

Statutory Notes and Related Subsidiaries**TRANSFER OF FUNCTIONS**

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

Executive Documents**CHANGE OF NAME**

Bureau of Customs redesignated United States Customs Service by Treasury Department Order 165-23, Apr. 4, 1973, eff. Aug. 1, 1973, 38 F.R. 13037.

§ 309. Office of Thrift Supervision

The Office of Thrift Supervision established under section 3(a)¹ of the Home Owners' Loan Act shall be an office in the Department of the Treasury.

(Added Pub. L. 101-73, title III, § 307(a)(1), Aug. 9, 1989, 103 Stat. 352; amended Pub. L. 103-272, § 4(f)(1)(A), July 5, 1994, 108 Stat. 1361.)

Editorial Notes**REFERENCES IN TEXT**

Section 3(a) of the Home Owners' Loan Act, referred to in text, which established the Office of Thrift Supervision, was classified to section 1462a(a) of Title 12, Banks and Banking, and was struck out by Pub. L. 111-203, title III, § 369(3)(B), July 21, 2010, 124 Stat. 1558.

PRIOR PROVISIONS

A prior section 309 was renumbered section 315 of this title.

AMENDMENTS

1994—Pub. L. 103-272 substituted “section 3(a)” for “section 2A(a)”.

Statutory Notes and Related Subsidiaries**TRANSFER OF FUNCTIONS**

Office of Thrift Supervision abolished and functions transferred to the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency and the Comptroller of the Currency, and the Federal Deposit Insurance Corporation by sections 5412 and 5413 of Title 12, Banks and Banking.

§ 310. Financial Crimes Enforcement Network

(a) IN GENERAL.—The Financial Crimes Enforcement Network established by order of the Secretary of the Treasury (Treasury Order Numbered 105-08, in this section referred to as “FinCEN”) on April 25, 1990, shall be a bureau in the Department of the Treasury.

(b) DIRECTOR.—

(1) APPOINTMENT.—The head of FinCEN shall be the Director, who shall be appointed by the Secretary of the Treasury.

¹ See References in Text note below.

(2) DUTIES AND POWERS.—The duties and powers of the Director are as follows:

(A) Advise and make recommendations on matters relating to financial intelligence, financial criminal activities, and other financial activities to the Under Secretary of the Treasury for Enforcement.

(B) Maintain a government-wide data access service, with access, in accordance with applicable legal requirements, to the following:

(i) Information collected by the Department of the Treasury, including report information filed under subchapter II of chapter 53 of this title (such as reports on cash transactions, foreign financial agency transactions and relationships, foreign currency transactions, exporting and importing monetary instruments, and suspicious activities), chapter 2 of title I of Public Law 91-508, and section 21 of the Federal Deposit Insurance Act.

(ii) Information regarding national and international currency flows.

(iii) Other records and data maintained by other Federal, State, local, and foreign agencies, including financial and other records developed in specific cases.

(iv) Other privately and publicly available information.

(C) Analyze and disseminate the available data in accordance with applicable legal requirements and policies and guidelines established by the Secretary of the Treasury and the Under Secretary of the Treasury for Enforcement to—

(i) identify possible criminal activity to appropriate Federal, State, local, Tribal, and foreign law enforcement agencies;

(ii) support ongoing criminal financial investigations and prosecutions and related proceedings, including civil and criminal tax and forfeiture proceedings;

(iii) identify possible instances of non-compliance with subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91-508, and section 21 of the Federal Deposit Insurance Act to Federal agencies with statutory responsibility for enforcing compliance with such provisions and other appropriate Federal regulatory agencies;

(iv) evaluate and recommend possible uses of special currency reporting requirements under section 5326;

(v) determine emerging trends and methods in money laundering and other financial crimes;

(vi) support the conduct of intelligence or counterintelligence activities, including analysis, to protect against terrorism; and

(vii) support government initiatives against money laundering.

(D) Establish and maintain a financial crimes communications center to furnish law enforcement authorities with intelligence information related to emerging or ongoing investigations and undercover operations.

