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To combat money laundering and protect the United States financial system by addressing the vulnerabilities of private banking to money laundering, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 10, 1999

Mr. LEVIN (for himself and Mr. SPECTER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To combat money laundering and protect the United States financial system by addressing the vulnerabilities of private banking to money laundering, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Money Laundering
5 Abatement Act of 1999”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

1 (1) Money laundering is a serious problem that
2 enables criminals to reap the rewards of their crimes
3 by hiding the criminal source of their profits.

4 (2) When carried out by using banks, money
5 laundering erodes the integrity of our financial insti-
6 tutions.

7 (3) United States financial institutions are a
8 critical link in our efforts to combat money laun-
9 dering.

10 (4) In addition to organized crime enterprises,
11 corrupt government officials around the world in-
12 creasingly employ sophisticated money laundering
13 schemes to conceal wealth they have plundered or
14 extorted from their nations or received as bribes,
15 and these practices weaken the legitimacy of foreign
16 states, threaten the integrity of international finan-
17 cial markets, and harm foreign populations.

18 (5) Private banking is a growing activity among
19 financial institutions based in and operating in the
20 United States.

21 (6) The high profitability, competition, high
22 level of secrecy, and close relationships of trust de-
23 veloped between private bankers and their clients
24 make private banking vulnerable to money laun-
25 dering.

1 (7) The use by United States bankers of finan-
 2 cial centers located outside of the United States that
 3 have weak financial regulatory and reporting re-
 4 gimes and no transparency facilitates global money
 5 laundering.

6 (b) PURPOSE.—The purpose of this Act is to elimi-
 7 nate the weaknesses in Federal law that allow money laun-
 8 dering to flourish, particularly in private banking activi-
 9 ties.

10 **SEC. 3. IDENTIFICATION OF ACTUAL OR BENEFICIAL OWN-**
 11 **ERS OF ACCOUNTS.**

12 (a) TRANSACTIONS AND ACCOUNTS WITH OR ON BE-
 13 HALF OF FOREIGN ENTITIES.—Subchapter II of chapter
 14 53 of title 31, United States Code, is amended by adding
 15 at the end the following:

16 **“§ 5331. Requirements relating to transactions and**
 17 **accounts with or on behalf of foreign en-**
 18 **tities**

19 “(a) DEFINITIONS.—Notwithstanding any other pro-
 20 vision of this subchapter, in this section the following defi-
 21 nitions shall apply:

22 “(1) ACCOUNT.—The term ‘account’—

23 “(A) means a formal banking or business
 24 relationship established to provide regular serv-

1 ices, dealings, and other financial transactions;
2 and

3 “(B) includes a demand deposit, savings
4 deposit, or other asset account and a credit ac-
5 count or other extension of credit.

6 “(2) CORRESPONDENT ACCOUNT.—The term
7 ‘correspondent account’ means an account estab-
8 lished to receive deposits from and make payments
9 on behalf of a correspondent bank.

10 “(3) CORRESPONDENT BANK.—The term ‘cor-
11 respondent bank’ means a depository institution that
12 accepts deposits from another financial institution
13 and provides services on behalf of such other finan-
14 cial institution.

15 “(4) DEPOSITORY INSTITUTION.—The term ‘de-
16 pository institution’ has the same meaning as in sec-
17 tion 19(b)(1)(A) of the Federal Reserve Act.

18 “(5) FOREIGN BANKING INSTITUTION.—The
19 term ‘foreign banking institution’ means a foreign
20 entity that engages in the business of banking, and
21 includes foreign commercial banks, foreign merchant
22 banks, and other foreign institutions that engage in
23 banking activities usual in connection with the busi-
24 ness of banking in the countries where they are or-
25 ganized or operating.

1 “(6) FOREIGN ENTITY.—The term ‘foreign en-
2 tity’ means an entity that is not organized under the
3 laws of the Federal Government of the United
4 States, any State of the United States, the District
5 of Columbia, or the Commonwealth of Puerto Rico.

