

Union Calendar No. 151

107TH CONGRESS
1ST SESSION

H. R. 3004

[Report No. 107-250, Part I]

To combat the financing of terrorism and other financial crimes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 3, 2001

Mr. OXLEY (for himself, Mr. LAFALCE, Mr. LEACH, Mrs. MALONEY of New York, Mrs. ROUKEMA, Mr. BENTSEN, Ms. HOOLEY of Oregon, Mr. BE-REUTER, Mr. BAKER, Mr. BACHUS, Mr. KING, Mrs. KELLY, Mr. GILLMOR, Mr. CANTOR, Mr. RILEY, Mr. LATOURETTE, Mr. GREEN of Wisconsin, and Mr. GRUCCI) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on the Judiciary, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

OCTOBER 17, 2001

Additional sponsors: Mr. ISRAEL, Mr. SHOWS, Mr. MALONEY of Connecticut, Mr. MORAN of Virginia, Mr. ROSS, Mr. SHAYS, and Mr. SHERMAN

OCTOBER 17, 2001

Reported from the Committee on Financial Services with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

OCTOBER 17, 2001

Referral to the Committees on the Judiciary and Ways and Means extended for a period ending not later than October 17, 2001

OCTOBER 17, 2001

Committees on the Judiciary and Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

A BILL

To combat the financing of terrorism and other financial crimes, 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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the “Fi-*
 5 *nancial Anti-Terrorism Act of 2001”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 7 *this Act is as follows:*

Sec. 1. Short title; table of contents.

TITLE I—STRENGTHENING LAW ENFORCEMENT

Sec. 101. Bulk cash smuggling into or out of the United States.

Sec. 102. Forfeiture in currency reporting cases.

Sec. 103. Interstate currency couriers.

Sec. 104. Illegal money transmitting businesses.

Sec. 105. Long-arm jurisdiction over foreign money launderers.

Sec. 106. Laundering money through a foreign bank.

Sec. 107. Specified unlawful activity for money laundering.

Sec. 108. Laundering the proceeds of terrorism.

Sec. 109. Violations of reporting requirements for nonfinancial trades and busi-
ness.

Sec. 110. Proceeds of foreign crimes.

Sec. 111. Availability of reports relating to coins and currency received in non-
financial trade or business.

Sec. 112. Penalties for violations of geographic targeting orders and certain
record keeping requirements.

Sec. 113. Exclusion of aliens involved in money laundering.

Sec. 114. Standing to contest forfeiture of funds deposited into foreign bank that
has a correspondent account in the United States.

Sec. 115. Subpoenas for records regarding funds in correspondent bank accounts.

Sec. 116. Authority to order convicted criminal to return property located abroad.

Sec. 117. Corporation represented by a fugitive.

Sec. 118. Enforcement of foreign judgments.

Sec. 119. Reporting provisions and anti-terrorist activities of United States intel-
ligence agencies.

- Sec. 120. Financial Crimes Enforcement Network.*
Sec. 121. Customs Service border searches.
Sec. 122. Prohibition on false statements to financial institutions concerning the identity of a customer.
Sec. 123. Verification of identification.
Sec. 124. Consideration of anti-money laundering record.
Sec. 125. Reporting of suspicious activities by informal underground banking systems, such as hawalas.

TITLE II—PUBLIC-PRIVATE COOPERATION

- Sec. 201. Establishment of highly secure network.*
Sec. 202. Report on improvements in data access and other issues.
Sec. 203. Reports to the financial services industry on suspicious financial activities.
Sec. 204. Efficient use of currency transaction report system.
Sec. 205. Public-private task force on terrorist financing issues.
Sec. 206. Suspicious activity reporting requirements.
Sec. 207. Amendments relating to reporting of suspicious activities.
Sec. 208. Authorization to include suspicions of illegal activity in written employment references.
Sec. 209. International cooperation on identification of originators of wire transfers.
Sec. 210. Check truncation study.

