promotional items received as a result of travel taken in the course of employment; to the Committee on Governmental Affairs.

Mr. WARNER. Mr. President, today I am introducing legislation that will allow Federal employees to keep frequent flyer miles they receive while on official government travel. This will level the playing field between Federal employees and their counterparts in the private sector where companies traditionally allow employees to retain frequent flyer miles and similar benefits earned while on business travel.

In 1994, a law was passed that requires Federal employees to surrender their frequent flyer miles back to their agencies. The frequent flyer miles would then be used to defray the costs of future travel costs by agency personnel.

A recent review conducted by the Government Accounting Office reports that these miles usually become lost, however, in an administrative shuffle. Airlines do not keep separate business and personal accounts for the same individual. While the law had good intentions, it is impractical, if not impossible, for an agency to apply the miles or travel benefits elsewhere.

While travel may be inherent with certain jobs, business related travel often impedes on an individual's personal time, time that person could be spending with family and at home. Allowing Federal employees to keep their frequent flyer miles will also help to support the government's ongoing efforts to recruit and retain a skilled, qualified workforce. Furthermore, I believe it will boost morale in the federal workforce.

I encourage my colleagues to cosponsor this legislation and show their support for the dedicated employees of the Federal workforce.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1369

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

**SECTION 1. RETENTION OF TRAVEL PROMOTIONAL ITEMS.**

(a) IN GENERAL.—Section 5702 of title 5, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) in subsection (d) (as redesignated by paragraph (1)), by striking ''This section does'' and inserting ''Subsections (a) and (b) do''; and

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

''(c) Promotional items (including frequent flyer miles, upgrades, and access to carrier clubs or facilities) an employee receives as a result of using travel or transportation services procured by the United States or accepted pursuant to section 1353 of title 31 may be retained by the employee for personal use if such promotional items are obtained under the same terms as those offered to the general public and at no additional cost to the Government.''.

(b) REPEAL OF SUPERCEDED LAW.—Section 6008 of the Federal Acquisition Streamlining Act of 1994 (5 U.S.C. 5702 note; Public Law 103–355) is repealed.

(c) APPLICABILITY.—The amendments made by this Act shall apply with respect to promotional items received before, on, or after the date of the enactment of this Act.

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By Mr. LEVIN (for himself, Mr. GRASSLEY, Mr. SARBANES, Mr. NELSON of Florida, Mr. KYL, and Mr. DEWINE):

S. 1371. A bill to combat money laundering and protect the United States financial system by strengthening safeguards in private banking and correspondent banking, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. LEVIN. Mr. President, today I am introducing, along with my colleagues Senator GRASSLEY, Senator SARBANES, Senator BILL NELSON, Senator MIKE DEWINE, and Senator JON KYL, the Money Laundering Abatement Act, a bill to modernize and strengthen U.S. laws to detect, stop and prosecute money laundering through U.S. banks.

The safety and soundness of our banking system, the stability of the U.S. dollar, the services our banks perform, and the returns our banks earn for depositors make the U.S. banking system an attractive location for money launderers. And money launderers who are able to use U.S. banks can take advantage of the prestige of these banks to lend credibility to their operations, reassure victims, and send wire transfers that may attract less scrutiny from law enforcement. So whether it is to protect their funds or further their crimes, money launderers want access to U.S. banks, and they are devising one scheme after another to infiltrate the U.S. banking system.

The funds they want to move through our banks are enormous. Estimates are that at least $1 trillion in criminal proceeds are laundered each year, with about half of that amount, $500 billion, going through U.S. banks.

Stopping this flood of dirty money is a top priority for U.S. law enforcement which spent about $650 million in taxpayer dollars last year on anti-money laundering efforts. That's because money laundering damages U.S. interests in so many ways, rewarding criminals and financing crime, undermining the integrity of international financial systems, weakening emerging democracies and distorting their economies, and impeding the international fight against corruption, drug trafficking and organized crime.

The bill we are introducing today would provide new and improved tools to stop money laundering. Because it includes provisions that would outlaw the proceeds of foreign corruption, cut off the access of offshore shell banks to U.S. banks, and end foreign bank immunity to forfeiture of laundered funds, this bill would close some of the worst gaps and remedy some of the most glaring weaknesses in existing anti-money laundering laws. For example, the bill would: 1. add foreign corruption offenses, such as bribery and theft of government funds, to the list of foreign crimes that can trigger a U.S. money laundering prosecution; 2. bar U.S. banks from providing banking services to foreign shell banks, which are banks that have no physical presence in any country and carry high money laundering risks; 3. require U.S. banks to conduct enhanced due diligence reviews to guard against money laundering when opening (a) a private bank account with $1 million or more for a foreign person, or (b) a correspondent account for an offshore bank or foreign bank in a country posing high money laundering risks; and 4. make a depositor's funds in a foreign bank's U.S. correspondent account subject to the same civil forfeiture rules that apply to depositors' funds in other U.S. bank accounts.

These provisions are the product of almost three years of work by my staff at the Senate Permanent Subcommittee on Investigations examining money laundering problems in the private and correspondent banking fields. Countless interviews with money laundering experts, bankers, regulators, law enforcement personnel, criminals and victims, and the careful review of literally tens of thousands of pages of documents led to the issuance of two staff reports in 1999 and 2001, and several days of Subcommittee hearings, setting out the problems uncovered and recommendations for strengthening U.S. enforcement efforts.

The first Subcommittee investigation examined private banking, a growing and lucrative banking sector which offers financial services to wealthy individuals, who usually must deposit $1 million or more to open a private bank account. In return, the client is assigned a ''private banker'' who provides the client with sophisticated financial services, such as offshore accounts, shell corporations, and high dollar wire transfers, which raise money laundering concerns.

A key issue to emerge from this investigation is the role that private banks play in opening accounts and accepting hundreds of millions of dollars in deposits from senior foreign officials or their relatives, even amid allegations or suspicions that the deposits may be the product of government corruption or other criminal conduct. The 1999 staff report described four case histories of senior government officials or their relatives depositing hundreds of millions of suspect dollars into private bank accounts at Citibank, the largest bank in the United States. These case histories showed how Citibank Private Bank had become the banker for a rogues' gallery of senior government officials or their relatives. One infamous example is Raul Salinas, the brother of the former President of Mexico, who is imprisoned in Mexico for murder and is under indictment in

Switzerland for money laundering associated with drug trafficking. He deposited almost $100 million into his Citibank Private Bank accounts. Another example involves the three sons of General Sani Abacha, who was the former military leader of Nigeria and was notorious for misappropriating and extorting billions of dollars from his country. His sons deposited more than $110 million into Citibank Private Bank accounts.

The investigation determined that Citibank's private bankers asked few questions before opening the accounts and accepting the funds. It also found that, because foreign corruption offenses are not currently on the list of crimes that can trigger a U.S. money laundering prosecution, corrupt foreign leaders may be targeting U.S. banks as a safe haven for their funds.