(E) Furnish research, analytical, and informational services to financial institutions,

appropriate Federal regulatory agencies with regard to financial institutions, and appropriate Federal, State, local, Tribal, and foreign law enforcement authorities, in accordance with policies and guidelines established by the Secretary of the Treasury or the Under Secretary of the Treasury for Enforcement, in the interest of detection, prevention, and prosecution of terrorism, organized crime, money laundering, and other financial crimes.

(F) Assist Federal, State, local, Tribal, and foreign law enforcement and regulatory authorities in combatting the use of informal, nonbank networks and payment and barter system mechanisms that permit the transfer of funds or the equivalent of funds without records and without compliance with criminal and tax laws.

(G) Provide computer and data support and data analysis to the Secretary of the Treasury for tracking and controlling foreign assets.

(H) Coordinate with financial intelligence units in other countries on anti-terrorism and anti-money laundering initiatives, and similar efforts.

(I) Administer the requirements of subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91-508, and section 21 of the Federal Deposit Insurance Act, to the extent delegated such authority by the Secretary of the Treasury.

(J) Promulgate regulations under section 5318(h)(4)(D), as appropriate, to implement the government-wide anti-money laundering and countering the financing of terrorism priorities established by the Secretary of the Treasury under section 5318(h)(4)(A).

(K) Communicate regularly with financial institutions and Federal functional regulators that examine financial institutions for compliance with subchapter II of chapter 53 and regulations promulgated under that subchapter and law enforcement authorities to explain the United States Government's anti-money laundering and countering the financing of terrorism priorities.

(L) Give and receive feedback to and from financial institutions, State bank supervisors, and State credit union supervisors (as those terms are defined in section 6003 of the Anti-Money Laundering Act of 2020) regarding the matters addressed in subchapter II of chapter 53 and regulations promulgated under that subchapter.

(M) Maintain money laundering and terrorist financing investigation financial experts capable of identifying, tracking, and analyzing financial crime networks and identifying emerging threats to support Federal civil and criminal investigations.

(N) Maintain emerging technology experts to encourage the development of and identify emerging technologies that can assist the United States Government or financial institutions in countering money laundering and the financing of terrorism.

(O) Such other duties and powers as the Secretary of the Treasury may delegate or prescribe.

(c) REQUIREMENTS RELATING TO MAINTENANCE AND USE OF DATA BANKS.—The Secretary of the Treasury shall establish and maintain operating procedures with respect to the government-wide data access service and the financial crimes communications center maintained by FinCEN which provide—

(1) for the coordinated and efficient transmittal of information to, entry of information into, and withdrawal of information from, the data maintenance system maintained by FinCEN, including—

(A) the submission of reports through the Internet or other secure network, whenever possible;

(B) the cataloguing of information in a manner that facilitates rapid retrieval by law enforcement personnel of meaningful data; and

(C) a procedure that provides for a prompt initial review of suspicious activity reports and other reports, or such other means as the Secretary may provide, to identify information that warrants immediate action; and

(2) in accordance with section 552a of title 5 and the Right to Financial Privacy Act of 1978, appropriate standards and guidelines for determining—

(A) who is to be given access to the information maintained by FinCEN;

(B) what limits are to be imposed on the use of such information; and

(C) how information about activities or relationships which involve or are closely associated with the exercise of constitutional rights is to be screened out of the data maintenance system.

(d) FINCEN EXCHANGE.—

(1) ESTABLISHMENT.—The FinCEN Exchange is hereby established within FinCEN.

(2) PURPOSE.—The FinCEN Exchange shall facilitate a voluntary public-private information sharing partnership among law enforcement agencies, national security agencies, financial institutions, other relevant private sector entities, and FinCEN to—

(A) effectively and efficiently combat money laundering, terrorism financing, organized crime, and other financial crimes, including by promoting innovation and technical advances in reporting—

(i) under subchapter II of chapter 53 and the regulations promulgated under that subchapter; and

(ii) with respect to other anti-money laundering requirements;

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

(C) promote national security.