6 “(b) PROHIBITION ON OPENING OR MAINTAINING
7 ACCOUNTS BELONGING TO OR FOR THE BENEFIT OF UN-
8 IDENTIFIED OWNERS.—A depository institution or a
9 branch of a foreign bank (as defined in section 1 of the
10 International Banking Act of 1978) may not open or
11 maintain any account in the United States for a foreign
12 entity or a representative of a foreign entity, unless—

13 “(1) for each such account, the institution com-
14 pletes and maintains in the United States a form or
15 record identifying, by a verifiable name and account
16 number, each person having a direct or beneficial
17 ownership interest in the account; or

18 “(2) some or all of the shares of the foreign en-
19 tity are publicly traded.

20 “(c) PROHIBITION ON OPENING OR MAINTAINING
21 CORRESPONDENT ACCOUNTS OR CORRESPONDENT BANK
22 RELATIONSHIP WITH CERTAIN FOREIGN BANKS.—A de-
23 pository institution, or branch of a foreign bank, as de-
24 fined in section 1 of the International Banking Act of
25 1978, may not open or maintain a correspondent account

1 in the United States for or on behalf of a foreign banking
2 institution, or establish or maintain a correspondent bank
3 relationship with a foreign banking institution (other than
4 in the case of an affiliate of a branch of a foreign bank),
5 that—

6 “(1) is organized under the laws of a jurisdic-
7 tion outside of the United States; and

8 “(2) is not subject to comprehensive supervision
9 or regulation on a consolidated basis by the appro-
10 prium authorities in such jurisdiction.

11 “(d) 48-HOUR RULE.—Not later than 48 hours after
12 receiving a request by the appropriate Federal banking
13 agency (as defined in section 3 of the Federal Deposit In-
14 surance Act) for information related to anti-money laun-
15 dering compliance by a financial institution or a customer
16 of that institution, a financial institution shall provide to
17 the requesting agency, or make available at a location
18 specified by the representative of the agency, information
19 and account documentation for any account opened, main-
20 tained, or managed in the United States by the financial
21 institution.”.

22 (b) TECHNICAL AND CONFORMING AMENDMENT.—
23 The table of sections for subchapter II of chapter 53 of
24 title 31, United States Code, is amended by inserting after
25 the item relating to section 5330 the following:

“5331. Requirements relating to transactions and accounts with or on behalf of foreign entities.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply—

3 (1) with respect to any account opened on or
4 after the date of enactment of this Act, as of such
5 date; and

6 (2) with respect to any account opened before
7 the date of enactment of this Act, as of the end of
8 the 6-month period beginning on such date.

9 **SEC. 4. PROPER MAINTENANCE OF CONCENTRATION AC-**
10 **COUNTS AT FINANCIAL INSTITUTIONS.**

11 Section 5318(h) of title 31, United States Code, is
12 amended by adding at the end the following:

13 “(3) AVAILABILITY OF CERTAIN ACCOUNT IN-
14 FORMATION.—The Secretary shall prescribe regula-
15 tions under this subsection that govern maintenance
16 of concentration accounts by financial institutions,
17 in order to ensure that such accounts are not used
18 to prevent association of the identity of an individual
19 customer with the movement of funds of which the
20 customer is the direct or beneficial owner, which reg-
21 ulations shall, at a minimum—

22 “(A) prohibit financial institutions from al-
23 lowing clients to direct transactions that move

1 their funds into, out of, or through the con-
2 centration accounts of the financial institution;

3 “(B) prohibit financial institutions and
4 their employees from informing customers of
5 the existence of, or means of identifying, the
6 concentration accounts of the institution; and

7 “(C) require each financial institution to
8 establish written procedures governing the doc-
9 umentation of all transactions involving a con-
10 centration account, which procedures shall en-
11 sure that, any time a transaction involving a
12 concentration account commingles funds belong-
13 ing to 1 or more customers, the identity of, and
14 specific amount belonging to, each customer is
15 documented.”.