Another striking aspect of the investigation was how a culture of secrecy pervaded most private banking transactions. Citibank private bankers, for example, routinely helped clients set up offshore shell companies and open bank accounts in the name of these companies or under other fictional names such as ''Bonaparte'' or ''Gelsobella.'' After opening these accounts, secrecy remained such a priority that Citibank private bankers were often told by their superiors not to keep any record in the United States disclosing the true owner of the offshore accounts or corporations they manage. One private banker told of stashing with his secretary a ''cheat sheet'' that identified which client owned which shell company in order to hide it from Citibank managers who did not allow such ownership information to be kept in the United States.

On some occasions, Citibank Private Bank even hid ownership information from its own staff. For example, one Citibank private banker in London worked for years on a Salinas account without knowing Salinas was the beneficial owner. Salinas was instead referred to by the name of his offshore corporation, Trocca, Ltd., or by a code, ''CC–2,'' which stood for ''Confidential Client Number 2.'' Citibank even went so far as to allow Mr. Salinas to deposit millions of dollars into his private bank accounts without putting his name on the wire transfers moving the funds, instead allowing his future wife, using an assumed name, to wire the funds through Citibank's own administrative accounts. Later, when Mr. Salinas' wife was arrested, Citibank discussed transferring all of his funds to Switzerland to minimize disclosure, abandoning that suggestion only after noting that the wire transfer documentation would disclose the funds' final destination.

That's how far one major U.S. private bank went on client secrecy.

The Subcommittee's second money laundering investigation focused on U.S. correspondent accounts opened for high risk foreign banks. Correspondent banking occurs when one bank provides services to another bank to move funds or carry out other financial transactions. It is an essential feature of international banking, allowing the rapid movement of funds across borders and enabling banks and their clients to conduct business worldwide, including in jurisdictions where the banks do not maintain offices.

The problem uncovered by the Subcommittee's year-long investigation is that too many U.S. banks, through the correspondent accounts they provide to foreign banks that carry high risks of money laundering, have become conduits for illicit funds associated with drug trafficking, financial fraud, Internet gambling and other crimes. The investigation identified three categories of foreign banks with high risks of money laundering: shell banks, offshore banks, and banks in jurisdictions with weak anti-money laundering controls. Because many U.S. banks have routinely failed to screen and monitor these high risk foreign banks as clients, they have been exposed to poorly regulated, poorly managed, sometimes corrupt, foreign banks with weak or no anti-money laundering controls. The U.S. correspondent accounts have been used by these foreign banks, their owners and criminal clients to gain direct access to the U.S. financial system, to benefit from the safety and soundness of the U.S. banking system, and to launder dirty money through U.S. bank accounts.

In February of this year, my staff released a 450 page report detailing the money laundering problems uncovered in correspondent banking. The report indicated that virtually every U.S. bank examined, from Chase Manhattan, to Bank of America, to First Union, to Citibank, had opened correspondent accounts for offshore banks. Citibank also admitted opening correspondent accounts for offshore shell banks with no physical presence in any jurisdiction.

The report presents ten detailed case histories showing how high risk foreign banks managed to move billions of dollars through U.S. banks, including hundreds of millions of dollars in illicit funds associated with drug trafficking, financial fraud or Internet gambling. In some cases, the foreign banks were engaged in criminal behavior; in others, the foreign banks had such poor anti-money laundering controls that they did not know or appeared not to care whether their clients were engaged in criminal behavior. Several of the foreign banks operated well outside the parameters of normal banking practices, without basic fiscal or administrative controls, account opening procedures or anti-money laundering safeguards. All had limited resources and staff and relied heavily upon their U.S. correspondent accounts to conduct operations, provide client services, and move funds. Most completed virtually all of their transactions through their correspondent accounts, making correspondent banking integral to their operations. The result was that their U.S. correspondent accounts served as a significant gateway into the U.S. financial system for criminals and money launderers.

In March 2001, the Subcommittee held hearings on the problem of international correspondent banking and money laundering. One witness was a former owner of an offshore bank in the Cayman Islands, John Mathewson, who pleaded guilty in the United States to conspiracy to commit money laundering and tax evasion and has spent the past 5 years helping to prosecute his former clients for tax evasion and other crimes. Mr. Mathewson testified that he had charged his bank clients about $5,000 to set up an offshore shell corporation and another $3,000 for an annual corporate management fee, before opening a bank account for them in the name of the shell corporation. He noted that no one would pay $8,000 for a bank account in the Cayman Islands when they could have the same account for free in the United States, unless they were willing to pay a premium for secrecy. He testified that 95 percent of his 2,000 clients were U.S. citizens, and he believed that 100 percent of his bank clients were engaged in tax evasion. He characterized his offshore bank as a ''run-of-the-mill'' operation. He also said that the Achilles' heel of the offshore banking community is its dependence upon correspondent banks to do business and that was how jurisdictions like the United States could take control of the situation and stop abuses, if we had the political will to do so.

I think we do have that political will, and that's why we are introducing this bill today. Let me describe some of its key provisions.

The Money Laundering Abatement Act would add foreign corruption offenses such as bribery and theft of government funds to the list of crimes that can trigger a U.S. money laundering prosecution. This provision would make it clear that corrupt funds are not welcome here, and that corrupt leaders can expect criminal prosecutions if they try to stash dirty money in our banks. After all, America can't have it both ways. We can't condemn corruption abroad, be it officials taking bribes or looting their treasuries, and then tolerate American banks profiting off that corruption.

Second, the bill would require U.S. banks and U.S. branches of foreign banks to exercise enhanced due diligence before opening a private bank account of $1 million or more for a foreign person, and to take particular care before opening accounts for foreign government officials, their close relatives or associates to make sure the funds are not tainted by corruption. This due diligence provision targets the greatest money laundering risks that the Subcommittee investigation identified in the private banking field. While some U.S. banks are already performing enhanced due diligence reviews, this provision would put

that requirement into law and bring U.S. law into alignment with most other countries engaged in the fight against money laundering.

The Money Laundering Abatement Act would also put an end to some of the extreme secrecy practices at private banks. For example, if a U.S. bank or a U.S. branch of a foreign bank opened or managed an account in the United States for a foreign accountholder, the bill would require the bank to keep a record in the United States identifying that foreign accountholder. After all, U.S. banks already keep records of accounts held by U.S. citizens, and there is no reason to allow U.S. banks to administer offshore accounts for foreign accountholders with less openness than other U.S. bank accounts. The bill would also put an end to the type of secret fund transfers that went on in the Salinas matter by prohibiting bank clients from independently directing funds to be deposited into a bank's ''concentration account,'' an administrative account which merges and processes funds from multiple accounts and transactions, and by requiring banks to link client names to all client funds passing through the bank's concentration accounts.

Our bill would also take a number of steps to close the door on money laundering through U.S. correspondent accounts. First and most importantly, our bill would bar any U.S. bank or U.S. branch of a foreign bank from opening a U.S. correspondent account for a foreign offshore shell bank, which the Subcommittee investigation found to pose the highest money laundering risks of all foreign banks. Shell banks are banks that have no physical presence anywhere—no office where customers can go to conduct banking transactions or where regulators can go to inspect records and observe bank operations. They also have no affiliation with any other bank and are not regulated through any affiliated bank.

The Subcommittee investigation examined four shell banks in detail. All four were found to be operating far outside the parameters of normal banking practice, often without paid staff, basic fiscal and administrative controls, or anti-money laundering safeguards. All four also largely escaped regulatory oversight. All four used U.S. bank accounts to transact business and move millions of dollars in suspect funds associated with drug trafficking, financial fraud, bribe money or other misconduct.