(3) REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, and once every 2 years thereafter for the next 5 years, the Secretary of the Treasury shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report containing—

(i) an analysis of the efforts undertaken by the FinCEN Exchange, which shall include an analysis of—
 (I) the results of those efforts; and
 (II) the extent and effectiveness of those efforts, including any benefits realized by law enforcement agencies from partnering with financial institutions and other relevant private sector entities, which shall be consistent with standards protecting sensitive information; and

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

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

(4) INFORMATION SHARING REQUIREMENT.—Information shared under this subsection shall be shared—

(A) in compliance with all other applicable Federal laws and regulations;

(B) in such a manner as to ensure the appropriate confidentiality of personal information; and

(C) at the discretion of the Director, with the appropriate Federal functional regulator, as defined in section 6003 of the Anti-Money Laundering Act of 2020.

(5) PROTECTION OF SHARED INFORMATION.—

(A) REGULATIONS.—FinCEN shall, as appropriate, promulgate regulations that establish procedures for the protection of information shared and exchanged between FinCEN and the private sector in accordance with this section, consistent with the capacity, size, and nature of the financial institution or other relevant private sector entity to which the particular procedures apply.

(B) USE OF INFORMATION.—

(i) USE BY FINANCIAL INSTITUTIONS.—Information received by a financial institution pursuant to this section shall not be used for any purpose other than identifying and reporting on activities that may involve the financing of terrorism, money laundering, proliferation financing, or other financial crimes.

(ii) USE BY OTHER RELEVANT PRIVATE SECTOR ENTITIES.—Information received by a relevant private sector entity that is not a financial institution pursuant to this section shall not be used for any purpose other than assisting a financial institution in identifying and reporting on activities that may involve the financing of terrorism, money laundering, proliferation financing, or other financial crimes, or in assisting FinCEN or another agency of the Federal Government in mitigating the risk of the financing of terrorism, money laundering, proliferation financing, or other criminal activities.

(6) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to create new information sharing authorities or requirements relating to the Bank Secrecy Act.

(e) 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 under paragraph (1) shall be to provide substantive support in support of the duties described in subparagraphs (A) through (O) of subsection (b)(2).

(f) FINCEN DOMESTIC LIAISONS.—

(1) ESTABLISHMENT OF OFFICE.—There is established in FinCEN an Office of Domestic Liaison, which shall be headed by the Chief Domestic Liaison.

(2) LOCATION.—The Office of the Domestic Liaison shall be located in the District of Columbia.

(g) CHIEF DOMESTIC LIAISON.—

(1) IN GENERAL.—The Chief Domestic Liaison, shall—

(A) report directly to the Director; and

(B) be appointed by the Director, from among individuals with experience or familiarity with anti-money laundering program examinations, supervision, and enforcement.

(2) COMPENSATION.—The annual rate of pay for the Chief Domestic Liaison shall be equal to the highest rate of annual pay for similarly situated senior executives who report to the Director.

(3) STAFF OF OFFICE.—The Chief Domestic Liaison, with the concurrence of the Director, may retain or employ counsel, research staff, and service staff, as the Liaison determines necessary to carry out the functions, powers, and duties under this subsection.

(4) DOMESTIC LIAISONS.—The Chief Domestic Liaison, with the concurrence of the Director, shall appoint not fewer than 6 senior FinCEN employees as FinCEN Domestic Liaisons, who shall—

(A) report to the Chief Domestic Liaison;

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

(C) 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.

(5) FUNCTIONS OF THE DOMESTIC LIAISONS.—

(A) IN GENERAL.—Each Domestic Liaison shall—

(i) in coordination with relevant Federal functional regulators, perform outreach to BSA officers at financial institutions, including nonbank financial institutions, and persons that 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;

(ii) in accordance with applicable agreements, receive feedback from financial institutions and examiners of Federal functional regulators regarding their examina-

tions under the Bank Secrecy Act and communicate that feedback to FinCEN, the Federal functional regulators, and State bank supervisors;

(iii) promote coordination and consistency of supervisory guidance from FinCEN, the Federal functional regulators, State bank supervisors, and State credit union supervisors regarding the Bank Secrecy Act;

(iv) act as a liaison between financial institutions and their Federal functional regulators, State bank supervisors, and State credit union supervisors with respect to information sharing matters involving the Bank Secrecy Act and regulations promulgated thereunder;

(v) establish safeguards to maintain the confidentiality of communications between the persons described in clause (ii) and the Office of Domestic Liaison;

(vi) to the extent practicable, periodically propose to the Director changes in the regulations, guidance, or orders of FinCEN, including any legislative or administrative changes that may be appropriate to ensure improved coordination and expand information sharing under this paragraph; and

(vii) perform such other duties as the Director determines to be appropriate.

