

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.

(C) DUTIES.—The Assistant Secretary for Terrorist Financing shall be responsible for formulating and coordinating the counter terrorist financing and anti-money laundering efforts of the Department of the Treasury, and shall report directly to the Undersecretary for Terrorism and Financial Crimes.

(4) FUNCTIONS.—The functions of the OTFI include providing policy, strategic, and operational direction to the Department on issues relating to—

- (A) implementation of titles I and II of the Bank Secrecy Act;
- (B) United States economic sanctions programs;
- (C) combating terrorist financing;
- (D) combating financial crimes, including money laundering, counterfeiting, and other offenses threatening the integrity of the banking and financial systems;
- (E) combating illicit financing relating to human trafficking;
- (F) other enforcement matters;
- (G) those intelligence analysis and coordination functions described in subsection (b); and
- (H) the security functions and programs of the Department of the Treasury.

(5) REPORTS TO CONGRESS ON PROPOSED MEASURES.—The Undersecretary for Terrorism and Financial Crimes and the Assistant Secretary for Terrorist Financing shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 72 hours after proposing by rule, regulation, order, or otherwise, any measure to reorganize the structure of the Department for combatting money laundering and terrorist financing, before any such proposal becomes effective.

(6) OTHER OFFICES WITHIN OTFI.—Notwithstanding any other provision of law, the following offices of the Department of the Treasury shall be within the OTFI:

(A) The Office of the Assistant Secretary for Intelligence and Analysis, which shall report directly to the Undersecretary for Terrorism and Financial Crimes.

(B) The Office of the Assistant Secretary for Terrorist Financing, which shall report directly to the Undersecretary for Terrorism and Financial Crimes.

(C) The Office of Foreign Assets Control (in this section referred to as the “OFAC”), which shall report directly to the Undersecretary for Terrorism and Financial Crimes.

(D) The Executive Office for Asset Forfeiture, which shall report to the Undersecretary for Terrorism and Financial Crimes.

(E) The Office of Intelligence and Analysis (in this section referred to as the “OIA”), which shall report to the Assistant Secretary for Intelligence and Analysis.

(F) The Office of Terrorist Financing, which shall report to the Assistant Secretary for Terrorist Financing.

(7) FINCEN.—

(A) REPORTING TO UNDERSECRETARY.—The Financial Crimes Enforcement Network (in

this section referred to as “FinCEN”), a bureau of the Department of the Treasury, shall report to the Undersecretary for Terrorism and Financial Crimes. The Undersecretary for Terrorism and Financial Crimes may not redelegate its reporting authority over FinCEN.

(B) OFFICE OF COMPLIANCE.—There is established within FinCEN, an Office of Compliance.

(8) INTERAGENCY COORDINATION.—The Secretary of the Treasury, after consultation with the Undersecretary for Terrorism and Financial Crimes, shall designate an office within the OTFI that shall coordinate efforts to combat the illicit financing of human trafficking with—

- (A) other offices of the Department of the Treasury;
- (B) other Federal agencies, including—
 - (i) the Office to Monitor and Combat Trafficking in Persons of the Department of State; and
 - (ii) the Interagency Task Force to Monitor and Combat Trafficking;
- (C) State and local law enforcement agencies; and
- (D) foreign governments.

(b) OFFICE OF INTELLIGENCE AND ANALYSIS.—

(1) ASSISTANT SECRETARY FOR INTELLIGENCE AND ANALYSIS.—The Assistant Secretary for Intelligence and Analysis shall head the OIA.

(2) RESPONSIBILITIES.—The OIA shall be responsible for the receipt, analysis, collation, and dissemination of intelligence and counterintelligence information related to the operations and responsibilities of the entire Department of the Treasury, including all components and bureaus of the Department.

(3) PRIMARY FUNCTIONS.—The primary functions of the OIA are—

(A) to build a robust analytical capability on terrorist finance by coordinating and overseeing work involving intelligence analysts in all components of the Department of the Treasury, focusing on the highest priorities of the Department, as well as ensuring that the existing intelligence needs of the OFAC and FinCEN are met; and

(B) to provide intelligence support to senior officials of the Department on a wide range of international economic and other relevant issues.

(4) OTHER FUNCTIONS AND DUTIES.—The OIA shall—

(A) carry out the intelligence support functions that are assigned, to the Office of Intelligence Support under section 311 (pursuant to section 105 of the Intelligence Authorization Act for Fiscal Year 2004);

(B) serve in a liaison capacity with the intelligence community; and

(C) represent the Department in various intelligence related activities.

(5) DUTIES OF THE ASSISTANT SECRETARY.—The Assistant Secretary for Intelligence and Analysis shall serve as the Senior Officer Intelligence Community, and shall represent the Department in intelligence community fora,

including the National Foreign Intelligence Board committees and the Intelligence Community Management Staff.