Let me describe one example from the Subcommittee's investigation. M.A. Bank was an offshore bank that was licensed in the Cayman Islands, but had no physical office of its own in any country. In 10 years of operation, M.A. Bank never underwent an examination by any bank regulator. Its owners have since admitted that the bank opened accounts in fictitious names, accepted deposits for unknown persons, allowed clients to authorize third parties to make large withdrawals, and manufactured withdrawal slips or receipts on request.

Nevertheless, M.A. Bank was able to open a U.S. correspondent account at Citibank in New York. M.A. Bank used that account to move hundreds of millions of dollars for clients in Argentina, including $7.7 million in illegal drug money. After the Subcommittee staff began investigating the account, Citibank closed it. After the staff report came out, the Cayman Islands decided to close the bank, but since the bank had no office, Cayman regulators at first didn't know where to go. They eventually sent teams to Uruguay and Argentina to locate bank documents and take control of bank operations. The Cayman Islands finally closed the bank a few months ago.

The four shell banks investigated by the Subcommittee are only the tip of the iceberg. There are hundreds in existence, operating through correspondent accounts in the United States and around the world.

By nature, shell banks operate in extreme secrecy and are resistant to regulatory oversight. No one really knows what they are up to other than their owners. Some jurisdictions known for offshore businesses, such as Jersey and Guernsey, refuse to license shell banks. Others, such as the Cayman Islands and the Bahamas, stopped issuing shell bank licenses several years ago. In addition, both the Cayman Islands and Bahamas announced that by the end of this year, 2001, all of their existing shell banks, which together number about 120, must establish a physical office within their respective jurisdictions, or lose their license. But other offshore jurisdictions, such as Nauru, Vanuatu and Montenegro, are continuing to license shell banks. Nauru alone has licensed about 400.

Here at home, many U.S. banks, such as Bank of America and Chase Manhattan, will not open correspondent bank accounts for offshore shell banks as a matter of policy. But other banks, such as Citibank, continue to do business with offshore shell banks and continue to expose the U.S. banking system to the money laundering risks they bring. Our bill would close the door to these money laundering risks. Foreign shell banks occupy the bottom rung of the banking world, and they don't deserve a place in the U.S. banking system. It is time to shut the door to these rogue operators.

In addition to barring offshore shell banks, the bill would require U.S. banks to exercise enhanced due diligence before opening a correspondent account for an offshore bank or a bank licensed by a jurisdiction known for poor anti-money laundering controls. These foreign banks also expose U.S. banks to high money laundering risks. Requiring U.S. banks to exercise enhanced due diligence prior to opening an account for one of these banks would not only help protect the U.S. banking system from the money laundering risks posed by these foreign banks, but would also help bring U.S. law into parity with the anti-money laundering laws of other countries.

Another provision in the bill would address a key weakness in existing U.S. forfeiture law as applied to correspondent banking, by making a depositor's funds in a foreign bank's U.S. correspondent account subject to the same civil forfeiture rules that apply to depositors' funds in all other U.S. bank accounts. Right now, due to a quirk in the law, U.S. law enforcement faces a significant and unusual legal barrier to seizing funds from a correspondent account. Unlike a regular U.S. bank account, it is not enough for U.S. law enforcement to show that criminal proceeds were deposited into the correspondent account; the government must also show that the foreign bank holding the deposits was somehow part of the wrongdoing.

That's not only a tough job, that can be an impossible job. In many cases, the foreign bank will not have been part of the wrongdoing, but that's a strange reason for letting the foreign depositor who was engaged in the wrongdoing escape forfeiture. And in those cases where the foreign bank may have been involved, no prosecutor will be able to allege it in a complaint without first getting the resources needed to chase the foreign bank abroad.

Take the example of a financial fraud committed by a Nigerian national against a U.S. victim, a fraud pattern which the U.S. State Department has identified as affecting many U.S. citizens and businesses and which consumes U.S. law enforcement resources across the country. If the Nigerian fraudster deposits the fraud victim's funds in a personal account at a U.S. bank, U.S. law enforcement can freeze the funds and litigate the case in court. But if the fraudster instead deposits the victim's funds in a U.S. correspondent account belonging to a Nigerian bank at which the Nigerian fraudster does business, U.S. law enforcement cannot freeze the funds unless it is prepared to show that the Nigerian bank was involved in the fraud. And what prosecutor has the resources to travel to Nigeria to investigate a Nigerian bank? Even when the victim is sitting in the prosecutor's office, and his funds are still in the United States in a U.S. bank, the prosecutor's hands are tied unless he or she is willing to take on the Nigerian bank as well as the Nigerian fraudster. That is one reason so many Nigerian fraud cases are no longer being prosecuted in this country, because Nigerian criminals are taking advantage of that quirk in U.S. forfeiture law to prevent law enforcement from seizing a victim's money before it is transferred out of the country.

Our bill would eliminate that quirk by placing civil forfeitures of funds in correspondent accounts on the same footing as forfeitures of funds in all

other U.S. accounts. There is just no reason foreign banks should be shielded from forfeitures when U.S. banks would not be.

The Levin-Grassley bill has a number of other provisions that would help U.S. law enforcement in the battle against money laundering. They include giving U.S. courts ''long-arm'' jurisdiction over foreign banks with U.S. correspondent accounts; expanding the definition of money laundering to include laundering funds through a foreign bank; authorizing U.S. prosecutors to use a Federal receiver to find a criminal defendant's assets, wherever located; and requiring foreign banks to designate a U.S. resident for service of subpoenas.

These are realistic, practical provisions that could make a real difference in the fight against money laundering. One state Attorney General who has reviewed the bill has written that ''there is a serious need for modernizing and refining the federal money laundering statutes to thwart the efforts of the criminal element and close the loopholes they use to their advantage.'' He expresses ''strong support'' for the bill, explaining that it ''will greatly aid law enforcement'' and ''provide new tools that will assist law enforcement in keeping pace with the modern money laundering schemes.'' Another state Attorney General has written that the bill ''would provide much needed relief from some of the most pressing problems in money laundering enforcement in the international arena.'' She predicts that the bill's ''effects on money laundering affecting victims of crime and illegal drug trafficking would be dramatic.'' She also writes that the ''burdens it places on the financial institutions are well considered, closely tailored to the problems, and reasonable in light of the public benefits involved.''

This country passed its first major anti-money laundering law in 1970, when Congress made clear its desire to not allow U.S. banks to function as conduits for dirty money. Since then, the world has experienced an enormous growth in the accumulation of wealth by individuals around the world, and in the activities of private banks servicing these clients. At the same time there has been a rapid increase in offshore activities, with the number of offshore jurisdictions doubling from about 30 to about 60, and the number of offshore banks skyrocketing to an estimated worldwide total of 4,000, including more than 500 shell banks.

At the same time, the Subcommittee investigations have shown that private and correspondent accounts have become gateways for criminals to carry on money laundering and other criminal activity in the United States and to benefit from the safety and soundness of the U.S. banking industry. U.S. law enforcement needs stronger tools to detect, stop and prosecute money launderers attempting to use these gateways into the U.S. banking system. Enacting this legislation would help provide the tools needed to close those money laundering gateways and curb the dirty funds seeking entry into the U.S. banking industry.