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed to permit the Domestic Liaisons to have authority over supervision, examination, or enforcement processes.

(6) ACCESS TO DOCUMENTS.—FinCEN, to the extent practicable and consistent with appropriate safeguards for sensitive enforcement-related, pre-decisional, or deliberative information, shall ensure that the Domestic Liaisons have full access to the documents of FinCEN, as necessary to carry out the functions of the Office of Domestic Liaison.

(7) ANNUAL REPORTS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection and every 2 years thereafter for 5 years, the Director shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the objectives of the Office of Domestic Liaison for the following fiscal year and the activities of the Office during the immediately preceding fiscal year.

(B) CONTENTS.—Each report required under subparagraph (A) shall include—

(i) appropriate statistical information and full and substantive analysis;

(ii) information on steps that the Office of Domestic Liaison has taken during the reporting period to address feedback received by financial institutions and examiners of Federal functional regulators relating to examinations under the Bank Secrecy Act;

(iii) recommendations to the Director for such administrative and legislative actions as may be appropriate to address in-

formation sharing and coordination issues encountered by financial institutions or examiners of Federal functional regulators; and

(iv) any other information, as determined appropriate by the Director.

(C) SENSITIVE INFORMATION.—Notwithstanding subparagraph (D), FinCEN shall review each report required under subparagraph (A) before the report is submitted to ensure the report does not disclose sensitive information.

(D) INDEPENDENCE.—

(i) IN GENERAL.—Each report required under subparagraph (A) shall be provided directly to the committees listed in that subparagraph, except that a relevant Federal functional regulator, State bank supervisor, Office of Management and Budget, or State credit union supervisor shall have an opportunity for review and comment before the submission of the report.

(ii) RULE OF CONSTRUCTION.—Nothing in clause (i) may be construed to preclude FinCEN or any other department or agency from reviewing a report required under subparagraph (A) for the sole purpose of protecting—

(I) sensitive information obtained by a law enforcement agency; and

(II) classified information.

(E) CLASSIFIED INFORMATION.—No report required under subparagraph (A) may contain classified information.

(8) DEFINITION.—In this subsection, the term “Federal functional regulator” has the meaning given the term in section 6003 of the Anti-Money Laundering Act of 2020.

(h) FINCEN FOREIGN FINANCIAL INTELLIGENCE UNIT LIAISONS.—

(1) IN GENERAL.—The Director of FinCEN shall appoint not fewer than 6 Foreign Financial Intelligence Unit Liaisons, who shall—

(A) be knowledgeable about domestic or international anti-money laundering or countering the financing of terrorism laws and regulations;

(B) possess a technical understanding of the Bank Secrecy Act, the protocols of the Egmont Group of Financial Intelligence Units, and the Financial Action Task Force and the recommendations issued by that Task Force;

(C) be co-located in a United States embassy, a similar United States Government facility, or a foreign government facility, as appropriate;

(D) facilitate capacity building and perform outreach with respect to anti-money laundering and countering the financing of terrorism regulatory and analytical frameworks;

(E) establish and maintain relationships with officials from foreign intelligence units, regulatory authorities, ministries of finance, central banks, law enforcement agencies, and other competent authorities;

(F) participate in industry outreach engagements with foreign financial institu-

tions and other commercial actors on anti-money laundering and countering the financing of terrorism issues;

(G) coordinate with representatives of the Department of Justice at United States Embassies who perform similar functions on behalf of the United States Government; and

(H) perform such other duties as the Director determines to be appropriate.

(2) COMPENSATION.—Each Foreign Financial Intelligence Unit Liaison appointed under paragraph (1) shall receive compensation at the higher of—

(A) the rate of compensation paid to a Foreign Service officer at a comparable career level serving at the same embassy or facility, as applicable; or

(B) the rate of compensation that the Liaison would have otherwise received.

