Treasury Attachés Program

''(a) IN GENERAL.—There is established the Treasury Attachés Program, under which the Secretary of the Treasury shall appoint employees of the Department of the Treasury, after nomination by the Director of the Financial Crimes Enforcement Network ('FinCEN'), as a Treasury attaché, who shall—

''(1) be knowledgeable about the Bank Secrecy Act and anti-money laundering issues;

''(2) be co-located in a United States embassy;

''(3) perform outreach with respect to Bank Secrecy Act and anti-money laundering issues;

''(4) establish and maintain relationships with foreign counterparts, including employees of ministries of finance, central banks, and other relevant official entities;

''(5) conduct outreach to local and foreign financial institutions and other commercial actors, including—

''(A) information exchanges through FinCEN and FinCEN programs; and

''(B) soliciting buy-in and cooperation for the implementation of—

''(i) United States and multilateral sanctions; and

''(ii) international standards on anti-money laundering and the countering of the financing of terrorism; and

''(6) perform such other actions as the Secretary determines appropriate.

''(b) NUMBER OF ATTACHÉS.—The number of Treasury attachés appointed under this section at any one time shall be not fewer than 6 more employees than the number of employees of the Department of the Treasury serving as Treasury attachés on March 1, 2019.

''(c) COMPENSATION.—Each Treasury attaché appointed under this section and located at a United States embassy shall receive compensation at the higher of—

''(1) the rate of compensation provided to a Foreign Service officer at a comparable career level serving at the same embassy; or

''(2) the rate of compensation the Treasury attaché would otherwise have received, absent the application of this subsection.

''(d) BANK SECRECY ACT DEFINED.—In this section, the term 'Bank Secrecy Act' has the meaning given that term under section 5312.''.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 3 of title 31, United States Code, is amended by inserting after the item relating to section 315 the following:

''316. Treasury Attachés Program.''.

SEC. 107. INCREASING TECHNICAL ASSISTANCE FOR INTERNATIONAL COOPERATION.

(a) IN GENERAL.—There is authorized to be appropriated for each of fiscal years 2020 through 2024 to the Secretary of the Treasury for purposes of providing technical assistance that promotes compliance with international standards and best practices, including in particular those aimed at the establishment of effective anti-money laundering and countering the financing of terrorism regimes, in an amount equal to twice the amount authorized for such purpose for fiscal year 2019.

(b) ACTIVITY AND EVALUATION REPORT.—Not later than 360 days after enactment of this Act, and every year thereafter for five years, the Secretary of the Treasury shall issue a report to the Congress on the assistance (as described under subsection (a)) of the Office of Technical Assistance of the Department of the Treasury containing—

(1) a narrative detailing the strategic goals of the Office in the previous year, with an explanation of how technical assistance provided in the previous year advances the goals;

(2) a description of technical assistance provided by the Office in the previous year, including the objectives and delivery methods of the assistance;

(3) a list of beneficiaries and providers (other than Office staff) of the technical assistance;

(4) a description of how technical assistance provided by the Office complements, duplicates, or otherwise affects or is affected by technical assistance provided by the international financial institutions (as defined under section 1701(c) of the International Financial Institutions Act); and

(5) a copy of any Federal Government survey of staff perspectives at the Office of Technical Assistance, including any findings regarding the Office from the most recently administered Federal Employee Viewpoint Survey.

SEC. 108. FINCEN DOMESTIC LIAISONS.

Section 310 of title 31, United States Code, as amended by section 102, is further amended by inserting after subsection (d) the following:

''(e) FINCEN DOMESTIC LIAISONS.—

''(1) IN GENERAL.—The Director of FinCEN shall appoint at least 6 senior FinCEN employees as FinCEN Domestic Liaisons, who shall—

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

''(B) be located at an office in such region (or co-located at an office of the Board of Governors of the Federal Reserve System in such region); and

''(C) perform outreach to BSA officers at financial institutions (including non-bank financial institutions) and persons who are not financial institutions, especially with respect to actions taken by FinCEN that require specific actions by, or have specific effects on, such institutions or persons, as determined by the Director.

''(2) DEFINITIONS.—In this subsection:

''(A) BSA OFFICER.—The term 'BSA officer' means an employee of a financial institution whose primary job responsibility involves compliance with the Bank Secrecy Act, as such term is defined under section 5312.

''(B) FINANCIAL INSTITUTION.—The term 'financial institution' has the meaning given that term under section 5312.''.

SEC. 109. FINCEN EXCHANGE.

Section 310 of title 31, United States Code, as amended by section 108, is further amended by inserting after subsection (e) the following:

''(f) FINCEN EXCHANGE.—

''(1) ESTABLISHMENT.—The FinCEN Exchange is hereby established within FinCEN, which shall consist of the FinCEN Exchange program of FinCEN in existence on the day before the date of enactment of this paragraph.

''(2) PURPOSE.—The FinCEN Exchange shall facilitate a voluntary public-private information sharing partnership among law enforcement, financial institutions, and FinCEN to—

''(A) effectively and efficiently combat money laundering, terrorism financing, organized crime, and other financial crimes;

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

''(C) promote national security.

''(3) REPORT.—

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

''(i) an analysis of the efforts undertaken by the FinCEN Exchange and the results of such efforts;

''(ii) an analysis of the extent and effectiveness of the FinCEN Exchange, including any benefits realized by law enforcement from partnership with financial institutions; and

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

''(B) CLASSIFIED ANNEX.—Each report under subparagraph (A) may include a classified annex.

''(4) INFORMATION SHARING REQUIREMENT.—Information shared pursuant to this subsection shall be shared in compliance with all other applicable Federal laws and regulations.

''(5) RULE OF CONSTRUCTION.—Nothing under this subsection may be construed to create new information sharing authorities related to the Bank Secrecy Act (as such term is defined under section 5312 of title 31, United States Code).

''(6) FINANCIAL INSTITUTION DEFINED.—In this subsection, the term 'financial institution' has the meaning given that term under section 5312.''.

SEC. 110. STUDY AND STRATEGY ON TRADE-BASED MONEY LAUNDERING.

(a) STUDY.—The Secretary of the Treasury shall carry out a study, in consultation with appropriate private sector stakeholders and Federal departments and agencies, on trade-based money laundering.

(b) REPORT.—Not later than the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary shall issue a report to the Congress containing—

(1) all findings and determinations made in carrying out the study required under subsection (a); and

(2) proposed strategies to combat trade-based money laundering.

(c) CLASSIFIED ANNEX.—The report required under this section may include a classified annex.

(d) CONTRACTING AUTHORITY.—The Secretary may contract with a private third-party to carry out the study required under this section. The authority of the Secretary to enter into contracts under this subsection shall be in effect for each fiscal year only to the extent and in the amounts as are provided in advance in appropriations Acts.

SEC. 111. STUDY AND STRATEGY ON DE-RISKING.

(a) REVIEW.—The Secretary of the Treasury, in consultation with appropriate private sector stakeholders, examiners, and the Federal functional regulators (as defined under section 103) and other relevant stakeholders, shall undertake a formal review of—

(1) any adverse consequences of financial institutions de-risking entire categories of relationships, including charities, embassy accounts, money services businesses (as defined under section 1010.100(ff) of title 31, Code of Federal Regulations) and their agents, countries, international and domestic regions, and respondent banks;

(2) the reasons why financial institutions are engaging in de-risking;

(3) the association with and effects of de-risking on money laundering and financial crime actors and activities;

(4) the most appropriate ways to promote financial inclusion, particularly with respect to developing countries, while maintaining compliance with the Bank Secrecy Act, including an assessment of policy options to—

(A) more effectively tailor Federal actions and penalties to the size of foreign financial institutions and any capacity limitations of foreign governments; and

(B) reduce compliance costs that may lead to the adverse consequences described in paragraph (1);

(5) formal and informal feedback provided by examiners that may have led to de-risking;

(6) the relationship between resources dedicated to compliance and overall sophistication of compliance efforts at entities that may be experiencing de-risking versus those that have not experienced de-risking; and

(7) any best practices from the private sector that facilitate correspondent bank relationships.

(b) DE-RISKING STRATEGY.—The Secretary shall develop a strategy to reduce de-risking and adverse consequences related to de-risking.

(c) REPORT.—Not later than the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary, in consultation with the Federal functional regulators and other relevant stakeholders, shall issue a report to the Congress containing—

(1) all findings and determinations made in carrying out the study required under subsection (a); and

(2) the strategy developed pursuant to subsection (b).

(d) DEFINITIONS.—In this section:

(1) DE-RISKING.—The term ''de-risking'' means the wholesale closing of accounts or limiting of financial services for a category of customer due to unsubstantiated risk as it relates to compliance with the Bank Secrecy Act.

(2) BSA TERMS.—The terms ''Bank Secrecy Act'' and ''financial institution'' have the meaning given those terms, respectively, under section 5312 off title 31, United States Code.

SEC. 112. AML EXAMINATION AUTHORITY DELEGATION STUDY.

(a) STUDY.—The Secretary of the Treasury shall carry out a study on the Secretary's delegation of examination authority under the Bank Secrecy Act, including—

(1) an evaluation of the efficacy of the delegation, especially with respect to the mission of the Bank Secrecy Act;

(2) whether the delegated agencies have appropriate resources to perform their delegated responsibilities; and

(3) whether the examiners in delegated agencies have sufficient training and support to perform their responsibilities.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing—

(1) all findings and determinations made in carrying out the study required under subsection (a); and

(2) recommendations to improve the efficacy of delegation authority, including the potential for de-delegation of any or all such authority where it may be appropriate.