I ask unanimous consent that letters in support for the bill from the two State Attorneys General of the States of Massachusetts and Arizona, as well as a short summary of the bill, and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1371

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Money Laundering Abatement Act''.

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

(a) FINDINGS.—Congress finds that—

(1) money laundering, the process by which proceeds from criminal activity are disguised as legitimate money, is contrary to the national interest of the United States, because it finances crime, undermines the integrity of international financial systems, impedes the international fight against corruption and drug trafficking, distorts economies, and weakens emerging democracies and international stability;

(2) United States banks are frequently used to launder dirty money, and private banking, which provides services to individuals with large deposits, and correspondent banking, which occurs when 1 bank provides financial services to another bank, are specific banking sectors which are particularly vulnerable to money laundering;

(3) private banking is particularly vulnerable to money laundering by corrupt foreign government officials because the services provided (offshore accounts, secrecy, and large international wire transfers) are also key tools used to launder money;

(4) correspondent banking is vulnerable to money laundering because United States banks—

(A) often fail to screen and monitor the transactions of their high-risk foreign bank clients; and

(B) enable the owners and clients of the foreign bank to get indirect access to the United States banking system when they would be unlikely to get access directly;

(5) the high-risk foreign bank that currently poses the greatest money laundering risks in the United States correspondent banking field is a shell bank, which has no physical presence in any country, is not affiliated with any other bank, and is able to evade day-to-day bank regulation; and

(6) United States anti-money laundering efforts are currently impeded by outmoded and inadequate statutory provisions that make United States investigations, prosecutions and forfeitures more difficult when money laundering involves foreign persons, foreign banks, or foreign countries.

(b) PURPOSE.—The purpose of this Act is to modernize and strengthen existing Federal laws to combat money laundering, particularly in the private banking and correspondent banking fields when money laundering offenses involve foreign persons, foreign banks, or foreign countries.

**SEC. 3. INCLUSION OF FOREIGN CORRUPTION OFFENSES AS MONEY LAUNDERING CRIMES.**

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

(1) in clause (ii), by striking ''or destruction of property by means of explosive or fire'' and inserting ''destruction of property by means of explosive or fire, or a crime of violence (as defined in section 16)'';

(2) in clause (iii), by striking ''1978'' and inserting ''1978)''; and

(3) by adding at the end the following:

''(iv) fraud, or any scheme or attempt to defraud, against that foreign nation or an entity of that foreign nation;

''(v) bribery of a public official, or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official;

''(vi) smuggling or export control violations involving—

''(I) an item controlled on the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778); or

''(II) technologies with military applications controlled on any control list established under the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) or any successor statute;

''(vii) an offense with respect to which the United States would be obligated by a multilateral treaty, either to extradite the alleged offender or to submit the case for prosecution, if the offender were found within the territory of the United States; or

''(viii) the misuse of funds of, or provided by, the International Monetary Fund in contravention of the Articles of Agreement of the Fund or the misuse of funds of, or provided by, any other international financial institution (as defined in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2)) in contravention of any treaty or other international agreement to which the United States is a party, including any articles of agreement of the members of the international financial institution;''.

**SEC. 4. ANTI-MONEY LAUNDERING MEASURES FOR UNITED STATES BANK ACCOUNTS INVOLVING FOREIGN PERSONS.**

(a) REQUIREMENTS RELATING TO UNITED STATES BANK ACCOUNTS INVOLVING FOREIGN PERSONS.—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5318 the following:

**''§ 5318A. Requirements relating to United States bank accounts involving foreign persons**

''(a) DEFINITIONS.—

''(1) IN GENERAL.—In this section, the following definitions shall apply:

''(A) ACCOUNT.—The term 'account'—

''(i) means a formal banking or business relationship established to provide regular services, dealings, or financial transactions; and

''(ii) includes a demand deposit, savings deposit, or other transaction or asset account, and a credit account or other extension of credit.

''(B) BRANCH OR AGENCY OF A FOREIGN BANK.—The term 'branch or agency of a foreign bank' has the meanings given those terms in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101).

''(C) CORRESPONDENT ACCOUNT.—The term 'correspondent account' means an account established for a depository institution, credit union, or foreign bank.

''(D) CORRESPONDENT BANK.—The term 'correspondent bank' means a depository institution, credit union, or foreign bank that establishes a correspondent account for and provides banking services to a depository institution, credit union, or foreign bank.

''(E) COVERED FINANCIAL INSTITUTION.—The term 'covered financial institution' means—

''(i) a depository institution;

''(ii) a credit union; and

''(iii) a branch or agency of a foreign bank.

''(F) CREDIT UNION.—The term 'credit union' means any insured credit union, as

defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752), or any credit union that is eligible to make application to become an insured credit union pursuant to section 201 of the Federal Credit Union Act (12 U.S.C. 1781).

''(G) DEPOSITORY INSTITUTION.—The term 'depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

''(H) FOREIGN BANK.—The term 'foreign bank' has the same meaning as in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101).

''(I) FOREIGN COUNTRY.—The term 'foreign country' has the same meaning as in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101).

''(J) FOREIGN PERSON.—The term 'foreign person' means any foreign organization or any individual resident in a foreign country or any organization or individual owned or controlled by such an organization or individual.

''(K) OFFSHORE BANKING LICENSE.—The term 'offshore banking license' means a license to conduct banking activities which, as a condition of the license, prohibits the licensed entity from conducting banking activities with the citizens of, or with the local currency of, the foreign country which issued the license.

''(L) PRIVATE BANK ACCOUNT.—The term 'private bank account' means an account (or combination of accounts) that—

''(i) requires a minimum aggregate deposit of funds or assets in an amount equal to not less than $1,000,000;

''(ii) is established on behalf of 1 or more individuals who have a direct or beneficial ownership interest in the account; and

''(iii) is assigned to, administered, or managed in whole or in part by an employee of a financial institution acting as a liaison between the institution and the direct or beneficial owner of the account.

''(2) OTHER TERMS.—After consultation with the Board of Governors of the Federal Reserve System, the Secretary may, by regulation, order, or otherwise as permitted by law, define any term that is used in this section and that is not otherwise defined in this section or section 5312, as the Secretary deems appropriate.

''(b) UNITED STATES BANK ACCOUNTS WITH UNIDENTIFIED FOREIGN OWNERS.—

''(1) RECORDS.—

''(A) IN GENERAL.—A covered financial institution shall not establish, maintain, administer, or manage an account in the United States for a foreign person or a representative of a foreign person, unless the covered financial institution maintains in the United States, for each such account, a record identifying, by a verifiable name and account number, each individual or entity having a direct or beneficial ownership interest in the account.

''(B) PUBLICLY TRADED CORPORATIONS.—A record required under subparagraph (A) that identifies an entity, the shares of which are publicly traded on a stock exchange regulated by an organization or agency that is a member of and endorses the principles of the International Organization of Securities Commissions (in this section referred to as 'publicly traded'), is not required to identify individual shareholders of the entity.