(i) PROTECTION OF INFORMATION OBTAINED BY FOREIGN LAW ENFORCEMENT AND FINANCIAL INTELLIGENCE UNITS; FREEDOM OF INFORMATION ACT.—

(1) DEFINITIONS.—In this subsection:

(A) FOREIGN ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM AUTHORITY.—The term “foreign anti-money laundering and countering the financing of terrorism authority” means any foreign agency or authority that is empowered under foreign law to regulate or supervise foreign financial institutions (or designated non-financial businesses and professions) with respect to laws concerning anti-money laundering and countering the financing of terrorism and proliferation.

(B) FOREIGN FINANCIAL INTELLIGENCE UNIT.—The term “foreign financial intelligence unit” means any foreign agency or authority, including a foreign financial intelligence unit that is a member of the Egmont Group of Financial Intelligence Units, that is empowered under foreign law as a jurisdiction’s national center for—

(i) receipt and analysis of suspicious transaction reports and other information relevant to money laundering, associated predicate offenses, and the financing of terrorism; and

(ii) the dissemination of the results of the analysis described in clause (i).

(C) FOREIGN LAW ENFORCEMENT AUTHORITY.—The term “foreign law enforcement authority” means any foreign agency or authority that is empowered under foreign law to detect, investigate, or prosecute potential violations of law.

(2) INFORMATION EXCHANGED WITH FOREIGN LAW ENFORCEMENT AUTHORITIES, FOREIGN FINANCIAL INTELLIGENCE UNITS, AND FOREIGN ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM AUTHORITIES.—

(A) IN GENERAL.—The Department of the Treasury may not be compelled to search for or disclose information exchanged with a foreign law enforcement authority, foreign financial intelligence unit, or foreign anti-money laundering and countering the financing of terrorism authority.

(B) INAPPLICABILITY OF FREEDOM OF INFORMATION ACT.—

(i) IN GENERAL.—Section 552(a)(3) of title 5 (commonly known as the “Freedom of Information Act”) shall not apply to any request for records or information exchanged between the Department of the Treasury and a foreign law enforcement authority, foreign financial intelligence unit, or foreign anti-money laundering and countering the financing of terrorism authority.

(ii) SPECIFICALLY EXEMPTED BY STATUTE.—For purposes of section 552 of title 5, this paragraph shall be considered a statute described in subsection (b)(3)(B) of that section.

(C) CLARIFICATION ON INFORMATION LIMITATIONS AND PROTECTIONS.—

(i) IN GENERAL.—The provisions of this paragraph shall apply only to information necessary to exercise the duties and powers described under subsection (b).

(ii) APPROPRIATE CONFIDENTIALITY, CLASSIFICATION, AND DATA SECURITY REQUIREMENTS.—The Secretary, in consultation with the Director, shall ensure that information provided to a foreign law enforcement authority, foreign financial intelligence unit, or foreign anti-money laundering and countering the financing of terrorism authority, is subject to appropriate confidentiality, classification, and data security requirements.

(3) SAVINGS PROVISION.—Nothing in this section shall authorize the Department of the Treasury to withhold information from Congress, decline to carry out a search for information requested by Congress, or prevent the Department of the Treasury from complying with an order of a court of the United States in an action commenced by the United States.

(j) ANALYTICAL EXPERTS.—

(1) IN GENERAL.—FinCEN shall maintain financial experts capable of identifying, tracking, and tracing money laundering and terrorist-financing networks in order to conduct and support civil and criminal anti-money laundering and countering the financing of terrorism investigations conducted by the United States Government.

(2) FINCEN ANALYTICAL HUB.—FinCEN, upon a reasonable request from a Federal agency, shall, in collaboration with the requesting agency and the appropriate Federal functional regulator, analyze the potential anti-money laundering and countering the financing of terrorism activity that prompted the request.

(k) DEFINITIONS.—In this section:

(1) BANK SECRECY ACT.—The term “Bank Secrecy Act” has the meaning given the term in section 6003 of the Anti-Money Laundering Act of 2020.

(2) FEDERAL FUNCTIONAL REGULATOR.—The term “Federal functional regulator” has the meaning given the term in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809).

(3) FINANCIAL INSTITUTION.—The term “financial institution” has the meaning given the term in section 5312 of this title.