16 **SEC. 5. DUE DILIGENCE REQUIRED FOR PRIVATE BANKING.**

17 The Federal Deposit Insurance Act (12 U.S.C. 1811
18 et seq.) is amended by inserting after section 10 the fol-
19 lowing:

20 **“SEC. 5A. DUE DILIGENCE.**

21 “(a) PRIVATE BANKING.—In fulfillment of its anti-
22 money laundering obligations under section 5318(h) of
23 title 31, United States Code, each depository institution
24 that engages in private banking shall establish due dili-

1 gence procedures for opening and reviewing, on an ongo-
 2 ing basis, accounts of private banking customers.

3 “(b) MINIMUM STANDARDS.—The due diligence pro-
 4 cedures required by paragraph (1) shall, at a minimum,
 5 ensure that the depository institution knows and verifies,
 6 through probative documentation, the identity and finan-
 7 cial background of each private banking customer of the
 8 institution and obtains sufficient information about the
 9 source of funds of the customer to meet the anti-money
 10 laundering obligations of the institution.

11 “(c) COMPLIANCE REVIEW.—The appropriate Fed-
 12 eral banking agencies shall review compliance with the re-
 13 quirements of this section as part of each examination of
 14 a depository institution under this Act.

15 “(d) REGULATIONS.—The Board of Governors of the
 16 Federal Reserve System shall, after consultation with the
 17 other appropriate Federal banking agencies, define the
 18 term ‘private banking’ by regulation for purposes of this
 19 section.”.

20 **SEC. 6. SUPPLEMENTATION OF CRIMES CONSTITUTING**
 21 **MONEY LAUNDERING.**

22 Section 1956(c)(7)(B) of title 18, United States
 23 Code, is amended—

24 (1) by striking clause (ii) and inserting the fol-
 25 lowing:

1 “(ii) any conduct constituting a crime
2 of violence;” and

3 (2) by adding at the end the following:

4 “(iv) fraud, or any scheme to defraud,
5 committed against a foreign government or
6 foreign governmental entity under the laws
7 of that government or entity;

8 “(v) bribery of a foreign public offi-
9 cial, or the misappropriation, theft, or em-
10 bezzlement of public funds by or for the
11 benefit of a foreign public official under
12 the laws of the country in which the sub-
13 ject conduct occurred or in which the pub-
14 lic official holds office;

15 “(vi) smuggling or export control vio-
16 lations involving munitions listed in the
17 United States Munitions List or tech-
18 nologies with military applications, as de-
19 fined in the Commerce Control List of the
20 Export Administration Regulations;

21 “(vii) an offense with respect to which
22 the United States would be obligated by a
23 multilateral treaty either to extradite the
24 alleged offender or to submit the case for
25 prosecution, if the offender were found

1 within the territory of the United States;

2 or

3 “(viii) the misuse of funds of, or pro-
4 vided by, the International Monetary Fund
5 in contravention of the Articles of Agree-
6 ment of the Fund or the misuse of funds
7 of, or provided by, any other international
8 financial institution (as defined in section
9 1701(c)(2) of the International Financial
10 Institutions Act) in contravention of any
11 international treaty or other international
12 agreement to which the United States is a
13 party, including any articles of agreement
14 of the members of such international fi-
15 nancial institution;”.

16 **SEC. 7. PROHIBITION ON FALSE STATEMENTS TO FINAN-**
17 **CIAL INSTITUTIONS CONCERNING THE IDEN-**
18 **TITY OF A CUSTOMER.**

19 (a) IN GENERAL.—Chapter 47 of title 18, United
20 States Code (relating to fraud and false statements), is
21 amended by inserting after section 1007 the following:

22 **“§ 1008. False statements concerning the identity of**
23 **customers of financial institutions**

24 “(a) IN GENERAL.—Whoever knowingly in any
25 manner—

1 “(1) falsifies, conceals, or covers up, or at-
2 tempts to falsify, conceal, or cover up, the identity
3 of any person in connection with any transaction
4 with a financial institution;

5 “(2) makes, or attempts to make, any materi-
6 ally false, fraudulent, or fictitious statement or rep-
7 resentation of the identity of any person in connec-
8 tion with a transaction with a financial institution;

9 “(3) makes or uses, or attempts to make or
10 use, any false writing or document knowing the
11 same to contain any materially false, fictitious, or
12 fraudulent statement or entry concerning the iden-
13 tity of any person in connection with a transaction
14 with a financial institution; or

15 “(4) uses or presents, or attempts to use or
16 present, in connection with a transaction with a fi-
17 nancial institution, an identification document or
18 means of identification the possession of which is a
19 violation of section 1028;

20 shall be fined under this title, imprisoned not more than
21 5 years, or both.