''(C) FOREIGN BANKS.—In the case of a correspondent account that is established for a foreign bank, the shares of which are not publicly traded, the record required under subparagraph (A) shall identify each of the owners of the foreign bank, and the nature and extent of the ownership interest of each such owner.

''(2) COMPLEX OWNERSHIP INTERESTS.—The Secretary may, by regulation, order, or otherwise as permitted by law, further delineate the information to be maintained in the United States under paragraph (1)(A), including information for accounts with multiple, complex, or changing ownership interests.

''(c) PROHIBITION ON UNITED STATES CORRESPONDENT ACCOUNTS WITH FOREIGN SHELL BANKS.—

''(1) IN GENERAL.—A covered financial institution shall not establish, maintain, administer, or manage a correspondent account in the United States for, or on behalf of, a foreign bank that does not have a physical presence in any country.

''(2) PREVENTION OF INDIRECT SERVICE TO FOREIGN SHELL BANKS.—A covered financial institution shall take reasonable steps to ensure that any correspondent account established, maintained, administered, or managed by that covered financial institution in the United States for a foreign bank is not being used by that foreign bank to indirectly provide banking services to another foreign bank that does not have a physical presence in any country.

''(3) EXCEPTION.—Paragraphs (1) and (2) do not prohibit a covered financial institution from providing a correspondent account to a foreign bank, if the foreign bank—

''(A) is an affiliate of a depository institution, credit union, or other foreign bank that maintains a physical presence in the United States or a foreign country, as applicable; and

''(B) is subject to supervision by a banking authority in the country regulating the affiliated depository institution, credit union, or foreign bank, described in subparagraph (A), as applicable.

''(4) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'affiliate' means a foreign bank that is controlled by or is under common control with a depository institution, credit union, or foreign bank; and

''(B) the term 'physical presence' means a place of business that—

''(i) is maintained by a foreign bank;

''(ii) is located at a fixed address (other than solely an electronic address) in a country in which the foreign bank is authorized to conduct banking activities, at which location the foreign bank—

''(I) employs 1 or more individuals on a full-time basis; and

''(II) maintains operating records related to its banking activities; and

''(iii) is subject to inspection by the banking authority which licensed the foreign bank to conduct banking activities.

''(d) DUE DILIGENCE FOR UNITED STATES PRIVATE BANK AND CORRESPONDENT BANK ACCOUNTS INVOLVING FOREIGN PERSONS.—

''(1) IN GENERAL.—Each covered financial institution that establishes, maintains, administers, or manages a private bank account or a correspondent account in the United States for a foreign person or a representative of a foreign person shall establish enhanced due diligence policies, procedures, and controls to prevent, detect, and report possible instances of money laundering through those accounts.

''(2) MINIMUM STANDARDS.—The enhanced due diligence policies, procedures, and controls required under paragraph (1) of this subsection, shall, at a minimum, ensure that the covered financial institution—

''(A) ascertains the identity of each individual or entity having a direct or beneficial ownership interest in the account, and obtains sufficient information about the background of the individual or entity and the source of funds deposited into the account as is needed to guard against money laundering;

''(B) monitors such accounts on an ongoing basis to prevent, detect, and report possible instances of money laundering;

''(C) conducts enhanced scrutiny of any private bank account requested or maintained by, or on behalf of, a senior foreign political figure, or any immediate family member or close associate of a senior foreign political figure, to prevent, detect, and report transactions that may involve the proceeds of foreign corruption;

''(D) conducts enhanced scrutiny of any correspondent account requested or maintained by, or on behalf of, a foreign bank operating—

''(i) under an offshore banking license; or

''(ii) under a banking license issued by a foreign country that has been designated—

''(I) as noncooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member; or

''(II) by the Secretary as warranting special measures due to money laundering concerns; and

''(E) ascertains, as part of the enhanced scrutiny under subparagraph (D), whether the foreign bank provides correspondent accounts to other foreign banks and, if so, the identity of those foreign banks and related due diligence information, as appropriate, under paragraph (1).''.

(b) REGULATORY AUTHORITY.—After consultation with the Board of Governors of the Federal Reserve System, the Secretary of the Treasury may, by regulation, order, or otherwise as permitted by law, take measures that the Secretary deems appropriate to carry out section 5318A of title 31, United States Code (as added by this section).

(c) CONFORMING AMENDMENTS.—Section 5312(a) of title 31, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

''(5) 'Secretary' means the Secretary of the Treasury, except as otherwise provided in this subchapter.''.

(d) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after the item related to section 5318 the following:

''5318A. Requirements relating to United States bank accounts involving foreign persons.''.

(e) EFFECTIVE DATE.—Section 5318A of title 31, United States Code, as added by this section, shall take effect beginning 180 days after the date of enactment of this Act with respect to accounts covered by that section that are opened before, on, or after the date of enactment of this Act.

**SEC. 5. LONG-ARM JURISDICTION OVER FOREIGN MONEY LAUNDERERS.**

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

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

(2) inserting ''(1)'' after ''(b)'';

(3) inserting '', or section 1957'' after ''or (a)(3)''; and

(4) adding at the end the following:

''(2) For purposes of adjudicating an action filed or enforcing a penalty ordered under this section, the district courts shall have jurisdiction over any foreign person, including any financial institution authorized under the laws of a foreign country, against whom the action is brought, if service of process upon the foreign person is made under the Federal Rules of Civil Procedure or the laws of the country in which the foreign person is found, and—

''(A) the foreign person commits an offense under subsection (a) involving a financial transaction that occurs in whole or in part in the United States;

''(B) the foreign person converts, to his or her own use, property in which the United States has an ownership interest by virtue of the entry of an order of forfeiture by a court of the United States; or

''(C) the foreign person is a financial institution that maintains a bank account at a financial institution in the United States.

''(3) A court, described in paragraph (2), may issue a pretrial restraining order or take any other action necessary to ensure that any bank account or other property held by the defendant in the United States is available to satisfy a judgment under this section.

''(4) A court, described in paragraph (2), may appoint a Federal Receiver, in accordance with paragraph (5), to collect, marshal, and take custody, control, and possession of all assets of the defendant, wherever located, to satisfy a judgment under this section or section 981, 982, or 1957, including an order of restitution to any victim of a specified unlawful activity.

''(5) A Federal Receiver, described in paragraph (4)—

''(A) may be appointed upon application of a Federal prosecutor or a Federal or State regulator, by the court having jurisdiction over the defendant in the case;

''(B) shall be an officer of the court, and the powers of the Federal Receiver shall include the powers set out in section 754 of title 28, United States Code; and

''(C) shall have standing equivalent to that of a Federal prosecutor for the purpose of submitting requests to obtain information regarding the assets of the defendant—

''(i) from the Financial Crimes Enforcement Network of the Department of the Treasury; or

''(ii) from a foreign country pursuant to a mutual legal assistance treaty, multilateral agreement, or other arrangement for international law enforcement assistance, provided that such requests are in accordance with the policies and procedures of the Attorney General.''.

**SEC. 6. LAUNDERING MONEY THROUGH A FOREIGN BANK.**

Section 1956(c) of title 18, United States Code, is amended by striking paragraph (6) and inserting the following:

''(6) the term 'financial institution' includes—

''(A) any financial institution, as defined in section 5312(a)(2) of title 31, United States Code, or the regulations promulgated thereunder; and

''(B) any foreign bank, as defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101).''.