(c) BANK SECRECY ACT DEFINED.—The term ''Bank Secrecy Act'' has the meaning given that term under section 5312 off title 31, United States Code.

SEC. 113. STUDY AND STRATEGY ON CHINESE MONEY LAUNDERING.

(a) STUDY.—The Secretary of the Treasury shall carry out a study on the extent and effect of Chinese money laundering activities in the United States, including territories and possessions of the United States, and worldwide.

(b) STRATEGY TO COMBAT CHINESE MONEY LAUNDERING.—Upon the completion of the study required under subsection (a), the Secretary shall, in consultation with such other Federal departments and agencies as the Secretary determines appropriate, develop a strategy to combat Chinese money laundering activities.

(c) REPORT.—Not later than the end of the 1-year period beginning on the date of enactment of this Act, the Secretary of the Treasury shall issue a report to Congress containing—

(1) all findings and determinations made in carrying out the study required under subsection (a); and

(2) the strategy developed under subsection (b).

TITLE J—IMPROVING AML/CFT OVERSIGHT

SEC. 201. PILOT PROGRAM ON SHARING OF SUSPICIOUS ACTIVITY REPORTS WITHIN A FINANCIAL GROUP.

(a) IN GENERAL.—

(1) SHARING WITH FOREIGN BRANCHES AND AFFILIATES.—Section 5318(g) of title 31, United States Code, is amended by adding at the end the following:

''(5) PILOT PROGRAM ON SHARING WITH FOREIGN BRANCHES, SUBSIDIARIES, AND AFFILIATES.—

''(A) IN GENERAL.—The Secretary of the Treasury shall issue rules establishing the pilot

program described under subparagraph (B), subject to such controls and restrictions as the Director of the Financial Crimes Enforcement Network determines appropriate, including controls and restrictions regarding participation by financial institutions and jurisdictions in the pilot program. In prescribing such rules, the Secretary shall ensure that the sharing of information described under such subparagraph (B) is subject to appropriate standards and requirements regarding data security and the confidentiality of personally identifiable information.

''(B) PILOT PROGRAM DESCRIBED.—The pilot program required under this paragraph shall—

''(i) permit a financial institution with a reporting obligation under this subsection to share reports (and information on such reports) under this subsection with the institution's foreign branches, subsidiaries, and affiliates for the purpose of combating illicit finance risks, notwithstanding any other provision of law except subparagraphs (A) and (C);

''(ii) terminate on the date that is five years after the date of enactment of this paragraph, except that the Secretary may extend the pilot program for up to two years upon submitting a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate that includes—

''(I) a certification that the extension is in the national interest of the United States, with a detailed explanation of the reasons therefor;

''(II) an evaluation of the usefulness of the pilot program, including a detailed analysis of any illicit activity identified or prevented as a result of the program; and

''(III) a detailed legislative proposal providing for a long-term extension of the pilot program activities, including expected budgetary resources for the activities, if the Secretary determines that a long-term extension is appropriate.

''(C) PROHIBITION INVOLVING CERTAIN JURISDICTIONS.—In issuing the regulations required under subparagraph (A), the Secretary may not permit a financial institution to share information on reports under this subsection with a foreign branch, subsidiary, or affiliate located in—

''(i) the People's Republic of China;

''(ii) the Russian Federation; or

''(iii) a jurisdiction that—

''(I) is subject to countermeasures imposed by the Federal Government;

''(II) is a state sponsor of terrorism; or

''(III) the Secretary has determined cannot reasonably protect the privacy and confidentiality of such information or would otherwise use such information in a manner that is not consistent with the national interest of the United States.

''(D) IMPLEMENTATION UPDATES.—Not later than 360 days after the date rules are issued under subparagraph (A), and annually thereafter for three years, the Secretary, or the Secretary's designee, shall brief the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on—

''(i) the degree of any information sharing permitted under the pilot program, and a description of criteria used by the Secretary to evaluate the appropriateness of the information sharing;

''(ii) the effectiveness of the pilot program in identifying or preventing the violation of a United States law or regulation, and mechanisms that may improve such effectiveness; and

''(iii) any recommendations to amend the design of the pilot program.

''(E) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as limiting the Secretary's authority under provisions of law other than this paragraph to establish other permissible purposes or methods for a financial institution sharing reports (and information on such reports) under this subsection with the institution's foreign headquarters or with other branches of the same institution.

''(F) NOTICE OF USE OF OTHER AUTHORITY.—If the Secretary, pursuant to any authority other than that provided under this paragraph, permits a financial institution to share information on reports under this subsection with a foreign branch, subsidiary, or affiliate located in a foreign jurisdiction, the Secretary shall notify the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of such permission and the applicable foreign jurisdiction.

''(6) TREATMENT OF FOREIGN JURISDICTION-ORIGINATED REPORTS.—A report received by a financial institution from a foreign affiliate with respect to a suspicious transaction relevant to a possible violation of law or regulation shall be subject to the same confidentiality requirements provided under this subsection for a report of a suspicious transaction described under paragraph (1).''.

(2) NOTIFICATION PROHIBITIONS.—Section 5318(g)(2)(A) of title 31, United States Code, is amended—

(A) in clause (i), by inserting after ''transaction has been reported'' the following: ''or otherwise reveal any information that would reveal that the transaction has been reported''; and

(B) in clause (ii), by inserting after ''transaction has been reported,'' the following: ''or otherwise reveal any information that would reveal that the transaction has been reported,''.

(b) RULEMAKING.—Not later than the end of the 360-day period beginning on the date of enactment of this Act, the Secretary of the Treasury shall issue regulations to carry out the amendments made by this section.

SEC. 202. SHARING OF COMPLIANCE RESOURCES.

(a) IN GENERAL.—Section 5318 of title 31, United States Code, is amended by adding at the end the following:

''(o) SHARING OF COMPLIANCE RESOURCES.—

''(1) SHARING PERMITTED.—Two or more financial institutions may enter into collaborative arrangements in order to more efficiently comply with the requirements of this subchapter.

''(2) OUTREACH.—The Secretary of the Treasury and the appropriate supervising agencies shall carry out an outreach program to provide financial institutions with information, including best practices, with respect to the sharing of resources described under paragraph (1).''.

(b) RULE OF CONSTRUCTION.—The amendment made by subsection (a) may not be construed to require financial institutions to share resources.

SEC. 203. GAO STUDY ON FEEDBACK LOOPS.

(a) STUDY.—The Comptroller General of the United States shall carry out a study on—

(1) best practices within the United States Government for providing feedback (''feedback loop'') to relevant parties (including regulated private entities) on the usage and usefulness of personally identifiable information (''PII''), sensitive-but-unclassified (''SBU'') data, or similar information provided by such parties to Government users of such information and data (including law enforcement or regulators); and

(2) any practices or standards inside or outside the United States for providing feedback through sensitive information and public-private partnership information sharing efforts, specifically related to efforts to combat money laundering and other forms of illicit finance.

(b) REPORT.—Not later than the end of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall issue a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives containing—

(1) all findings and determinations made in carrying out the study required under subsection (a);

(2) with respect to each of paragraphs (1) and (2) of subsection (a), any best practices or significant concerns identified by the Comptroller General, and their applicability to public-private partnerships and feedback loops with respect to U.S. efforts to combat money laundering and other forms of illicit finance; and

(3) recommendations to reduce or eliminate any unnecessary Government collection of the information described under subsection (a)(1).

SEC. 204. FINCEN STUDY ON BSA VALUE.

(a) STUDY.—The Director of the Financial Crimes Enforcement Network shall carry out a study on Bank Secrecy Act value.

(b) REPORT.—Not later than the end of the 30-day period beginning on the date the study under subsection (a) is completed, the Director shall issue a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing all findings and determinations made in carrying out the study required under this section.

(c) CLASSIFIED ANNEX.—The report required under this section may include a classified annex, if the Director determines it appropriate.

(d) BANK SECRECY ACT DEFINED.—For purposes of this section, the term ''Bank Secrecy Act'' has the meaning given that term under section 5312 of title 31, United States Code.

SEC. 205. SHARING OF THREAT PATTERN AND TREND INFORMATION.

Section 5318(g) of title 31, United States Code, as amended by section 201(a)(1), is further amended by adding at the end the following:

''(7) SHARING OF THREAT PATTERN AND TREND INFORMATION.—

''(A) SAR ACTIVITY REVIEW.—The Director of the Financial Crimes Enforcement Network shall restart publication of the 'SAR Activity Review – Trends, Tips & Issues', on not less than a semi-annual basis, to provide meaningful information about the preparation, use, and value of reports filed under this subsection by financial institutions, as well as other reports filed by financial institutions under the Bank Secrecy Act.

''(B) INCLUSION OF TYPOLOGIES.—In each publication described under subparagraph (A), the Director shall provide financial institutions with typologies, including data that can be adapted in algorithms (including for artificial intelligence and machine learning programs) where appropriate, on emerging money laundering and counter terror financing threat patterns and trends.

''(C) TYPOLOGY DEFINED.—For purposes of this paragraph, the term 'typology' means the various techniques used to launder money or finance terrorism.''.

SEC. 206. MODERNIZATION AND UPGRADING WHISTLEBLOWER PROTECTIONS.