(4) STATE BANK SUPERVISOR.—The term “State bank supervisor” has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(5) STATE CREDIT UNION SUPERVISOR.—The term “State credit union supervisor” means a State official described in section 107A(e) of the Federal Credit Union Act (12 U.S.C. 1757a(e)).

(l) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to FinCEN to carry out this section, to remain available until expended—

- (A) \$136,000,000 for fiscal year 2021;
- (B) \$60,000,000 for fiscal year 2022; and
- (C) \$35,000,000 for each of fiscal years 2023 through 2026.

(2) AUTHORIZATION FOR FUNDING KEY TECHNOLOGICAL IMPROVEMENTS IN MISSION-CRITICAL FINCEN SYSTEMS.—There are authorized to be appropriated for fiscal year 2005 the following amounts, which are authorized to remain available until expended:

(A) BSA DIRECT.—For technological improvements to provide authorized law enforcement and financial regulatory agencies with Web-based access to FinCEN data, to fully develop and implement the highly secure network required under section 362 of Public Law 107-56 to expedite the filing of, and reduce the filing costs for, financial institution reports, including suspicious activity reports, collected by FinCEN under chapter 53 and related provisions of law, and enable FinCEN to immediately alert financial institutions about suspicious activities that warrant immediate and enhanced scrutiny, and to provide and upgrade advanced information-sharing technologies to materially improve the Government’s ability to exploit the information in the FinCEN data banks, \$16,500,000.

(B) ADVANCED ANALYTICAL TECHNOLOGIES.—To provide advanced analytical tools needed to ensure that the data collected by FinCEN under chapter 53 and related provisions of law are utilized fully and appropriately in safeguarding financial institutions and supporting the war on terrorism, \$5,000,000.

(C) DATA NETWORKING MODERNIZATION.—To improve the telecommunications infrastructure to support the improved capabilities of the FinCEN systems, \$3,000,000.

(D) ENHANCED COMPLIANCE CAPABILITY.—To improve the effectiveness of the Office of Compliance in FinCEN, \$3,000,000.

(E) DETECTION AND PREVENTION OF FINANCIAL CRIMES AND TERRORISM.—To provide development of, and training in the use of, technology to detect and prevent financial crimes and terrorism within and without the United States, \$8,000,000.

(Added Pub. L. 107-56, title III, § 361(a)(2), Oct. 26, 2001, 115 Stat. 329; amended Pub. L. 108-458, title VI, §§ 6101, 6203(a), Dec. 17, 2004, 118 Stat. 3744, 3746; Pub. L. 111-195, title I, § 109(c), July 1, 2010, 124 Stat. 1338; Pub. L. 116-283, div. F, title LXI, §§ 6101(c), 6102(b), 6103, 6105(a), 6107-6109(a), title LXIII, § 6304, title LXV, § 6509(a), Jan. 1, 2021, 134 Stat. 4551-4553, 4555, 4557-4560, 4586, 4633; Pub. L.

117-81, div. F, title LXI, § 6101, Dec. 27, 2021, 135 Stat. 2382.)

Editorial Notes

REFERENCES IN TEXT

Chapter 2 of title I of Public Law 91-508, referred to in subsec. (b)(2)(B)(i), (C)(iii), (I), is chapter 2 (§§ 121-129) of title I of Pub. L. 91-508, Oct. 26, 1970, 84 Stat. 1116, which is classified generally to chapter 21 (§ 1951 et seq.) of Title 12, Banks and Banking. For complete classification of chapter 2 to the Code, see Tables.

Section 21 of the Federal Deposit Insurance Act, referred to in subsec. (b)(2)(B)(i), (C)(iii), (I), is classified to section 1829b of Title 12, Banks and Banking.

Section 6003 of the Anti-Money Laundering Act of 2020, referred to in subsecs. (b)(2)(L), (d)(4)(C), (g)(8), and (k)(1), is section 6003 of Pub. L. 116-283, which is set out as a note under section 5311 of this title.

The Right to Financial Privacy Act of 1978, referred to in subsec. (c)(2), is title XI of Pub. L. 95-630, Nov. 10, 1978, 92 Stat. 3697, which is classified generally to chapter 35 (§ 3401 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 12 and Tables.

Section 362 of Public Law 107-56, referred to in subsec. (d)(2)(A), is set out as a note below.