**SEC. 7. PROHIBITION ON FALSE STATEMENTS TO FINANCIAL INSTITUTIONS CONCERNING THE IDENTITY OF A CUSTOMER.**

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1007 the following:

**''§ 1008. False statements concerning the identity of customers of financial institutions**

''(a) IN GENERAL.—Whoever knowingly in any manner—

''(1) falsifies, conceals, or covers up, or attempts to falsify, conceal, or cover up, the identity of any person in connection with any transaction with a financial institution;

''(2) makes, or attempts to make, any materially false, fraudulent, or fictitious statement or representation of the identity of any person in connection with a transaction with a financial institution;

''(3) makes or uses, or attempts to make or use, any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry concerning the identity of any person in connection with a transaction with a financial institution; or

''(4) uses or presents, or attempts to use or present, in connection with a transaction with a financial institution, an identification document or means of identification the possession of which is a violation of section 1028;

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

''(b) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) FINANCIAL INSTITUTION.—The term 'financial institution'—

''(A) has the same meaning as in section 20; and

''(B) in addition, has the same meaning as in section 5312(a)(2) of title 31, United States Code.

''(2) IDENTIFICATION DOCUMENT.—The term 'identification document' has the same meaning as in section 1028(d).

''(3) MEANS OF IDENTIFICATION.—The term 'means of identification' has the same meaning as in section 1028(d).''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TITLE 18, UNITED STATES CODE.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking ''1014 (relating to fraudulent loan'' and inserting ''section 1008 (relating to false statements concerning the identity of customers of financial institutions), section 1014 (relating to fraudulent loan''.

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

''1008. False statements concerning the identity of customers of financial institutions.''.

**SEC. 8. CONCENTRATION ACCOUNTS AT FINANCIAL INSTITUTIONS.**

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

''(3) CONCENTRATION ACCOUNTS.—The Secretary shall issue regulations under this subsection that govern maintenance of concentration accounts by financial institutions, in order to ensure that such accounts are not used to prevent association of the identity of an individual customer with the movement of funds of which the customer is the direct or beneficial owner, which regulations shall, at a minimum—

''(A) prohibit financial institutions from allowing clients to direct transactions that move their funds into, out of, or through the concentration accounts of the financial institution;

''(B) prohibit financial institutions and their employees from informing customers of the existence of, or the means of identifying, the concentration accounts of the institution; and

''(C) require each financial institution to establish written procedures governing the documentation of all transactions involving a concentration account, which procedures shall ensure that, any time a transaction involving a concentration account commingles funds belonging to 1 or more customers, the identity of, and specific amount belonging to, each customer is documented.''.

**SEC. 9. CHARGING MONEY LAUNDERING AS A COURSE OF CONDUCT.**

Section 1956(h) of title 18, United States Code, is amended by —

(1) inserting ''(1)'' before ''Any person''; and

(2) adding at the end the following:

''(2) Any person who commits multiple violations of this section or section 1957 that are part of the same scheme or continuing course of conduct may be charged, at the election of the Government, in a single count in an indictment or information.''.

**SEC. 10. FUNGIBLE PROPERTY IN BANK ACCOUNTS.**

(a) IN GENERAL.—Section 984 of title 18, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) The provisions of this section may be invoked only if the action for forfeiture was commenced by the seizure or restraint of the property, or by the filing of a complaint, within 2 years of the offense that is the basis for the forfeiture.''.

(b) APPLICATION.—The amendment made by this section shall apply to any offense committed on or after the date which is 2 years before the date of enactment of this Act.

**SEC. 11. FORFEITURE OF FUNDS IN UNITED STATES INTERBANK ACCOUNTS.**

(a) FORFEITURE FROM UNITED STATES INTERBANK ACCOUNT.—Section 981 of title 18, United States Code, is amended by adding at the end the following:

''(k) INTERBANK ACCOUNTS.—

''(1) IN GENERAL.—For the purpose of a forfeiture under this section or under the Controlled Substances Act (21 U.S.C. 801 et seq.), if funds are deposited into an account at a foreign bank, and that foreign bank has an interbank account in the United States with a covered financial institution (as defined in section 5318A of title 31), the funds shall be deemed to have been deposited into the interbank account in the United States, and any restraining order, seizure warrant, or arrest warrant in rem regarding the funds may be served on the covered financial institution, and funds in the interbank account, up to the value of the funds deposited into the account at the foreign bank, may be restrained, seized, or arrested.

''(2) NO REQUIREMENT FOR GOVERNMENT TO TRACE FUNDS.—If a forfeiture action is brought against funds that are restrained, seized, or arrested under paragraph (1), it shall not be necessary for the Government to establish that the funds are directly traceable to the funds that were deposited into the foreign bank, nor shall it be necessary for the Government to rely on the application of section 984.

''(3) CLAIMS BROUGHT BY OWNER OF THE FUNDS.—If a forfeiture action is instituted against funds restrained, seized, or arrested under paragraph (1), the owner of the funds deposited into the account at the foreign bank may contest the forfeiture by filing a claim under section 983.

''(4) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

''(A) INTERBANK ACCOUNT.—The term 'interbank account' has the same meaning as in section 984(c)(2)(B).

''(B) OWNER.—

''(i) IN GENERAL.—Except as provided in clause (ii), the term 'owner'—

''(I) has the same meaning as in section 983(d)(6); and

''(II) does not include any foreign bank or other financial institution acting as an intermediary in the transfer of funds into the interbank account and having no ownership interest in the funds sought to be forfeited.

''(ii) EXCEPTION.—The foreign bank may be considered the 'owner' of the funds (and no other person shall qualify as the owner of such funds) only if—

''(I) the basis for the forfeiture action is wrongdoing committed by the foreign bank; or

''(II) the foreign bank establishes, by a preponderance of the evidence, that prior to the restraint, seizure, or arrest of the funds, the foreign bank had discharged all or part of its

obligation to the prior owner of the funds, in which case the foreign bank shall be deemed the owner of the funds to the extent of such discharged obligation.''.

(b) BANK RECORDS.—Section 5318 of title 31, United States Code, is amended by adding at the end the following:

''(i) BANK RECORDS RELATED TO ANTI-MONEY LAUNDERING PROGRAMS.—

''(1) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

''(A) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

''(B) INCORPORATED TERMS.—The terms 'correspondent account', 'covered financial institution', and 'foreign bank' have the same meanings as in section 5318A.

''(2) 48-HOUR RULE.—Not later than 48 hours after receiving a request by an appropriate Federal banking agency for information related to anti-money laundering compliance by a covered financial institution or a customer of such institution, a covered financial institution shall provide to the appropriate Federal banking agency, or make available at a location specified by the representative of the appropriate Federal banking agency, information and account documentation for any account opened, maintained, administered or managed in the United States by the covered financial institution.

''(3) FOREIGN BANK RECORDS.—

''(A) SUMMONS OR SUBPOENA OF RECORDS.—

''(i) IN GENERAL.—The Secretary or the Attorney General may issue a summons or subpoena to any foreign bank that maintains a correspondent account in the United States and request records related to such correspondent account.