(a) REWARDS.—Section 5323(d) of title 31, United States Code, is amended to read as follows:

''(d) SOURCE OF REWARDS.—For the purposes of paying a reward under this section, the Secretary may, subject to amounts made available in advance by appropriation Acts, use criminal fine, civil penalty, or forfeiture amounts recovered based on the original information with respect to which the reward is being paid.''.

(b) WHISTLEBLOWER INCENTIVES.—

Chapter 53 of title 31, United States Code, is amended—

(1) by inserting after section 5323 the following:

''§ 5323A. Whistleblower incentives

''(a) DEFINITIONS.—In this section:

''(1) COVERED JUDICIAL OR ADMINISTRATIVE ACTION.—The term 'covered judicial or administrative action' means any judicial or administrative action brought by FinCEN under the Bank Secrecy Act that results in monetary sanctions exceeding $1,000,000.

''(2) FINCEN.—The term 'FinCEN' means the Financial Crimes Enforcement Network.

''(3) MONETARY SANCTIONS.—The term 'monetary sanctions', when used with respect to any judicial or administrative action, means—

''(A) any monies, including penalties, disgorgement, and interest, ordered to be paid; and

''(B) any monies deposited into a disgorgement fund as a result of such action or any settlement of such action.

''(4) ORIGINAL INFORMATION.—The term 'original information' means information that—

''(A) is derived from the independent knowledge or analysis of a whistleblower;

''(B) is not known to FinCEN from any other source, unless the whistleblower is the original source of the information; and

''(C) is not exclusively derived from an allegation made in a judicial or administrative hearing, in a governmental report, hearing, audit, or investigation, or from the news media, unless the whistleblower is a source of the information.

''(5) RELATED ACTION.—The term 'related action', when used with respect to any judicial or administrative action brought by FinCEN, means any judicial or administrative action that is based upon original information provided by a whistleblower that led to the successful enforcement of the action.

''(6) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

''(7) WHISTLEBLOWER.—The term 'whistleblower' means any individual who provides, or 2 or more individuals acting jointly who provide, information relating to a violation of laws enforced by FinCEN, in a manner established, by rule or regulation, by FinCEN.

''(b) AWARDS.—

''(1) IN GENERAL.—In any covered judicial or administrative action, or related action, the Secretary, under such rules as the Secretary may issue and subject to subsection (c), shall pay an award or awards to 1 or more whistleblowers who voluntarily provided original information to FinCEN that led to the successful enforcement of the covered judicial or administrative action, or related action, in an aggregate amount equal to not more than 30 percent, in total, of what has been collected of the monetary sanctions imposed in the action.

''(2) SOURCE OF AWARDS.—For the purposes of paying any award under paragraph (1), the Secretary may, subject to amounts made available in advance by appropriation Acts, use monetary sanction amounts recovered based on the original information with respect to which the award is being paid.

''(c) DETERMINATION OF AMOUNT OF AWARD; DENIAL OF AWARD.—

''(1) DETERMINATION OF AMOUNT OF AWARD.—

''(A) DISCRETION.—The determination of the amount of an award made under subsection (b) shall be in the discretion of the Secretary.

''(B) CRITERIA.—In responding to a disclosure and determining the amount of an award made, FinCEN staff shall meet with the whistleblower to discuss evidence disclosed and rebuttals to the disclosure, and shall take into consideration—

''(i) the significance of the information provided by the whistleblower to the success of the covered judicial or administrative action;

''(ii) the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in a covered judicial or administrative action;

''(iii) the mission of FinCEN in deterring violations of the law by making awards to whistleblowers who provide information that lead to the successful enforcement of such laws; and

''(iv) such additional relevant factors as the Secretary may establish by rule.

''(2) DENIAL OF AWARD.—No award under subsection (b) shall be made—

''(A) to any whistleblower who is, or was at the time the whistleblower acquired the original information submitted to FinCEN, a member, officer, or employee of—

''(i) an appropriate regulatory agency;

''(ii) the Department of Justice;

''(iii) a self-regulatory organization; or

''(iv) a law enforcement organization;

''(B) to any whistleblower who is convicted of a criminal violation, or who the Secretary has a reasonable basis to believe committed a criminal violation, related to the judicial or administrative action for which the whistleblower otherwise could receive an award under this section;

''(C) to any whistleblower who gains the information through the performance of an audit of financial statements required under the Bank Secrecy Act and for whom such submission would be contrary to its requirements; or

''(D) to any whistleblower who fails to submit information to FinCEN in such form as the Secretary may, by rule, require.

''(3) STATEMENT OF REASONS.—For any decision granting or denying an award, the Secretary shall provide to the whistleblower a statement of reasons that includes findings of fact and conclusions of law for all material issues.

''(d) REPRESENTATION.—

''(1) PERMITTED REPRESENTATION.—Any whistleblower who makes a claim for an award under subsection (b) may be represented by counsel.

''(2) REQUIRED REPRESENTATION.—

''(A) IN GENERAL.—Any whistleblower who anonymously makes a claim for an award under subsection (b) shall be represented by counsel if the whistleblower anonymously submits the information upon which the claim is based.

''(B) DISCLOSURE OF IDENTITY.—Prior to the payment of an award, a whistleblower shall disclose their identity and provide such other information as the Secretary may require, directly or through counsel for the whistleblower.

''(e) APPEALS.—Any determination made under this section, including whether, to whom, or in what amount to make awards, shall be in the discretion of the Secretary. Any such determination, except the determination of the amount of an award if the award was made in accordance with subsection (b), may be appealed to the appropriate court of appeals of the United States not more than 30 days after the determination is issued by the Secretary. The court shall review the determination made by the Secretary in accordance with section 706 of title 5.

''(f) EMPLOYEE PROTECTIONS.—The Secretary of the Treasury shall issue regulations protecting a whistleblower from retaliation, which shall be as close as practicable to the employee protections provided for under section 1057 of the Consumer Financial Protection Act of 2010.''; and

(2) in the table of contents for such chapter, by inserting after the item relating to section 5323 the following new item:

''5323A. Whistleblower incentives.''.

SEC. 207. CERTAIN VIOLATORS BARRED FROM SERVING ON BOARDS OF UNITED STATES FINANCIAL INSTITUTIONS.

Section 5321 of title 31, United States Code, is amended by adding at the end the following:

''(f) CERTAIN VIOLATORS BARRED FROM SERVING ON BOARDS OF UNITED STATES FINANCIAL INSTITUTIONS.—

''(1) IN GENERAL.—An individual found to have committed an egregious violation of a provision of (or rule issued under) the Bank Secrecy Act shall be barred from serving on the board of directors of a United States financial institution for a 10-year period beginning on the date of such finding.

''(2) EGREGIOUS VIOLATION DEFINED.—With respect to an individual, the term 'egregious violation' means—

''(A) a felony criminal violation for which the individual was convicted; and

''(B) a civil violation where the individual willfully committed such violation and the violation facilitated money laundering or the financing of terrorism.''.

SEC. 208. ADDITIONAL DAMAGES FOR REPEAT BANK SECRECY ACT VIOLATORS.

(a) IN GENERAL.—Section 5321 of title 31, United States Code, as amended by section 208, is further amended by adding at the end the following:

''(g) ADDITIONAL DAMAGES FOR REPEAT VIOLATORS.—In addition to any other fines permitted by this section and section 5322, with respect to a person who has previously been convicted of a criminal provision of (or rule issued under) the Bank Secrecy Act or who has admitted, as part of a deferred- or non-prosecution agreement, to having previously committed a violation of a criminal provision of (or rule issued under) the Bank Secrecy Act, the Secretary may impose an additional civil penalty against such person for each additional such violation in an amount equal to up three times the profit gained or loss avoided by such person as a result of the violation.''.

(b) PROSPECTIVE APPLICATION OF AMENDMENT.—For purposes of determining whether a person has committed a previous violation under section 5321(g) of title 31, United States Code, such determination shall only include violations occurring after the date of enactment of this Act.

SEC. 209. JUSTICE ANNUAL REPORT ON DEFERRED AND NON-PROSECUTION AGREEMENTS.

(a) ANNUAL REPORT.—The Attorney General shall issue an annual report, every year for the five years beginning on the date of enactment of this Act, to the Committees on Financial Services and the Judiciary of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and the Judiciary of the Senate containing—

(1) a list of deferred prosecution agreements and non-prosecution agreements that the Attorney General has entered into during the previous year with any person with respect to a violation or suspected violation of the Bank Secrecy Act;

(2) the justification for entering into each such agreement;

(3) the list of factors that were taken into account in determining that the Attorney General should enter into each such agreement; and

(4) the extent of coordination the Attorney General conducted with the Financial Crimes Enforcement Network prior to entering into each such agreement.

(b) CLASSIFIED ANNEX.—Each report under subsection (a) may include a classified annex.

(c) BANK SECRECY ACT DEFINED.—For purposes of this section, the term ''Bank Secrecy Act'' has the meaning given that term under section 5312 of title 31, United States Code.

SEC. 210. RETURN OF PROFITS AND BONUSES.

(a) IN GENERAL.—Section 5322 of title 31, United States Code, is amended by adding at the end the following:

''(e) RETURN OF PROFITS AND BONUSES.—A person convicted of violating a provision of (or rule issued under) the Bank Secrecy Act shall—

''(1) in addition to any other fine under this section, be fined in an amount equal to the profit gained by such person by reason of such violation, as determined by the court; and

''(2) if such person is an individual who was a partner, director, officer, or employee of a financial institution at the time the violation occurred, repay to such financial institution any bonus paid to such individual during the Federal fiscal year in which the violation occurred or the Federal fiscal year after which the violation occurred.''.