The date of enactment of this subsection, referred to in subsecs. (d)(3)(A) and (g)(7)(A), is the date of enactment of Pub. L. 116-283, which was approved Jan. 1, 2021.

PRIOR PROVISIONS

A prior section 310 was renumbered section 315 of this title.

AMENDMENTS

2021—Subsec. (b)(2)(C)(i). Pub. L. 116-283, § 6102(b)(1), inserted “Tribal,” after “local.”

Subsec. (b)(2)(C)(iv). Pub. L. 116-283, § 6102(b)(2), struck out “international” before “terrorism”.

Subsec. (b)(2)(E), (F). Pub. L. 116-283, § 6102(b)(1), inserted “Tribal,” after “local.”

Subsec. (b)(2)(J) to (O). Pub. L. 116-283, § 6101(c), added subpars. (J) to (N) and redesignated former subpar. (J) as (O).

Subsec. (d). Pub. L. 116-283, § 6103(2), added subsec. (d). Former subsec. (d) redesignated (I).

Subsec. (d)(2). Pub. L. 117-81, § 6101(1), inserted “other relevant private sector entities,” after “financial institutions,” in introductory provisions.

Subsec. (d)(3)(A)(i)(II). Pub. L. 117-81, § 6101(2), inserted “and other relevant private sector entities” after “financial institutions”.

Subsec. (d)(5)(A). Pub. L. 117-81, § 6101(3)(A), inserted “or other relevant private sector entity” after “financial institution”.

Subsec. (d)(5)(B). Pub. L. 117-81, § 6101(3)(B), designated existing provisions as cl. (i), inserted cl. (i) heading, and added cl. (ii).

Subsec. (e). Pub. L. 116-283, § 6105(a), added subsec. (e).

Subsecs. (f), (g). Pub. L. 116-283, § 6107, added subsecs. (f) and (g).

Subsec. (h). Pub. L. 116-283, § 6108, added subsec. (h).

Subsec. (i). Pub. L. 116-283, § 6109(a), added subsec. (i).

Subsecs. (j), (k). Pub. L. 116-283, § 6304, added subsecs. (j) and (k).

Subsec. (l). Pub. L. 116-283, § 6103(1), redesignated former subsec. (d) as (l).

Subsec. (l)(1). Pub. L. 116-283, § 6509(a), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: “There are authorized to be appropriated for FinCEN \$100,419,000 for fiscal year 2011 and such sums as may be necessary for each of the fiscal years 2012 and 2013.”

2010—Subsec. (d)(1). Pub. L. 111-195 substituted “\$100,419,000 for fiscal year 2011 and such sums as may be necessary for each of the fiscal years 2012 and 2013”

for “such sums as may be necessary for fiscal years 2002, 2003, 2004, and 2005”.

2004—Subsec. (c)(1), (2)(A). Pub. L. 108-458, § 6203(a), substituted “FinCEN” for “the Network”.

Subsec. (d). Pub. L. 108-458, § 6101, designated existing provisions as par. (1), inserted par. heading, and added par. (2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 6203(a) of Pub. L. 108-458 effective as if included in Pub. L. 107-56, as of the date of enactment of such Act, and no amendment made by Pub. L. 107-56 that is inconsistent with such amendment to be deemed to have taken effect, see section 6205 of Pub. L. 108-458, set out as a note under section 1828 of Title 12, Banks and Banking.

ASSESSMENT OF BANK SECRECY ACT NO-ACTION LETTERS

Pub. L. 116-283, div. F, title LXIII, § 6305, Jan. 1, 2021, 134 Stat. 4587, provided that:

“(a) ASSESSMENT.—

“(1) IN GENERAL.—The Director [probably means Director of FinCEN], in consultation with the Attorney General, the Federal functional regulators, State bank supervisors, State credit union supervisors, and other Federal agencies, as appropriate, shall conduct an assessment on whether to establish a process for the issuance of no-action letters by FinCEN [Financial Crimes Enforcement Network of the Department of the Treasury] in response to inquiries from persons concerning the application of the Bank Secrecy Act, the USA PATRIOT Act (Public Law 107-56; 115 Stat. 272), section 8(s) of the Federal Deposit Insurance Act (12 U.S.C. 1818(s)), or any other anti-money laundering or countering the financing of terrorism law (including regulations) to specific conduct, including a request for a statement as to whether FinCEN or any relevant Federal functional regulator intends to take an enforcement action against the person with respect to such conduct.