22 “(b) DEFINITIONS.—In this section:

23 “(1) FINANCIAL INSTITUTION.—In addition to
24 the meaning given to the term ‘financial institution’
25 by section 20, the term ‘financial institution’ also

1 has the meaning given to such term in section
2 5312(a)(2) of title 31.

3 “(2) IDENTIFICATION DOCUMENT AND MEANS
4 OF IDENTIFICATION.—The terms ‘identification doc-
5 ument’ and ‘means of identification’ have the mean-
6 ings given to such terms in section 1028(d).”.

7 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

8 (1) TITLE 18, UNITED STATES CODE.—Section
9 1956(e)(7)(D) of title 18, United States Code, is
10 amended by striking “1014 (relating to fraudulent
11 loan” and inserting “section 1008 (relating to false
12 statements concerning the identity of customers of
13 financial institutions), section 1014 (relating to
14 fraudulent loan”.

15 (2) TABLE OF SECTIONS.—The table of sections
16 for chapter 47 of title 18, United States Code, is
17 amended by inserting after the item relating to sec-
18 tion 1007 the following:

“1008. False statements concerning the identity of customers of financial insti-
tutions.”.

19 **SEC. 8. APPROPRIATION FOR FINCEN TO IMPLEMENT SAR/
20 CTR ALERT DATABASE.**

21 There is authorized to be appropriated \$1,000,000,
22 to remain available until expended, for the Financial
23 Crimes Enforcement Network of the Department of the
24 Treasury to implement an automated database that will

1 alert law enforcement officials if Currency Transaction
2 Reports or Suspicious Activity Reports disclose patterns
3 that may indicate illegal activity, including any instance
4 in which multiple Currency Transaction Reports or Sus-
5 picious Activity Reports name the same individual within
6 a prescribed period of time.

7 **SEC. 9. LONG-ARM JURISDICTION OVER FOREIGN MONEY**
8 **LAUNDERERS.**

9 Section 1956(b) of title 18, United States Code, is
10 amended—

11 (1) by redesignating paragraphs (1) and (2) as
12 subparagraphs (A) and (B), respectively;

13 (2) by inserting “(1)” after “(b)”;

14 (3) by inserting “, or section 1957” after “or
15 (a)(3)”;

16 (4) by adding at the end the following:

17 “(2) For purposes of adjudicating an action filed or
18 enforcing a penalty ordered under this section, the district
19 courts shall have jurisdiction over any foreign person, in-
20 cluding any financial institution authorized under the laws
21 of a foreign country, that commits an offense under sub-
22 section (a) involving a financial transaction that occurs in
23 whole or in part in the United States, if service of process
24 upon such foreign person is made under the Federal Rules

1 of Civil Procedure or the laws of the country in which the
2 foreign person is found.

3 “(3) The court may issue a pretrial restraining order
4 or take any other action necessary to ensure that any bank
5 account or other property held by the defendant in the
6 United States is available to satisfy a judgment under this
7 section.”.

8 **SEC. 10. LAUNDERING MONEY THROUGH A FOREIGN BANK.**

9 Section 1956(c)(6) of title 18, United States Code,
10 is amended to read as follows:

11 “(6) the term ‘financial institution’ includes—

12 “(A) any financial institution described in
13 section 5312(a)(2) of title 31, or the regula-
14 tions promulgated thereunder; and

15 “(B) any foreign bank, as defined in sec-
16 tion 1(b)(7) of the International Banking Act of
17 1978 (12 U.S.C. 3101(7)).”.

18 **SEC. 11. EFFECTIVE DATE.**

19 Except as otherwise specifically provided in this Act,
20 this Act and the amendments made by this Act shall take
21 effect 90 days after the date of enactment of this Act.

○