(b) RULE OF CONSTRUCTION.—The amendment made by subsection (a) may not be construed to prohibit a financial institution from requiring the repayment of a bonus paid to a partner, director, officer, or employee if the financial institution determines that the partner, director, officer, or employee engaged in unethical, but non-criminal, activities.

SEC. 211. APPLICATION OF BANK SECRECY ACT TO DEALERS IN ANTIQUITIES.

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

(1) in subparagraph (Y), by striking ''or'' at the end;

(2) by redesignating subparagraph (Z) as subparagraph (AA); and

(3) by inserting after subsection (Y) the following:

''(Z) a person trading or acting as an intermediary in the trade of antiquities, including an advisor, consultant or any other person who engages as a business in the solicitation of the sale of antiquities; or''.

(b) STUDY ON THE FACILITATION OF MONEY LAUNDERING AND TERROR FINANCE THROUGH THE TRADE OF WORKS OF ART OR ANTIQUITIES.—

(1) STUDY.—The Secretary of the Treasury, in coordination with Federal Bureau of Investigation, the Attorney General, and Homeland Security Investigations, shall perform a study on the facilitation of money laundering and terror finance through the trade of works of art or antiquities, including an analysis of—

(A) the extent to which the facilitation of money laundering and terror finance through the trade of works of art or antiquities may enter or affect the financial system of the United States, including any qualitative data or statistics;

(B) whether thresholds and definitions should apply in determining which entities to regulate;

(C) an evaluation of which markets, by size, entity type, domestic or international geographical locations, or otherwise, should be subject to regulations, but only to the extent such markets are not already required to report on the trade of works of art or antiquities to the Federal Government;

(D) an evaluation of whether certain exemptions should apply; and

(E) any other points of study or analysis the Secretary determines necessary or appropriate.

(2) REPORT.—Not later than the end of the 180-day period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall issue a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing all findings and determinations made in carrying out the study required under paragraph (1).

(c) RULEMAKING.—Not later than the end of the 180-day period beginning on the date the Secretary issues the report required under subsection (b)(2), the Secretary shall issue regulations to carry out the amendments made by subsection (a).

SEC. 212. GEOGRAPHIC TARGETING ORDER.

The Secretary of the Treasury shall issue a geographic targeting order, similar to the order issued by the Financial Crimes Enforcement Network on November 15, 2018, that—

(1) applies to commercial real estate to the same extent, with the exception of having the same thresholds, as the order issued by FinCEN on November 15, 2018, applies to residential real estate; and

(2) establishes a specific threshold for commercial real estate.

SEC. 213. STUDY AND REVISIONS TO CURRENCY TRANSACTION REPORTS AND SUSPICIOUS ACTIVITY REPORTS.

(a) CURRENCY TRANSACTION REPORTS.—

(1) CTR INDEXED FOR INFLATION.—

(A) IN GENERAL.—Every 5 years after the date of enactment of this Act, the Secretary of the Treasury shall revise regulations issued with respect to section 5313 of title 31, United States Code, to update each $10,000 threshold amount in such regulation to reflect the change in the Consumer Price Index for All Urban Consumers published by the Department of Labor, rounded to the nearest $100. For purposes of calculating the change described in the previous sentence, the Secretary shall use $10,000 as the base amount and the date of enactment of this Act as the base date.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the Secretary may make appropriate adjustments to the threshold amounts described under subparagraph (A) in high-risk areas (e.g., High Intensity Financial Crime Areas or HIFCAs), if the Secretary has demonstrable evidence that shows a threshold raise would increase serious crimes, such as trafficking, or endanger national security.

(2) GAO CTR STUDY.—

(A) STUDY.—The Comptroller General of the United States shall carry out a study of currency transaction reports. Such study shall include—

(i) a review (carried out in consultation with the Secretary of the Treasury, the Financial Crimes Enforcement Network, the United States Attorney General, the State Attorneys General, and State, Tribal, and local law enforcement) of the effectiveness of the current currency transaction reporting regime;

(ii) an analysis of the importance of currency transaction reports to law enforcement; and

(iii) an analysis of the effects of raising the currency transaction report threshold.

(B) REPORT.—Not later than the end of the 1-year period beginning on the date of enactment of this Act, the Comptroller General shall issue a report to the Secretary of the Treasury and the Congress containing—

(i) all findings and determinations made in carrying out the study required under subparagraph (A); and

(ii) recommendations for improving the current currency transaction reporting regime.

(b) MODIFIED SARS STUDY AND DESIGN.—

(1) STUDY.—The Director of the Financial Crimes Enforcement Network shall carry out a study, in consultation with industry stakeholders (including money services businesses, community banks, and credit unions), regulators, and law enforcement, of the design of a modified suspicious activity report form for certain customers and activities. Such study shall include—

(A) an examination of appropriate optimal SARs thresholds to determine the level at which a modified SARs form could be employed;

(B) an evaluation of which customers or transactions would be appropriate for a modified SAR, including—

(i) seasoned business customers;

(ii) financial technology (Fintech) firms;

(iii) structuring transactions; and

(iv) any other customer or transaction that may be appropriate for a modified SAR; and

(C) an analysis of the most effective methods to reduce the regulatory burden imposed on financial institutions in complying with the Bank Secrecy Act, including an analysis of the effect of—

(i) modifying thresholds;

(ii) shortening forms;

(iii) combining Bank Secrecy Act forms;

(iv) filing reports in periodic batches; and

(v) any other method that may reduce the regulatory burden.

(2) STUDY CONSIDERATIONS.—In carrying out the study required under paragraph (1), the Director shall seek to balance law enforcement priorities, regulatory burdens experienced by financial institutions, and the requirement for reports to have a ''high degree of usefulness to law enforcement'' under the Bank Secrecy Act.

(3) REPORT.—Not later than the end of the 1-year period beginning on the date of enactment of this Act, the Director shall issue a report to Congress containing—

(A) all findings and determinations made in carrying out the study required under subsection (a); and

(B) sample designs of modified SARs forms based on the study results.

(4) CONTRACTING AUTHORITY.—The Director may contract with a private third-party to carry out the study required under this subsection. The authority of the Director to enter into contracts under this paragraph shall be in effect for each fiscal year only to the extent and in the amounts as are provided in advance in appropriations Acts.

(c) DEFINITIONS.—For purposes of this section:

(1) BANK SECRECY ACT.—The term ''Bank Secrecy Act'' has the meaning given that term under section 5312 of title 31, United States Code.

(2) REGULATORY BURDEN.—The term ''regulatory burden'' means the man-hours to complete filings, cost of data collection and analysis, and other considerations of chapter 35 of title 44, United States Code (commonly referred to as the Paperwork Reduction Act).

(3) SAR; SUSPICIOUS ACTIVITY REPORT.—The term ''SAR'' and ''suspicious activity report'' mean a report of a suspicious transaction under section 5318(g) of title 31, United States Code.

(4) SEASONED BUSINESS CUSTOMER.—The term ''seasoned business customer'', shall have such meaning as the Secretary of the Treasury shall prescribe, which shall include any person that—

(A) is incorporated or organized under the laws of the United States or any State, or is registered as, licensed by, or otherwise eligible to do business within the United States, a State, or political subdivision of a State;

(B) has maintained an account with a financial institution for a length of time as determined by the Secretary; and

(C) meet such other requirements as the Secretary may determine necessary or appropriate.

SEC. 214. STREAMLINING REQUIREMENTS FOR CURRENCY TRANSACTION REPORTS AND SUSPICIOUS ACTIVITY REPORTS.

(a) REVIEW.—The Secretary of the Treasury (in consultation with Federal law enforcement agencies, the Director of National Intelligence, and the Federal functional regulators and in consultation with other relevant stakeholders) shall undertake a formal review of the current financial institution reporting requirements under the Bank Secrecy Act and its implementing regulations and propose changes to further reduce regulatory burdens, and ensure that the information provided is of a ''high degree of usefulness'' to law enforcement, as set forth under section 5311 of title 31, United States Code.

(b) CONTENTS.—The review required under subsection (a) shall include a study of—

(1) whether the timeframe for filing a suspicious activity report should be increased from 30 days;

(2) whether or not currency transaction report and suspicious activity report thresholds should be tied to inflation or otherwise periodically be adjusted;

(3) whether the circumstances under which a financial institution determines whether to file a ''continuing suspicious activity report'', or the processes followed by a financial institution in determining whether to file a ''continuing suspicious activity report'' (or both) can be narrowed;

(4) analyzing the fields designated as ''critical'' on the suspicious activity report form and whether the number of fields should be reduced;

(5) the increased use of exemption provisions to reduce currency transaction reports that are of little or no value to law enforcement efforts;

(6) the current financial institution reporting requirements under the Bank Secrecy Act and its implementing regulations and guidance; and

(7) such other items as the Secretary determines appropriate.

(c) REPORT.—Not later than the end of the one year period beginning on the date of the enactment of this Act, the Secretary of the Treasury, in consultation with law enforcement and persons subject to Bank Secrecy Act requirements, shall issue a report to the Congress containing all findings and determinations made in carrying out the review required under subsection (a).