''(ii) SERVICE OF SUMMONS OR SUBPOENA.—A summons or subpoena referred to in clause (i) may be served on the foreign bank in the United States if the foreign bank has a representative in the United States, or in a foreign country pursuant to any mutual legal assistance treaty, multilateral agreement, or other request for international law enforcement assistance.

''(B) ACCEPTANCE OF SERVICE.—

''(i) MAINTAINING RECORDS IN THE UNITED STATES.—Any covered financial institution which maintains a correspondent account in the United States for a foreign bank shall maintain records in the United States identifying the owners of such foreign bank and the name and address of a person who resides in the United States and is authorized to accept service of legal process for records regarding the correspondent account.

''(ii) LAW ENFORCEMENT REQUEST.—Upon receipt of a written request from a Federal law enforcement officer for information required to be maintained under this paragraph, the covered financial institution shall provide the information to the requesting officer not later than 7 days after receipt of the request.

''(C) TERMINATION OF CORRESPONDENT RELATIONSHIP.—

''(i) TERMINATION UPON RECEIPT OF NOTICE.—A covered financial institution shall terminate any correspondent relationship with a foreign bank not later than 10 days after receipt of written notice from the Secretary or the Attorney General that the foreign bank has failed—

''(I) to comply with a summons or subpoena issued under subparagraph (A); or

''(II) to initiate proceedings in a United States court contesting such summons or subpoena.

''(ii) LIMITATION ON LIABILITY.—A covered financial institution shall not be liable to any person in any court or arbitration proceeding for terminating a correspondent relationship in accordance with this subsection.

''(iii) FAILURE TO TERMINATE RELATIONSHIP.—Failure to terminate a correspondent relationship in accordance with this subsection shall render the covered financial institution liable for a civil penalty of up to $10,000 per day until the correspondent relationship is so terminated.''.

(c) AUTHORITY TO ORDER CONVICTED CRIMINAL TO RETURN PROPERTY LOCATED ABROAD.—

(1) FORFEITURE OF SUBSTITUTE PROPERTY.—Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by striking subsection (p) and inserting the following:

''(p) FORFEITURE OF SUBSTITUTE PROPERTY.—

''(1) IN GENERAL.—Paragraph (2) of this subsection shall apply, if any property described in subsection (a), as a result of any act or omission of the defendant—

''(A) cannot be located upon the exercise of due diligence;

''(B) has been transferred or sold to, or deposited with, a third party;

''(C) has been placed beyond the jurisdiction of the court;

''(D) has been substantially diminished in value; or

''(E) has been commingled with other property which cannot be divided without difficulty.

''(2) SUBSTITUTE PROPERTY.—In any case described in any of subparagraphs (A) through (E) of paragraph (1), the court shall order the forfeiture of any other property of the defendant, up to the value of any property described in subparagraphs (A) through (E) of paragraph (1), as applicable.

''(3) RETURN OF PROPERTY TO JURISDICTION.—In the case of property described in paragraph (1)(C), the court may, in addition to any other action authorized by this subsection, order the defendant to return the property to the jurisdiction of the court so that the property may be seized and forfeited.''.

(2) PROTECTIVE ORDERS.—Section 413(e) of the Controlled Substances Act (21 U.S.C. 853(e)) is amended by adding at the end the following:

''(4) ORDER TO REPATRIATE AND DEPOSIT.—

''(A) IN GENERAL.—Pursuant to its authority to enter a pretrial restraining order under this section, including its authority to restrain any property forfeitable as substitute assets, the court may order a defendant to repatriate any property that may be seized and forfeited, and to deposit that property pending trial in the registry of the court, or with the United States Marshals Service or the Secretary of the Treasury, in an interest-bearing account, if appropriate.

''(B) FAILURE TO COMPLY.—Failure to comply with an order under this subsection, or an order to repatriate property under subsection (p), shall be punishable as a civil or criminal contempt of court, and may also result in an enhancement of the sentence of the defendant under the obstruction of justice provision of the Federal Sentencing Guidelines.''.

**SEC. 12. EFFECTIVE DATE.**

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

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SUMMARY OF MONEY LAUNDERING ABATEMENT ACT

Foreign Corruption. Expands the list of foreign crimes triggering a U.S. money laundering offense to include foreign corruption offenses such as bribery and misappropriation of government funds.

Unidentified Foreign Accountholders. Requires U.S. banks and U.S. branches of foreign banks opening or managing a bank account in the United States for a foreign person to keep a record in the United States identifying the account owner.

Foreign Shell Banks. Bars U.S. banks and U.S. branches of foreign banks from providing direct or indirect banking services to foreign shell banks that have no physical presence in any country and no bank affiliation.

Foreign Private Bank and Correspondent Accounts. Requires U.S. banks and U.S. branches of foreign banks that open a private bank account with $1 million or more for a foreign person, or a correspondent account for an offshore bank or foreign bank in a country posing high money laundering risks, to conduct enhanced due diligence reviews of those accounts to guard against money laundering.

Foreign Bank Forfeitures. Modifies forfeiture rules for foreign banks' correspondent accounts by making a depositor's funds in a foreign bank's U.S. correspondent account subject to the same civil forfeiture rules that apply to depositors' funds in other U.S. bank accounts.

Additional Measures Targeting Foreign Money Laundering.

Gives U.S. courts ''long-arm'' jurisdiction over foreign persons committing money laundering offenses in the United States, over foreign banks opening U.S. bank accounts, and over foreign persons seizing assets ordered forfeited by a U.S. court.

Expands the definition of money laundering to include laundering funds through a foreign bank.

Authorizes U.S. courts to order a convicted criminal to return property located abroad and, in civil forfeiture proceedings, to order a defendant to return such property pending a civil trial on the merits. Authorizes U.S. prosecutors to use a court-appointed Federal Receiver to find a criminal defendant's assets, wherever located.

Authorizes Federal law enforcement to subpoena a foreign bank with a U.S. correspondent account for account records, and ask the U.S. correspondent bank to identify a U.S. resident who can accept the subpoena. Requires the U.S. correspondent bank, if it receives government notice that the foreign bank refuses to comply or contest the subpoena in court, to close the foreign bank's account.

Other measures would make it a Federal crime to knowingly falsify a bank customer's true identity; bar bank clients from anonymously directing funds through a bank's general administrative or ''concentration'' accounts; extend the statute of limitations for civil forfeiture proceedings; simplify pleading requirements for money laundering indictments; and require banks to provide prompt responses to regulatory requests for anti-money laundering information.

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THE COMMONWEALTH OF MASSACHUSETTS, OFFICE OF THE ATTORNEY GENERAL,

*Boston, MA, August 1, 2001.*

Hon. CARL LEVIN,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR LEVIN: This letter is to express my strong support for the Money Laundering Abatement Act. As I am sure you are aware, money laundering has become increasingly prevalent in recent years. As law enforcement has worked to curb the illegal laundering of funds, the criminal element has become more sophisticated and focused in its efforts to evade the grasp of the law. Specifically, money launderers are taking advantage of foreign shell banks, and banks in jurisdictions with weak money laundering controls to hide their ill-gotten gains.

