

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))<sup>1</sup> 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.

<sup>1</sup> See References in Text note below.

Subsec. (b). Pub. L. 108-447, §222(b)(1)(B), substituted “Terrorism and Financial Crimes” for “Enforcement”.

### Statutory Notes and Related Subsidiaries

#### CONSTRUCTION

Pub. L. 108-177, title I, §105(b), Dec. 13, 2003, 117 Stat. 2603, as amended by Pub. L. 111-259, title VIII, §808, Oct. 7, 2010, 124 Stat. 2749, provided that: “Nothing in section 311 of title 31, United States Code (as amended by subsection (a)), or in section 313 of such title, shall be construed to alter the authorities and responsibilities of the Director of National Intelligence with respect to the Office of Intelligence and Analysis of the Department of the Treasury as an element of the intelligence community.”

#### PILOT PROGRAM ON RECRUITMENT AND RETENTION IN OFFICE OF INTELLIGENCE AND ANALYSIS OF THE DEPARTMENT OF THE TREASURY

Pub. L. 117-103, div. X, title IV, §416, Mar. 15, 2022, 136 Stat. 979, provided that:

“(a) PILOT PROGRAM REQUIRED.—The Assistant Secretary for Intelligence and Analysis of the Department of the Treasury shall carry out a pilot program to assess the feasibility and advisability of using adjustments of rates of pay to recruit and retain staff for high-demand positions in the Office of Intelligence and Analysis of the Department of the Treasury.

“(b) DURATION.—The Assistant Secretary shall carry out the pilot program required by subsection (a) during the 4-year period beginning on the date of the enactment of this Act [Mar. 15, 2022].

“(c) ADDITIONAL PAY.—Under the pilot program required by subsection (a), the Assistant Secretary shall, notwithstanding any provision of title 5, United States Code, governing the rates of pay or classification of employees in the executive branch, prescribe the rate of basic pay for financial and cyber intelligence analyst positions designated under subsection (d) at rates—

“(1) not greater than 130 percent of the maximum basic rate of pay and locality pay for which such positions would otherwise be eligible; and

“(2) not greater than the rate of basic pay payable for level II of the Executive Schedule under section 5313 of title 5, United States Code.

“(d) DESIGNATED POSITIONS.—

“(1) IN GENERAL.—Subject to paragraph (2), under the pilot program required by subsection (a), the Assistant Secretary shall designate not fewer than 5 percent of the total number of positions in the Office, including positions to be filled by new hires, as financial or cyber intelligence analyst positions eligible for the additional pay under subsection (c).

“(2) CURRENT EMPLOYEES.—The Assistant Secretary may designate under paragraph (1) a position filled by an employee who was employed in that position on the day before the date of the enactment of this Act only if the employee was in the top one-third of performance rankings for the position within the Office for the duration of the 2-year period ending on the date of the enactment of this Act.

“(e) BRIEFING ON THE PILOT PROGRAM.—Not later than 180 days after the date of the enactment of this Act and not less frequently than once each year thereafter for the duration of the period specified in subsection (b), the Assistant Secretary shall provide to the appropriate congressional committees and the Director of National Intelligence a briefing on the pilot program required by subsection (a).

“(f) REPORT ON THE PILOT PROGRAM.—Not later than 180 days before the last day of the period specified in subsection (b), the Assistant Secretary shall submit to the appropriate congressional committees, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Reform [now Committee on Oversight and Accountability] of the House of Representatives, and the Director of National Intelligence a report on the effective-

ness of the pilot program required by subsection (a) and recommendations as to whether such pilot program should be extended, modified, or ended.

“(g) RECOMMENDATIONS OF DIRECTOR OF NATIONAL INTELLIGENCE.—Not later than 3 years after the date of the enactment of this Act, the Director of National Intelligence shall submit to the appropriate congressional committees recommendations as to—

“(1) which, if any, other elements of the intelligence community would benefit from a program similar to the pilot program required by subsection (a); and

“(2) what, if any, modifications the Director would recommend for such elements.

“(h) RETENTION OF PRESCRIBED RATES OF PAY AFTER TERMINATION OF PILOT PROGRAM.—After the conclusion of the period specified in subsection (b), the Assistant Secretary may continue to pay a person, who received pay during such period pursuant to a rate of basic pay prescribed under subsection (c), at a rate of basic pay not to exceed the rate of basic pay that was in effect for the person pursuant to such subsection on the day before the last day of such period, until such time as the applicable rate of basic pay for the person under the General Schedule exceeds the rate of basic pay that was so in effect under subsection (c).

“(i) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ‘appropriate congressional committees’ means—

“(1) the congressional intelligence committees; and

“(2) the Subcommittees on Financial Services and General Government of the Committees on Appropriations of the House of Representatives and the Senate.”

[For definitions of “congressional intelligence committees” and “intelligence community” as used in section 416 of div. X of Pub. L. 117-103, set out above, see section 2 of div. X of Pub. L. 117-103, set out as a note under section 3003 of Title 50, War and National Defense.]

### § 312. Terrorism and financial intelligence

(a) OFFICE OF TERRORISM AND FINANCIAL INTELLIGENCE.—

(1) ESTABLISHMENT.—There is established within the Department of the Treasury the Office of Terrorism and Financial Intelligence (in this section referred to as “OTFI”), which shall be the successor to any such office in existence on the date of enactment of this section.

(2) LEADERSHIP.—

(A) UNDERSECRETARY.—There is established within the Department of the Treasury, the Office of the Undersecretary for Terrorism and Financial Crimes, who shall serve as the head of the OTFI, and shall report to the Secretary of the Treasury through the Deputy Secretary of the Treasury. The Office of the Undersecretary for Terrorism and Financial Crimes shall be the successor to the Office of the Undersecretary for Enforcement.

(B) APPOINTMENT.—The Undersecretary for Terrorism and Financial Crimes shall be appointed by the President, by and with the advice and consent of the Senate.

(3) ASSISTANT SECRETARY FOR TERRORIST FINANCING.—

(A) ESTABLISHMENT.—There is established within the OTFI the position of Assistant Secretary for Terrorist Financing.

(B) APPOINTMENT.—The Assistant Secretary for Terrorist Financing shall be appointed by the President, by and with the advice and consent of the Senate.