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

(1) FEDERAL FUNCTIONAL REGULATOR.—The term ''Federal functional regulator'' has the meaning given that term under section 103.

(2) OTHER TERMS.—The terms ''Bank Secrecy Act'' and ''financial institution'' have the meaning given those terms, respectively, under section 5312 of title 31, United States Code.

TITLE K—MODERNIZING THE AML SYSTEM

SEC. 301. ENCOURAGING INNOVATION IN BSA COMPLIANCE.

Section 5318 of title 31, United States Code, as amended by section 202, is further amended by adding at the end the following:

''(p) ENCOURAGING INNOVATION IN COMPLIANCE.—

''(1) IN GENERAL.—The Federal functional regulators shall encourage financial institutions to consider, evaluate, and, where appropriate, responsibly implement innovative approaches to meet the requirements of this subchapter, including through the use of innovation pilot programs.

''(2) EXEMPTIVE RELIEF.—The Secretary, pursuant to subsection (a), may provide exemptions from the requirements of this subchapter if the Secretary determines such exemptions are necessary to facilitate the testing and potential use of new technologies and other innovations.

''(3) RULE OF CONSTRUCTION.—This subsection may not be construed to require financial institutions to consider, evaluate, or implement innovative approaches to meet the requirements of the Bank Secrecy Act.

''(4) FEDERAL FUNCTIONAL REGULATOR DEFINED.—In this subsection, the term 'Federal functional regulator' means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Securities and Exchange Commission, and the Commodity Futures Trading Commission.''.

SEC. 302. INNOVATION LABS.

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

''§ 5333. Innovation Labs

''(a) ESTABLISHMENT.—There is established within the Department of the Treasury and each Federal functional regulator an Innovation Lab.

''(b) DIRECTOR.—The head of each Innovation Lab shall be a Director, to be appointed by the Secretary of the Treasury or the head of the Federal functional regulator, as applicable.

''(c) DUTIES.—The duties of the Innovation Lab shall be—

''(1) to provide outreach to law enforcement agencies, financial institutions, and other persons (including vendors and technology companies) with respect to innovation and new technologies that may be used to comply with the requirements of the Bank Secrecy Act;

''(2) to support the implementation of responsible innovation and new technology, in a manner that complies with the requirements of the Bank Secrecy Act;

''(3) to explore opportunities for public-private partnerships; and

''(4) to develop metrics of success.

''(d) FINCEN LAB.—The Innovation Lab established under subsection (a) within the Department of the Treasury shall be a lab within the Financial Crimes Enforcement Network.

''(e) FEDERAL FUNCTIONAL REGULATOR DEFINED.—In this subsection, the term 'Federal functional regulator' means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Securities and Exchange Commission, and the Commodity Futures Trading Commission.''.

(b) CLERICAL AMENDMENT.—The table of contents for subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end the following:

''5333. Innovation Labs.''.

SEC. 303. INNOVATION COUNCIL.

(a) IN GENERAL.—Subchapter II of chapter 53 of Title 31, United States Code, as amended by section 302, is further amended by adding at the end the following:

''§ 5334. Innovation Council

''(a) ESTABLISHMENT.—There is established the Innovation Council (hereinafter in this section referred to as the 'Council'), which shall consist of each Director of an Innovation Lab established under section 5334 and the Director of the Financial Crimes Enforcement Network.

''(b) CHAIR.—The Director of the Innovation Lab of the Department of the Treasury shall serve as the Chair of the Council.

''(c) DUTY.—The members of the Council shall coordinate on activities related to innovation under the Bank Secrecy Act, but may not supplant individual agency determinations on innovation.

''(d) MEETINGS.—The meetings of the Council—

''(1) shall be at the call of the Chair, but in no case may the Council meet less than semi-annually;

''(2) may include open and closed sessions, as determined necessary by the Council; and

''(3) shall include participation by public and private entities and law enforcement agencies.

''(e) REPORT.—The Council shall issue an annual report, for each of the 7 years beginning on the date of enactment of this section, to the Secretary of the Treasury on the activities of the Council during the previous year, including the success of programs as measured by metrics of success developed pursuant to section 5334(c)(4), and any regulatory or legislative recommendations that the Council may have.''.

(b) CLERICAL AMENDMENT.—The table of contents for subchapter II of chapter 53 of title 31, United States Code, is amended by adding the end the following:

''5334. Innovation Council.''.

SEC. 304. TESTING METHODS RULEMAKING.

(a) IN GENERAL.—Section 5318 of title 31, United States Code, as amended by section 301, is further amended by adding at the end the following:

''(q) TESTING.—

''(1) IN GENERAL.—The Secretary of the Treasury, in consultation with the head of each agency to which the Secretary has delegated duties or powers under subsection (a), shall issue a rule to specify—

''(A) with respect to technology and related technology-internal processes ('new technology') designed to facilitate compliance with the Bank Secrecy Act requirements, the standards by which financial institutions are to test new technology; and

''(B) in what instances or under what circumstance and criteria a financial institution may replace or terminate legacy technology and processes for any examinable technology or process without the replacement or termination being determined an examination deficiency.

''(2) STANDARDS.—The standards described under paragraph (1) may include—

''(A) an emphasis on using innovative approaches, such as machine learning, rather than rules-based systems;

''(B) risk-based back-testing of the regime to facilitate calibration of relevant systems;

''(C) requirements for appropriate data privacy and security; and

''(D) a requirement that the algorithms used by the regime be disclosed to the Financial Crimes Enforcement Network, upon request.

''(3) CONFIDENTIALITY OF ALGORITHMS.—If a financial institution or any director, officer, employee, or agent of any financial institution, voluntarily or pursuant to this subsection or any other authority, discloses the institution's algorithms to a Government agency, such algorithms and any materials associated with the creation of such algorithms shall be considered confidential and not subject to public disclosure.''.

(b) UPDATE OF MANUAL.—The Financial Institutions Examination Council shall ensure—

(1) that any manual prepared by the Council is updated to reflect the rulemaking required by the amendment made by subsection (a); and

(2) that financial institutions are not penalized for the decisions based on such rulemaking to replace or terminate technology used for compliance with the Bank Secrecy Act (as defined under section 5312 of title 31, United States Code) or other anti-money laundering laws.

SEC. 305. FINCEN STUDY ON USE OF EMERGING TECHNOLOGIES.

(a) STUDY.—

(1) IN GENERAL.—The Director of the Financial Crimes Enforcement Network (''FinCEN'') shall carry out a study on—

(A) the status of implementation and internal use of emerging technologies, including artificial intelligence (''AI''), digital identity technologies, blockchain technologies, and other innovative technologies within FinCEN;

(B) whether AI, digital identity technologies, blockchain technologies, and other innovative technologies can be further leveraged to make FinCEN's data analysis more efficient and effective; and

(C) how FinCEN could better utilize AI, digital identity technologies, blockchain technologies, and other innovative technologies to more actively analyze and disseminate the information it collects and stores to provide investigative leads to Federal, State, Tribal, and local law enforcement, and other Federal agencies (collective, ''Agencies''), and better support its ongoing investigations when referring a case to the Agencies.

(2) INCLUSION OF GTO DATA.—The study required under this subsection shall include data collected through the Geographic Targeting Orders (''GTO'') program.

(3) CONSULTATION.—In conducting the study required under this subsection, FinCEN shall consult with the Directors of the Innovations Labs established in section 302.

(b) REPORT.—Not later than the end of the 6-month period beginning on the date of the enactment of this Act, the Director shall issue a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives containing—

(1) all findings and determinations made in carrying out the study required under subsection (a);

(2) with respect to each of subparagraphs (A), (B) and (C) of subsection (a)(1), any best practices or significant concerns identified by the Director, and their applicability to AI, digital identity technologies, blockchain technologies, and other innovative technologies with respect to U.S. efforts to combat money laundering and other forms of illicit finance; and

(3) any policy recommendations that could facilitate and improve communication and coordination between the private sector, FinCEN, and Agencies through the implementation of innovative approaches, in order to meet their Bank Secrecy Act (as defined under section 5312 of title 31, United States Code) and anti-money laundering compliance obligations.

SEC. 306. DISCRETIONARY SURPLUS FUNDS.

(a) IN GENERAL.—Section 7(a)(3)(A) of the Federal Reserve Act (12 U.S.C. 289(a)(3)(A)) is amended by striking ''$6,825,000,000'' and inserting ''$6,798,000,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on September 30, 2029.

The Acting CHAIR. No further amendment to the bill, as amended, shall be in order except those printed in part B of House Report 116–247. Each such further amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not

be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. BURGESS

The Acting CHAIR. It is now in order to consider amendment No. 1 printed in part B of House Report 116–247.

Mr. BURGESS. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 36, after line 8, insert the following:

(d) ANNUAL REPORT ON BENEFICIAL OWNERSHIP INFORMATION.—

(1) REPORT.—The Secretary of the Treasury shall issue an annual report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate with respect to the beneficial ownership information collected pursuant to section 5333 of title 31, United States Code, that contains—

(A) aggregate data on the number of beneficial owners per reporting corporation or limited liability company;

(B) the industries or type of business of each reporting corporation or limited liability company; and

(C) the locations of the beneficial owners.

(2) PRIVACY.—In issuing reports under paragraph (1), the Secretary shall not reveal the identities of beneficial owners or names of the reporting corporations or limited liability companies.