At this juncture, there is a serious need for modernizing and redefining the Federal money laundering statutes to thwart the efforts of the criminal element and close the loopholes they use to their advantage. The money laundering business has taken advantage of its ability under current law to use foreign banks, largely without negative consequences. This is an issue that must be addressed on the Federal level because of its international element. Moreover, in the Commonwealth of Massachusetts, there is no state level money laundering legislation. As a result, we rely on Federal/State law enforcement partnership to eradicate money laundering. The only hope for eliminating international money laundering ties within our State lies with the United States Congress. I encourage the Congress to take the necessary steps to assist State and Federal law enforcement in their continuing efforts to control the illegal laundering of funds.

The Money Laundering Abatement Act is an important step in that process. Among many useful provisions, the Act prohibits United States banks from providing services to foreign shell banks that have no physical presence in any country, and as a result, are easily used in the laundering of illegal funds. In addition, the legislation provides for enhanced due diligence procedures by United States banks which will at the very least detect money laundering, and will also undoubtedly deter it in the first place. Further, the Act makes it a federal crime to knowingly falsify a bank customer's true identity, which will make tracing of funds immeasurably easier. In addition to these few provisions that I have mentioned, the Act contains many other measures that will greatly aid law enforcement in its mission.

I strongly support your efforts to assist state and federal law enforcement in their money laundering control efforts through the Money Laundering Abatement Act. The legislation strengthens the existing anti-money laundering structure and provides new tools that will assist law enforcement in keeping pace with the modern money laundering schemes. Good luck in your efforts to pass this vital legislation.

Sincerely,

THOMAS F. REILLY.

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STATE OF ARIZONA,
OFFICE OF THE ATTORNEY GENERAL,
*Phoenix, AZ, August 2, 2001.*

Hon. CARL LEVIN,
*U.S. Senate, Washington, DC.*
Hon. CHUCK GRASSLEY,
*U.S. Senate, Washington, DC.*

DEAR SENATORS LEVIN AND GRASSLEY: I write to express my views on the Money Laundering Abatement Act you are planning to introduce soon. This bill would provide much needed relief from some of the most pressing problems in money laundering enforcement in the internation arena. The burdens it places on the financial institutions are well considered, closely tailored to the problems, and reasonable in light of the public benefits involved.

The bill focuses on the structural arrangements that allow major money launderers to operate. These include the use of shell banks and foreign accounts, abuse of private banking, evasion of law enforcement efforts to acquire necessary records, and of safe foreign havens for criminal proceeds. The approach is very encouraging, because efforts to limit the abuse of these international money laundering tools and techniques must come from Congress rather than the state legislatures, and because such measures attack money laundering at a deeper and more lasting level than simpler measures.

The focus on structural matters means that this bill's effects on cases actually prosecuted by state attorneys general are a relatively small part of the substantial effects its passage would have on money laundering as a whole. Nevertheless, its effects on money laundering affecting victims of crime and illegal drug trafficking would be dramatic. I will use two exmples from my Office's present money lauderning efforts

My Office initiated a program to combat so-called ''prime bank fraud'' in 1996, and continued to focus on these cases. Some years ago, the International Chamber of Commerce estimated that over $10 million per day is invested in this wholly fraudulent investment scam. The ''PBI'' business has grown substantially since then. To date, my Office has recovered over $46 million in these cases, directly and in concert with U.S. Attorneys and SEC. Prime bank fraudsters rely heavily on the money movement and concealment techniques that this bill would address, particularly foreign bank accounts, shell banks, accounts in false identities, movement of funds through ''concentration'' accounts, and impunity from efforts to repatriate stolen funds. One of our targets was sentenced recently in federal court to over eight years in prison and ordered to make restitution of over $9 million, but without the tools provided in this bill, there is little hope that the victims will ever see anything that was not seized for forfeiture in the early stages of the investigation.

My Office is now engaged in a program to control the laundering of funds through the money transmitters in Arizona, as part of the much larger problem of illegal money movement to and through the Southwest border region. This mechanism is a major facilitator of the drug smuggling operations. Foreign bank accounts and correspondence accounts, immunity from U.S. forfeitures, and false ownership are significant barriers to successful control of money laundering in the Southwest.

Your bill is an example of the immense value of institutions like the Permanent Subcommittee of Investigations, because this type of bill requires a deeper understanding of the issues that come from long term inquiries by professional staff. We who are involved in state level money laundering control efforts should be particularly supportive of such long term strategies because they are most important to the quality of life of our citizens.

I commend your efforts for introducing this important legislation and will assist you in anyway I can to gain its passage.

Yours very truly,

JANET NAPOLITANO,
*Attorney General.*

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By Mr. BINGAMAN (for himself and Mr. REID):

S. 1374. A bill to provide for a study of the effects of hydraulic fracturing on underground drinking water sources; to the Committee on Environment and Public Works.

Mr. BINGAMAN. Mr. President, today I introduce, along with the senior Senator from Nevada, very important legislation to remedy an unnecessary impediment to natural gas production.

In 1997, the Eleventh Circuit ruled that hydraulic fracturing, a process for stimulating development in certain types of gas wells, constituted as ''underground injection'' under the Safe Drinking Water Act. As such, the State of Alabama was required to establish standards by which all hydraulic fracturing operations associated with natural gas development would be required to obtain a permit under the Safe Drinking Water Act. This is an expensive and time consuming process, and one that appears unnecessary for protection of underground sources of drinking water.

The Environmental Protection Agency argued before the Eleventh Circuit that hydraulic fracturing did not pose a threat to underground sources of drinking water, and should not be subject to regulation under the Safe Drinking Water Act. The Eleventh Circuit did not find that hydraulic fracturing in fact threatened underground sources of drinking water. Instead, the Court found only that, as written, the definition of ''underground injection'' under the Safe Drinking Water Act included the process of hydraulic fracturing.

Natural gas, including gas from coalbed methane and other unconventional source, is becoming an increasingly important energy source for the United States. It is a clean burning, domestically produced resource, the increased production of which will both enhance our energy security and help us address the problem of global warming.

Protection of drinking water is also an issue of the highest priority. However, it appears that the situation created by the Eleventh Circuit's decision is not one that addresses protection of underground sources of drinking water, because the Court did not find any harm to drinking water associated with groundwater production. Instead, this appears to be a situation where a technical reading of a statute creates expensive permitting requirements not associated with a real on-the-ground need.

The legislation introduced by myself and Senator REID will require the EPA, in consultation with the Secretary of the Interior, the Secretary of Energy, the Groundwater Protection Council, affected States, and other entities, as appropriate, to conduct a study on any impacts from hydraulic fracturing on underground sources of drinking water.

If the Administration determines that hydraulic fracturing endangers underground sources of drinking water, the Administrator shall regulate it under the Safe Drinking Water Act.

If, however, the Administrator determines that hydraulic fracturing will not endangered underground sources of drinking water, the Administrator shall not regulate it under the Safe Drinking Water Act. In that case, States, including the State of Alabama, shall likewise not be required to regulate hydraulic fracturing as an underground injection under the Safe Drinking Water Act.

Our bill addresses regulation under section 1421 of the Safe Drinking Water Act, 42 U.S.C. 300h. Under current law, States are entitled to make a showing under section 1425 of the Safe Drinking Water Act, 42 U.S.C. 300H–4, that for certain oil and gas operations, the State regulations satisfy the statutory