TITLE III—COMBATTING INTERNATIONAL MONEY LAUNDERING

- Sec. 301. Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern.*
Sec. 302. Special due diligence for correspondent accounts and private banking accounts.
Sec. 303. Prohibition on United States correspondent accounts with foreign shell banks.
Sec. 304. Anti-money laundering programs.
Sec. 305. Concentration accounts at financial institutions.
Sec. 306. International cooperation in investigations of money laundering, financial crimes, and the finances of terrorist groups.
Sec. 307. Prohibition on acceptance of any bank instrument for unlawful Internet gambling.
Sec. 308. Internet gambling in or through foreign jurisdictions.

TITLE IV—CURRENCY PROTECTION

- Sec. 401. Counterfeiting domestic currency and obligations.*
Sec. 402. Counterfeiting foreign currency and obligations.
Sec. 403. Production of documents.
Sec. 404. Reimbursement.

1 **TITLE I—STRENGTHENING LAW**
2 **ENFORCEMENT**

3 **SEC. 101. BULK CASH SMUGGLING INTO OR OUT OF THE**
4 **UNITED STATES.**

5 (a) *FINDINGS.*—*The Congress finds the following:*

6 (1) *Effective enforcement of the currency report-*
7 *ing requirements of subchapter II of chapter 53 of*
8 *title 31, United States Code, and the regulations pre-*
9 *scribed under such subchapter, has forced drug dealers*
10 *and other criminals engaged in cash-based businesses*
11 *to avoid using traditional financial institutions.*

12 (2) *In their effort to avoid using traditional fi-*
13 *nancial institutions, drug dealers and other criminals*
14 *are forced to move large quantities of currency in*
15 *bulk form to and through the airports, border cross-*
16 *ings, and other ports of entry where the currency can*
17 *be smuggled out of the United States and placed in*
18 *a foreign financial institution or sold on the black*
19 *market.*

20 (3) *The transportation and smuggling of cash in*
21 *bulk form may now be the most common form of*
22 *money laundering, and the movement of large sums*
23 *of cash is one of the most reliable warning signs of*
24 *drug trafficking, terrorism, money laundering, racket-*
25 *eering, tax evasion and similar crimes.*

1 (4) *The intentional transportation into or out of*
2 *the United States of large amounts of currency or*
3 *monetary instruments, in a manner designed to cir-*
4 *cumvent the mandatory reporting provisions of sub-*
5 *chapter II of chapter 53 of title 31, United States*
6 *Code, is the equivalent of, and creates the same harm*
7 *as, the smuggling of goods.*

8 (5) *The arrest and prosecution of bulk cash*
9 *smugglers are important parts of law enforcement's*
10 *effort to stop the laundering of criminal proceeds, but*
11 *the couriers who attempt to smuggle the cash out of*
12 *the United States are typically low-level employees of*
13 *large criminal organizations, and thus are easily re-*
14 *placed. Accordingly, only the confiscation of the*
15 *smuggled bulk cash can effectively break the cycle of*
16 *criminal activity of which the laundering of the bulk*
17 *cash is a critical part.*

18 (6) *The current penalties for violations of the*
19 *currency reporting requirements are insufficient to*
20 *provide a deterrent to the laundering of criminal pro-*
21 *ceeds. In particular, in cases where the only criminal*
22 *violation under current law is a reporting offense, the*
23 *law does not adequately provide for the confiscation*
24 *of smuggled currency. In contrast, if the smuggling of*

1 *bulk cash were itself an offense, the cash could be con-*
2 *fiscated as the corpus delicti of the smuggling offense.*

3 *(b) PURPOSES.—The purposes of this section are—*

4 *(1) to make the act of smuggling bulk cash itself*
5 *a criminal offense;*

6 *(2) to authorize forfeiture of any cash or instru-*
7 *ments of the smuggling offense;*

8 *(3) to emphasize the seriousness of the act of bulk*
9 *cash smuggling; and*

10 *(4) to prescribe guidelines for determining the*
11 *amount of property subject to such forfeiture in var-*
12 *ious situations.*