The Acting CHAIR. Pursuant to House Resolution 646, the gentleman from Texas (Mr. BURGESS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. BURGESS. Mr. Chairman, amendment No. 1 to H.R. 2513 requires an annual report to Congress of anonymized, aggregate data on the number of beneficial owners per reporting corporation or limited liability company, the industry of each reporting corporation or limited liability company, and the location of the beneficial owners.

One of the greatest beneficiaries of the crisis on our southern border has been the cartels and coyotes. They charge from $6,000 to $10,000 to smuggle people into our country who do not have legal documentation.

Despite the danger, these individuals borrow money from normal banks in their home country. Their family members put up collateral—their farms, their houses—to pay these cartels and coyotes. If the individual makes it into the United States, they will send remittances home through the same legitimate financial transaction to pay back those family loans.

Throughout this process, the coyotes and cartels are making a significant amount of money off of these very vulnerable individuals. While many of them likely deal mostly in cash, the possibility exists that they are using shell companies to store or move this illicit money.

Providing data to Congress on how many beneficial owners are behind a company, the industries of the reporting companies, and the locations of the beneficial owners will help identify trends and patterns that could aid in the fight to combat money laundering and the financing of human trafficking.

We should not be facilitating coyotes and cartels to take advantage of desperate people. Providing this aggregate, anonymized data to Congress will provide some transparency on the networks behind the illicit financing of human and drug smuggling and other nefarious financial activities.

I urge the support of this amendment, and I reserve the balance of my time.

Ms. WATERS. Mr. Chair, I claim the time in opposition, although I do not oppose the amendment.

The Acting CHAIR. Without objection, the gentlewoman from California is recognized for 5 minutes.

There was no objection.

Ms. WATERS. Mr. Chairman, the Burgess amendment would require an annual report to Congress that examines the aggregated submissions to the beneficial ownership database, thus providing a snapshot of the size, type, and location of reporting entities.

I agree that an examination of this data will be helpful to FinCEN as it contemplates rulemakings and to Congress should we consider future refinements of the law. So I would encourage Members to support the amendment.

I reserve the balance of my time.

Mr. BURGESS. Mr. Chairman, I urge support of the amendment, and I yield back the balance of my time.

Ms. WATERS. Mr. Chairman, I yield the balance of my time to the gentlewoman from New York (Mrs. CAROLYN B. MALONEY), the sponsor of this important legislation.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, I support this amendment, which would simply require Treasury to submit an annual report to Congress with basic statistics on the beneficial ownership information that is filed under the bill.

This is very similar to a recent report that the U.K. conducted, that they started collecting beneficial information. The U.K.'s report was very helpful because it highlighted that the vast majority of companies have only one beneficial owner, which makes compliance with the bill extremely easy.

I think that the data that Treasury would be required to report to Congress under this amendment would be helpful in case we decide that we need to tweak the bill in the future to address any unforeseeable future issues that arise.

So I want to thank the gentleman from Texas for offering the amendment. I think it is a very good idea, and I urge my colleagues to support it and to support the underlying bill, which will increase national security for our country.

Ms. WATERS. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. BURGESS).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Ms. WATERS. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. HILL OF ARKANSAS

The Acting CHAIR. It is now in order to consider amendment No. 2 printed in part B of House Report 116–247.

Mr. HILL of Arkansas. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 17, after line 19, insert the following:

''(D) ACCESS PROCEDURES.—FinCEN shall establish stringent procedures for the protection and proper use of beneficial ownership information disclosed pursuant to subparagraph (B), including procedures to ensure such information is not being inappropriately accessed or misused by law enforcement agencies.

''(E) REPORT TO CONGRESS.—FinCEN shall issue an annual report to Congress stating—

''(i) the number of times law enforcement agencies and financial institutions have accessed beneficial ownership information pursuant to subparagraph (B);

''(ii) the number of times beneficial ownership information reported to FinCEN pursuant to this section was inappropriately accessed, and by whom; and

''(iii) the number of times beneficial ownership information was disclosed under subparagraph (B) pursuant to a subpoena.''.

The Acting CHAIR. Pursuant to House Resolution 646, the gentleman from Arkansas (Mr. HILL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arkansas.

Mr. HILL of Arkansas. Mr. Chair, I want to again thank my friend from New York for her hard work on crafting this legislation. While we have had differences along the way, it is critical that we strengthen our national security and AML BSA system and strengthen the transparency of beneficial ownership.

As I have previously discussed, I am concerned with several aspects of the bill, and I am offering this amendment which I believe will help improve its overall purpose.

When we heard testimony, a retired FBI agent testified to our committee acknowledging that law enforcement wants this data, this new database at FinCEN to search, essentially, without a warrant or a subpoena.

My amendment would require the Financial Crimes Enforcement Network to develop stringent procedures around the beneficial ownership database pertaining to who and how it has been accessed.

Per the bill's requirements, many businesses will be providing this information into a repository that will contain sensitive information. Who can access and how they can access it should

have clearer guidelines and ensure that this information is not being inappropriately accessed.

Additionally, the amendment requires FinCEN to report to Congress, annually, the number of times law enforcement, banks, or other parties access the database, how many times it was inappropriately accessed, and the number of subpoenas obtained to gain access to the database. This will ensure that Congress maintains oversight of the database and that banks or law enforcement are not abusing this new system.

Our committee has heard hours of testimony about Federal Government data breaches over these years: OPM, the SEC, IRS, CFPB. As such, we have to make sure this information is as secure as possible.

As previously mentioned, this information is highly sensitive and should remain extremely confidential to the extent possible. As policymakers, we have an obligation to our constituents to ensure that we uphold their privacy, and this amendment will better help us achieve that goal.

I urge my colleagues to support this commonsense amendment. It is good for businesses, good for our bankers and lawmakers, and, ultimately, good for our citizens.

Mr. Chair, I reserve the balance of my time.

Ms. WATERS. Mr. Chair, I claim the time in opposition, although I do not oppose.

The Acting CHAIR. Without objection, the gentlewoman from California is recognized for 5 minutes.

There was no objection.

Ms. WATERS. Mr. Chairman, the Hill amendment requires FinCEN to develop protocols governing how law enforcement and others can access the beneficial ownership database.

Today, in order for law enforcement to access FinCEN's Bank Secrecy Act database, they must comply with a stringent process requiring assessment, training, and review.

H.R. 2513 also includes protocols governing access to the new beneficial ownership database, including creating an audit trail of the law enforcement agencies that access the data.

Mr. HILL's amendment would provide an added measure of protection, reinforcing the importance of clear procedures to ensure that such information is not inappropriately accessed or misused by law enforcement agencies. I will vote in support of this amendment.

Mr. Chair, I reserve the balance of my time.

Mr. HILL of Arkansas. Mr. Chairman, may I ask how much time I have remaining.

The Acting CHAIR. The gentleman from Arkansas has 2½ minutes remaining.

Mr. HILL of Arkansas. I yield such time as he may consume to the gentleman from North Carolina (Mr. MCHENRY).

Mr. MCHENRY. Mr. Chair, I appreciate my colleague for yielding.

I do believe, notwithstanding the lack of warrant or subpoena, the gentleman's amendment gives us greater confidence that the agency and law enforcement officials will be using this database more appropriately. I think this is a necessary amendment for this bill to move forward, though we still have greater issues to contend with.

I appreciate the gentleman working in such a constructive way and bipartisan way.

Ms. WATERS. Mr. Chairman, I yield the balance of my time to the gentlewoman from New York (Mrs. CAROLYN B. MALONEY), the sponsor of this important legislation.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chairman, I support this amendment, and I would like to thank Mr. HILL for offering it.

This amendment would require FinCEN to establish stringent procedures to ensure the beneficial ownership information isn't being inappropriately accessed or misused by law enforcement agencies.

I believe the underlying bill already addresses these issues—certainly, it was the intent to protect against unauthorized access and misuse of beneficial ownership information—but I am not opposed to making that language even more explicit.

His amendment would also require FinCEN to submit an annual report to Congress detailing the number of times beneficial ownership information was accessed, either by law enforcement or by financial institutions.

□ 1515

I think this information would be very helpful because it would tell us how useful the information is to both law enforcement and financial institutions. So while Mr. HILL and I have had disagreements over this bill, I think this amendment is a helpful addition to the bill, and I want to thank him for offering it.

I urge my colleagues to support it and the underlying bill.

Ms. WATERS. Mr. Chairman, I yield back the balance of my time.

Mr. HILL of Arkansas. Mr. Chairman, I want to thank my friend from New York for her working with me on this amendment. I thank her for accepting it. And I want to thank the Chair of the full committee for its report.

I want to just close and emphasize that under the law as drafted today there are about 10,000 law-enforcement qualified people that can access that database. That is a lot of people, Mr. Chair, that have access to this database that we are concerned about in making sure that it is maintained in a very confidential manner.

I appreciate the consideration of the amendment, and I appreciate its adoption. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Arkansas (Mr. HILL).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. BROWN OF MARYLAND

The Acting CHAIR. It is now in order to consider amendment No. 3 printed in part B of House Report 116–247.

Mr. BROWN of Maryland. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 16, line 8, after ''training,'' insert the following: ''and refresher training no less than every two years,''.

The Acting CHAIR. Pursuant to House Resolution 646, the gentleman from Maryland (Mr. BROWN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maryland.

Mr. BROWN of Maryland. Mr. Chair, I yield myself such time as I may consume.