(c) DELEGATION.—To the extent that any authorities, powers, and responsibilities over enforcement matters delegated to the Undersecretary for Terrorism and Financial Crimes, or the positions of Assistant Secretary for Terrorism and Financial Crimes, Assistant Secretary for Enforcement and Operations, or Deputy Assistant Secretary for Terrorist Financing and Financial Crimes, have not been transferred to the Department of Homeland Security, the Department of Justice, or the Assistant Secretary for Tax Policy (related to the customs revenue functions of the Bureau of Alcohol and Tobacco Tax and Trade), those remaining authorities, powers, and responsibilities are delegated to the Undersecretary for Terrorism and Financial Crimes.

(d) DESIGNATION AS ENFORCEMENT ORGANIZATION.—The Office of Terrorism and Financial Intelligence (including any components thereof) is designated as a law enforcement organization of the Department of the Treasury for purposes of section 9705 of title 31, United States Code, and other relevant authorities.

(e) USE OF EXISTING RESOURCES.—The Secretary may employ personnel, facilities, and other Department of the Treasury resources available to the Secretary on the date of enactment of this section in carrying out this section, except as otherwise prohibited by law.

(f) REFERENCES.—References in this section to the “Secretary”, “Undersecretary”, “Deputy Secretary”, “Deputy Assistant Secretary”, “Office”, “Assistant Secretary”, and “Department” are references to positions and offices of the Department of the Treasury, unless otherwise specified.

(g) 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 the OTFI.

(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 (G) of subsection (a)(4).

(h) DEPLOYMENT OF STAFF.—The Secretary of the Treasury may detail, without regard to the provisions of section 300.301 of title 5, Code of Federal Regulations, any employee in the OTFI to any position in the OTFI for which the Secretary has determined there is a need.

(Added Pub. L. 108-447, div. H, title II, § 222(a), Dec. 8, 2004, 118 Stat. 3242, § 313; renumbered § 312, Pub. L. 111-203, title V, § 502(a)(2), July 21, 2010, 124 Stat. 1580; amended Pub. L. 114-22, title I, § 105(c)(2)(A)(ii)(I), May 29, 2015, 129 Stat. 237; Pub. L. 116-92, div. F, title LXXI, § 7153, Dec. 20, 2019, 133 Stat. 2259; Pub. L. 116-283, div. F, title LXI, § 6105(b), Jan. 1, 2021, 134 Stat. 4555.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (a)(1) and (e), is the date of the enactment of Pub. L. 108-447, which was approved Dec. 8, 2004.

For the Bank Secrecy Act, referred to in subsec. (a)(4)(A), see Short Title note set out under section 1951 of Title 12, Banks and Banking, and Tables.

Section 105 of the Intelligence Authorization Act for Fiscal Year 2004, referred to in subsec. (b)(4)(A), is section 105 of Pub. L. 108-177, title I, Dec. 13, 2003, 117 Stat. 2603, which enacted section 311 of this title. For complete classification of section 105 to the Code, see Tables.

PRIOR PROVISIONS

A prior section 312 was renumbered section 315 of this title.

AMENDMENTS

2021—Subsecs. (g), (h). Pub. L. 116-283 added subsecs. (g) and (h).

2019—Subsec. (a)(4)(E) to (H). Pub. L. 116-92, § 7153(a), added subparagraph (E) and redesignated former subpars. (E) to (G) as (F) to (H), respectively.

Subsec. (a)(8). Pub. L. 116-92, § 7153(b), added par. (8).

2015—Subsec. (d). Pub. L. 114-22 substituted “section 9705” for “section 9703”.

2010—Pub. L. 111-203 renumbered section 313 of this title as this section.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Reference to Community Management Staff deemed to be a reference to the staff of the Office of the Director of National Intelligence, see section 1081(c) of Pub. L. 108-458, set out as a note under section 3001 of Title 50, War and National Defense.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as an Effective Date note under section 5301 of Title 12, Banks and Banking.

§ 313. Federal Insurance Office

(a) ESTABLISHMENT.—There is established within the Department of the Treasury the Federal Insurance Office.

(b) LEADERSHIP.—The Office shall be headed by a Director, who shall be appointed by the Secretary of the Treasury. The position of Director shall be a career reserved position in the Senior Executive Service, as that position is defined under section 3132 of title 5, United States Code.

(c) FUNCTIONS.—

(1) AUTHORITY PURSUANT TO DIRECTION OF SECRETARY.—The Office, pursuant to the direction of the Secretary, shall have the authority—

(A) to monitor all aspects of the insurance industry, including identifying issues or gaps in the regulation of insurers that could contribute to a systemic crisis in the insurance industry or the United States financial system;

(B) to monitor the extent to which traditionally underserved communities and consumers, minorities (as such term is defined in section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note)), and low-