“(2) ANALYSIS.—The assessment required under paragraph (1) shall include an analysis of—

“(A) a timeline for the process used to reach a final determination by FinCEN, in consultation with the relevant Federal functional regulators, in response to a request by a person for a no-action letter;

“(B) whether improvements in current processes are necessary;

“(C) whether a formal no-action letter process would help to mitigate or accentuate illicit finance risks in the United States; and

“(D) any other matter the Secretary determines is appropriate.

“(b) REPORT AND RULEMAKINGS.—Not later than 180 days after the date of enactment of this Act [Jan. 1, 2021], the Secretary [of the Treasury], in coordination with the Director of the Federal Bureau of Investigation, the Attorney General, the Secretary of Homeland Security, and the Federal functional regulators, shall—

“(1) submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that contains all findings and determinations made in carrying out the assessment required under subsection (a); and

“(2) propose rulemakings, if appropriate, to implement the findings and determinations described in paragraph (1).”

[For definition of “Federal functional regulator” as used in section 6305 of Pub. L. 116-283, set out above, see section 6003 of Pub. L. 116-283, set out as a Definitions note under section 5311 of this title.]

ESTABLISHMENT OF HIGHLY SECURE NETWORK

Pub. L. 107-56, title III, § 362, Oct. 26, 2001, 115 Stat. 332, as amended by Pub. L. 108-458, title VI, § 6202(m), Dec. 17, 2004, 118 Stat. 3746, provided that:

“(a) IN GENERAL.—The Secretary [of the Treasury] shall establish a highly secure network in the Financial Crimes Enforcement Network that—

“(1) allows financial institutions to file reports required under subchapter II of chapter 53 of title 31, United States Code, chapter 2 of Public Law 91-508 [probably means chapter 2 (§§ 121 to 129) of title I of Pub. L. 91-508 (12 U.S.C. 1951 et seq.)], or section 21 of the Federal Deposit Insurance Act [12 U.S.C. 1829b] through the secure network; and

“(2) provides financial institutions with alerts and other information regarding suspicious activities that warrant immediate and enhanced scrutiny.

“(b) EXPEDITED DEVELOPMENT.—The Secretary shall take such action as may be necessary to ensure that the secure network required under subsection (a) is fully operational before the end of the 9-month period beginning on the date of enactment of this Act [Oct. 26, 2001].”

§ 311. Office of Intelligence and Analysis

(a) ESTABLISHMENT.—There is established within the Department of the Treasury, the Office of Intelligence and Analysis (in this section referred to as the “Office”), which shall—

(1) be within the Office of Terrorism and Financial Intelligence;

(2) be responsible for the receipt, analysis, collation, and dissemination of foreign intelligence and foreign counterintelligence information (within the meaning of section 3 of the National Security Act of 1947 (50 U.S.C. 401a))¹ related to the operation and responsibilities of the Department of the Treasury; and

(3) have such other related duties and authorities as may be assigned to it by the Secretary, subject to the authority, direction, and control of the Secretary.

(b) ASSISTANT SECRETARY FOR INTELLIGENCE AND ANALYSIS.—The Office shall be headed by an Assistant Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary shall report directly to the Undersecretary of the Treasury for Terrorism and Financial Crimes.

(Added Pub. L. 108-177, title I, § 105(a)(1)(B), Dec. 13, 2003, 117 Stat. 2603; amended Pub. L. 108-447, div. H, title II, § 222(b)(1), Dec. 8, 2004, 118 Stat. 3245.)

Editorial Notes

REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (a)(2), is act July 26, 1947, ch. 343, 61 Stat. 495, which was formerly classified principally to chapter 15 (§ 401 et seq.) of Title 50, War and National Defense, prior to editorial reclassification in chapter 44 (§ 3001 et seq.) of Title 50. Section 3 of the Act is now classified to section 3003 of Title 50. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 311 was renumbered section 315 of this title.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-447, § 222(b)(1)(A), added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

¹ See References in Text note below.