I want to thank my colleague from California, the chairwoman of the committee, Chairwoman WATERS, for her leadership on the Financial Services Committee. And I want to recognize the hard work of my colleague and friend from New York, Chairwoman CAROLYN B. MALONEY, on the underlying bill. I also want to thank you, Representative MALONEY, for inviting me last Congress to visit several European countries to explore and better understand how those countries address the problems that this bill seeks to address.

Currently, no state requires companies to provide the identities of their true beneficial owners. This lack of oversight and transparency makes it easy for criminals, dictators, and kleptocrats to launder money, hide their illicit activities, and invade law enforcement through anonymous shell companies.

These anonymous shell companies can be used for everything from funding terrorist organizations, supporting human traffickers, and helping corrupt foreign leaders evade sanctions and threaten our national security. These so-called companies have no employees, no physical offices but are established simply to access our banking system.

The 2016 Panama Papers leak exposed just how powerful and corrupt these anonymous shell companies are. And the United States is the only advanced economy in the world that doesn't already require this disclosure. To combat this, this bill requires corporations to disclose their beneficial owners at the time the company is formed. This is a commonsense requirement, considering you often need more documentation to get a library card than to start a company or an LLC.

This bill provides much needed transparency without being burdensome on legitimate businesses. The bill also protects the privacy of Americans by ensuring law enforcement officials at the State and Federal level with access

to this new information are properly trained, have an existing investigatory basis before searching, and maintain an audit log.

Mr. Chair, my amendment strengthens and builds upon these protections. It requires law enforcement officials tasked with handling a beneficial owner's personal information to go through retraining at a minimum of every 2 years. This will ensure they are keeping up with the latest rules, systems, and processes and will lower the risk of misuse or improper disclosure.

The retraining is critical to ensuring that our law enforcement officials, at all levels of government, are undertaking best practices when handling sensitive information during their investigations. Together we can finally tackle the issues surrounding shell companies and their opaque beneficial ownership structure and give law enforcement the tools they need to track the money that threatens our national security.

I strongly encourage my colleagues to support the underlying bill and my amendment. I yield back the balance of my time

Mr. MCHENRY. Mr. Chair, I claim the time in opposition to the amendment, even though I am not opposed to it.

The Acting CHAIR. Without objection, the gentleman from North Carolina is recognized for 5 minutes.

There was no objection.

Mr. MCHENRY. The gentleman's amendment would ensure that law enforcement professionals who access the beneficial ownership's database understand the importance of protecting the privacy of beneficial owners. I think this is a necessary and proper addition to the bill. I think this highlights the fact that we don't have the basic due process rights or constitutional protections that we have under the FISA court or under the Patriot Act.

The Wall Street Journal recently reported that the FISA ''court concluded that in at least a handful of cases, the FBI had been improperly searching a database of raw intelligence for information on Americans—raising concerns about oversight of the program.''

This refresher training is an important step to ensure individuals who have access to highly sensitive and private information of millions of Americans are properly trained. Authorized users should only be able to access information for officially sanctioned uses.

I thank the gentleman for offering this amendment. And while this amendment is not a sufficient replacement for a warrant or subpoena, it recognizes that law enforcement must know how to handle personal information and the need to protect that information. I urge its adoption.

Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Maryland (Mr. BROWN).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. LEVIN OF MICHIGAN

The Acting CHAIR. It is now in order to consider amendment No. 4 printed in part B of House Report 116–247.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, I rise as the designee of the gentleman from Michigan (Mr. LEVIN) to offer amendment No. 4.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 17, after line 19, insert the following: ''(D) DISCLOSURE OF NON-PII DATA.—Notwithstanding subparagraph (B), FinCEN may issue guidance and otherwise make materials available to financial institutions and the public using beneficial ownership information reported pursuant to this section if such information is aggregated in a manner that removes all personally identifiable information. For purposes of this subparagraph, 'personally identifiable information' includes information that would allow for the identification of a particular corporation or limited liability company.''.

The Acting CHAIR. Pursuant to House Resolution 646, the gentlewoman from New York (Mrs. CAROLYN B. MALONEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chairman, this amendment is a clarifying amendment. It would clarify that FinCEN can actually use the beneficial ownership information it is collecting under the bill. This was always our intent, but we were concerned that because FinCEN technically isn't a law enforcement agency, their authority to use the information under the bill might be unclear.

Mr. LEVIN's amendment fixes this by explicitly stating that FinCEN can use the information to issue public advisories and to share the information with financial institutions in order to improve compliance with their know-your-customer rules. However, FinCEN would only be able to disclose the information in an aggregated format so that it protects the disclosure of personally identifiable information.

I want to thank Mr. LEVIN for working closely with my office and with the committee on this amendment. I urge my colleagues to support the amendment and the underlying bill, and I reserve the balance of my time.

Mr. MCHENRY. Mr. Chair, I rise in opposition to the amendment.

The Acting CHAIR. The Gentleman from North Carolina is recognized for 5 minutes.

Mr. MCHENRY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment exposes the very problem I have with this new governmental database. We put enormous protections into the collection of foreigners into our database and intelligence bureaus. We have granted rights to special courts and that is for information that is less specific than the information that will be a part of this beneficial owner or ownership database of America's small businesses. The amendment here says that basically you redact the specific personally identifiable information of the beneficial owners of the small business.

Now, it doesn't have provision for small areas. Let's say that you are from my hometown or you are from the town I lived in for nearly a decade, a small town that only has a handful of businesses, and so, you aggregate the data, but you can still expose people to enormous amounts of unwanted targeting.

It also exposes to me the additional issues that we have with another government database, that a future Congress could then take this data and make it public or some congressional investigator could just want this for partisan political reasons and try to seek it out of the executive branch.

This amendment highlights to me the grave concerns I have with a mass collection of this type of data, no matter how justified the anecdotes are from law enforcement.

The amendment specifically allows FinCEN to ''issue guidance and otherwise make materials available to financial institutions and the public using beneficial ownership information.'' That is deeply problematic, and I do not believe appropriate protections are in place for an amendment like this to be made reasonable. I think if you have civil liberties concerns, I would say that this amendment highlights the very civil liberties concerns you would have with the new Federal Government database.

I would like to ask the bill's sponsor, though he is not here, about the intent of creating this type of information, but he is not here. I don't think this is a wise amendment. I think it should be rejected for a number of different counts. I would urge my colleagues to vote ''no,'' and I reserve the balance of my time.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chairman, I have no further speakers, and I yield back the balance of my time.

Mr. MCHENRY. Mr. Chairman, I yield myself the balance of my time. I include in the RECORD a letter in opposition to this very amendment from the National Federation of Independent Business opposing this amendment.

[From NFIB]

HOUSE MAKES LAST MINUTE BAIT-AND-SWITCH ON CORPORATE TRANSPARENCY ACT

In advance of today's vote, an amendment filed last night shows the true motivations of those pushing the Corporate Transparency Act of 2019 (H.R. 2513).

Despite months of rhetoric about protecting the privacy of small business owners, this last-minute amendment would allow the Treasury Department's Financial Crimes Enforcement Network to make public the individual names, addresses, birth dates, and even the driver's license numbers of small business owners. This is a complete reversal of what promoters of this bill have been saying over the last several months.

Purportedly about national security, in reality, this bill shifts a burden from big

banks, something they said today is merely ''a client pain point,'' to small businesses who simply cannot absorb an additional 131.7 million hours of paperwork over the first 10 years at a cost of $5.7 billion. And, with the last-minute amendment, it allows for the creation a public registry.

''Supporters of this bill have revealed their cards today,'' said Brad Close, NFIB's Senior Vice President, Public Policy. ''This amendment confirms one of small business owners' greatest fears—that the true intention of those pushing this bill is to establish a public registry of every small business owner—something that can be used to shame law-abiding small business owners for free speech activities or political purposes. This is a serious breach of the privacy and first amendment rights, and we urge members of the United States House of Representatives to defeat this amendment today.''

The amendment filed last night would prohibit FinCEN from making public the names of specific businesses but would not prohibit FinCEN from listing the names of business owners or the personally identifiable information of business owners such as home addresses.

This morning, The Hill published an op-ed by NFIB President and CEO Juanita D. Duggan on the significant risks and penalties the Corporate Transparency Act imposes on small business owners. This followed on the heels of an announcement by NFIB of a coalition of 38 business groups, including NFIB, who joined together in strong oppositior of this legislation.

To read more on NFIB's efforts to protect small business privacy, visit https://nfib.com/protectprivacy.

Mr. MCHENRY. Mr. Chair, again, I would highlight that the civil liberties concerns here are enormous. When you do minimal redaction of specific personally identifiable information, you could still expose data in certain jurisdictions of small business owners in a way that I don't think is warranted, nor do I think the bill's sponsor would like to seek, and I think this is deeply problematic.

I would urge my colleagues to look at the contents of this amendment and then to think through the concerns that they would have if it were their information exposed in a minimally redacted way. I don't think they would be quite comfortable with it.

Now, think of asking every small business owner in your district to submit this information to another Federal database and then explain to them that they will minimally redact their information, maybe not their name, maybe their address, right, and then otherwise the explanation of their business would be exposed to the public.

I don't think it is a smart way to go here. I don't think this is the way we should be legislating. I do think it outlines the underlying concerns I have with this type of database, in not being required to get a subpoena in order to access it. And then an amendment that says that we are going to basically, I don't know, outline in Cherryville, North Carolina, every small business ownership structure in our little town or in Denver, North Carolina, which is an unincorporated area that I live in, likewise, taking a small population with a few small businesses and exposing the ownership structure of small businesses.

I don't think this is a smart amendment. I don't think it is what we should be intending as Members of Congress, and I think both folks on the left and the right and in the middle can look at this and think this is not the way to go. So I urge you to vote against this amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from New York (Mrs. CAROLYN B. MALONEY).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. MCHENRY. Mr. Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from New York will be postponed.

□ 1530

AMENDMENT NO. 5 OFFERED BY MR. DAVIDSON OF OHIO

The Acting CHAIR. It is now in order to consider amendment No. 5 printed in part B of House Report 116–247.

Mr. DAVIDSON of Ohio. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Strike sections 1 through 5 and insert the following:

SECTION 1. TERMINATION OF CDD RULE.

The final rule of the Department of the Treasury titled ''Customer Due Diligence Requirements for Financial Institutions'' (published May 11, 2016; 81 Fed. Reg. 29397) shall have no force or effect.

SEC. 2. FINCEN STUDY.

(a) STUDY.—FinCEN shall carry out a study that shall include—

(1) a review of all existing data collected by the Department of the Treasury (including the Internal Revenue Service), by State Secretaries of State, by financial institutions due to current statutory and regulatory mandates (excluding the CDD rule), or by other Federal Government entities, that in whole or in part would allow FinCEN to discern the beneficial owners of companies operating in the United States financial system;

(2) recommendations for the sharing of information described under paragraph (1) with FinCEN along with proposed safeguards for protecting personally identifiable information from unauthorized access, including by Federal intelligence and law enforcement officials, as well as internal risk control mechanisms for prevention of unauthorized access through a cyber breach; and

(3) an estimation of the cost of the compliance burden for the CDD rule.

(b) REPORT.—Not later than September 30, 2019, FinCEN shall issue a report to the Congress containing all findings and determinations made in carrying out the study required under subsection (a).

(c) DEFINITIONS.—For purposes of this section:

(1) CDD RULE.—The term ''CDD rule'' means the final rule of the Department of the Treasury described under section 1.

(2) FINANCIAL INSTITUTION.—The term ''financial institution'' has the meaning given that tem under section 5312 of title 31, United States Code.

(3) FINCEN.—The term ''FinCEN'' means the Financial Crimes Enforcement Network.

The Acting CHAIR. Pursuant to House Resolution 646, the gentleman from Ohio (Mr. DAVIDSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio.

Mr. DAVIDSON of Ohio. Mr. Chairman, today, I offer an amendment to address the serious flaws within the underlying bill.

Under the guise of tracking money laundering, this bill imposes a crushing paperwork burden squarely targeted at small business owners. It creates a massive new Federal Government database containing the addresses of innocent American citizens and will do nothing to track down criminals.

Under the Obama administration, FinCEN issued regulations that banks collect the beneficial ownership information of these businesses. The regulations have proven so confusing, burdensome, and unnecessary that banks have sought relief from these regulations.

This bill effectively shifts the reporting burden onto mom-and-pop businesses that have never even heard of FinCEN.

The bill adopts a different definition of beneficial ownership that is even more confusing and vague than the one used by Treasury's rules, which has already puzzled regulators and banks for years.

According to the Congressional Budget Office, the bill would generate 25 to 30 million new filings every year. Failure to comply could result in jail time up to 3 years, thousands of dollars in fines, compromise of private information, and more.

The bill also raises serious privacy concerns by creating yet another database that is effectively the first-of-its-kind Federal registry of small businesses and small business ownership. It contains no subpoena or warrant-type restrictions for Federal law enforcement to access.

In the era of naming and shaming of companies and owners for political purposes, and findings that Federal law enforcement have abused their existing authorities in accessing section 702 FISA data, this bill should give serious pause about how we as Members of Congress protect civil liberties for American citizens.

My amendment would simply strike the underlying bill's burdensome mandate, nullify the Obama-era regulations on banks, and instead require FinCEN to go back to the drawing board by reviewing how already existing Federal datasets from banking know-your-customer and anti-money laundering rules can assist law enforcement in determining the beneficial owners of businesses.

As my colleague FRENCH HILL has offered, the IRS already contains all of this information.

Lastly, I would say that if we are going to criminalize private ownership of businesses, why not do that in the beginning rather than criminalize failure to report to an agency that doesn't exist.

All of these questions have failed to be addressed directly by the executive branch, and they are blown through with the way this bill addresses the problem.

This type of information already exists. We do not need another Federal database prone to be abused or a crushing mandate that will harm law-abiding Americans and be ignored by criminals.

Mr. Chair, I urge support for my amendment and opposition to the bill without it.

Mr. Chair, I reserve the balance of my time.

Ms. WATERS. Mr. Chair, I claim the time in opposition to the amendment.

The Acting CHAIR. The gentlewoman from California is recognized for 5 minutes.

Ms. WATERS. Mr. Chair, I firmly oppose the Davidson amendment because it would gut the bill.

After years of working to ensure that criminals, terrorists, and enemies of the United States can no longer use loopholes to cloak their dangerous acts from law enforcement, this amendment heedlessly tries to jettison this significant layer of defense.

If the amendment is adopted, there would be no requirement to share the identities of the beneficial owners of corporations and LLCs that currently do not make such disclosures.

If adopted, there would be no ability for law enforcement to get information that it needs to unmask the wrongdoers who abuse State laws to hide their global criminal activities.

To make things worse, the amendment would repeal the FinCEN customer due diligence, or CDD, rule, which currently requires banks to identify and verify the beneficial ownership of corporate customers. It prevents criminals, kleptocrats, and others looking to hide ill-gotten proceeds from accessing the financial system anonymously.

The Director of FinCEN said that the CDD rule is ''but one critical step toward closing this national security gap. The second critical step . . . is collecting beneficial ownership information at the corporate formation stage.''

An outright and immediate repeal of this rule endangers the financial system by leaving a dangerous new gap in information about bank customers while the implementation of H.R. 2513 gears up.

The safer approach, and one supported by the financial institutions, is to require the Treasury to remove identified redundancies after the database becomes operational. This is precisely what H.R. 2513 already does.

Mr. Chairman, the AFL–CIO, Oxfam, the FACT Coalition, FBI, Treasury, DOJ, FinCEN, as well as the Fraternal Order of Police, the Federal Law Enforcement Officers Association, and most State attorneys general have urged Congress to pass H.R. 2513 to develop a Federal beneficial ownership database.

The Davidson amendment would undermine this effort before it can begin.

Mr. Chair, I urge my colleagues to vote ''no'' on this amendment, and I reserve the balance of my time.

Mr. DAVIDSON of Ohio. Mr. Chairman, may I inquire as to the balance of my time.

The Acting CHAIR. The gentleman from Ohio has 2 minutes remaining.

Mr. MCHENRY. Will the gentleman yield?

Mr. DAVIDSON of Ohio. I yield to the gentleman from North Carolina (Mr. MCHENRY).

Mr. MCHENRY. Mr. Chair, I appreciate my colleague for yielding.

I think this highlights the very fact that this bill provides no regulatory relief for financial institutions to collect information under the customer due diligence rule. It highlights the nature of this obligation, especially on small businesses, and the paperwork burden on small businesses and, on top of that, the paperwork burden on financial institutions to collect enormous amounts of information.

The very nature of this amendment highlights the missing elements of the underlying bill.

Mr. Chair, I appreciate my colleague for yielding.

Mr. DAVIDSON of Ohio. Mr. Chairman, I yield myself the balance of my time to close.

In closing, I would simply say that this would presume that criminals are somehow going to cease their criminal activity, all because they have to file a report.

The reality is this is going to criminalize business ownership, violate the civil liberties of business owners across America, and make them vulnerable to further abuse by criminals.

Mr. Chair, I urge support for this amendment and opposition to the underlying bill without its adoption.

Mr. Chair, I yield back the balance of my time.

Ms. WATERS. Mr. Chair, I yield the balance of my time to the gentlewoman from New York (Mrs. CAROLYN B. MALONEY), the sponsor of this important legislation.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, I thank the chairwoman for yielding.

Mr. Chair, I strongly oppose this amendment, which would completely gut the bill and would dramatically weaken our national security.

Right now, the only protection we have in place against bad actors using anonymous shell companies to launder their money through the U.S. is FinCEN's customer due diligence rule, which requires financial institutions to find out the beneficial owners of the corporations and the entities that open accounts with them.

The FinCEN rule, which is very important, is still only half a measure. When FinCEN passed the rule, they explicitly said that Congress still needed to pass the bill that is before us today.

Mr. DAVIDSON's amendment would not only delete the underlying bill but would also repeal the FinCEN rule. In other words, it is worse than the status quo and practically invites criminals and money launderers to use the U.S. financial system.

Mr. Chair, this is a deeply irresponsible amendment, and I strongly urge my colleagues to oppose it and to support the underlying bill.

Ms. WATERS. Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Ohio (Mr. DAVIDSON).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Ms. WATERS. Mr. Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio will be postponed.

Ms. WATERS. Mr. Chair, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PAPPAS) having assumed the chair, Mr. CUELLAR, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 2513) 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, had come to no resolution thereon.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CUELLAR). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or votes objected to under clause 6 of rule XX.

The House will resume proceedings on postponed questions at a later time.

RODCHENKOV ANTI-DOPING ACT OF 2019

Ms. JACKSON LEE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 835) to impose criminal sanctions on certain persons involved in