13 *(c) ENACTMENT OF BULK CASH SMUGGLING OF-*

14 *FENSE.—Subchapter II of chapter 53 of title 31, United*
15 *States Code, is amended by adding at the end the following:*

16 **“§5331. Bulk cash smuggling into or out of the United**
17 **States**

18 **“(a) CRIMINAL OFFENSE.—**

19 **“(1) IN GENERAL.—Whoever, with the intent to**
20 **evade a currency reporting requirement under section**
21 **5316, knowingly conceals more than \$10,000 in cur-**
22 **rency or other monetary instruments on the person of**
23 **such individual or in any conveyance, article of lug-**
24 **gage, merchandise, or other container, and transports**
25 **or transfers or attempts to transport or transfer such**

1 *currency or monetary instruments from a place with-*
2 *in the United States to a place outside of the United*
3 *States, or from a place outside the United States to*
4 *a place within the United States, shall be guilty of a*
5 *currency smuggling offense and subject to punishment*
6 *pursuant to subsection (b).*

7 “(2) *CONCEALMENT ON PERSON.*—*For purposes*
8 *of this section, the concealment of currency on the*
9 *person of any individual includes concealment in any*
10 *article of clothing worn by the individual or in any*
11 *luggage, backpack, or other container worn or carried*
12 *by such individual.*

13 “(b) *PENALTY.*—

14 “(1) *TERM OF IMPRISONMENT.*—*A person con-*
15 *victed of a currency smuggling offense under sub-*
16 *section (a), or a conspiracy to commit such offense,*
17 *shall be imprisoned for not more than 5 years.*

18 “(2) *FORFEITURE.*—*In addition, the court, in*
19 *imposing sentence under paragraph (1), shall order*
20 *that the defendant forfeit to the United States, any*
21 *property, real or personal, involved in the offense, and*
22 *any property traceable to such property, subject to*
23 *subsection (d) of this section.*

1 “(3) *PROCEDURE.*—*The seizure, restraint, and*
2 *forfeiture of property under this section shall be gov-*
3 *erned by section 413 of the Controlled Substances Act.*

4 “(4) *PERSONAL MONEY JUDGMENT.*—*If the prop-*
5 *erty subject to forfeiture under paragraph (2) is un-*
6 *available, and the defendant has insufficient sub-*
7 *stitute property that may be forfeited pursuant to sec-*
8 *tion 413(p) of the Controlled Substances Act, the*
9 *court shall enter a personal money judgment against*
10 *the defendant for the amount that would be subject to*
11 *forfeiture.*

12 “(c) *CIVIL FORFEITURE.*—

13 “(1) *IN GENERAL.*—*Any property involved in a*
14 *violation of subsection (a), or a conspiracy to commit*
15 *such violation, and any property traceable to such*
16 *violation or conspiracy, may be seized and, subject to*
17 *subsection (d) of this section, forfeited to the United*
18 *States.*

19 “(2) *PROCEDURE.*—*The seizure and forfeiture*
20 *shall be governed by the procedures governing civil*
21 *forfeitures in money laundering cases pursuant to sec-*
22 *tion 981(a)(1)(A) of title 18, United States Code.*

23 “(3) *TREATMENT OF CERTAIN PROPERTY AS IN-*
24 *VOLVED IN THE OFFENSE.*—*For purposes of this sub-*
25 *section and subsection (b), any currency or other*

1 *monetary instrument that is concealed or intended to*
2 *be concealed in violation of subsection (a) or a con-*
3 *spiracy to commit such violation, any article, con-*
4 *tainer, or conveyance used, or intended to be used, to*
5 *conceal or transport the currency or other monetary*
6 *instrument, and any other property used, or intended*
7 *to be used, to facilitate the offense, shall be considered*
8 *property involved in the offense.*

9 *“(d) PROPORTIONALITY OF FORFEITURE.—*

10 *“(1) IN GENERAL.—Upon a showing by the*
11 *property owner by a preponderance of the evidence*
12 *that the currency or monetary instruments involved*
13 *in the offense giving rise to the forfeiture were derived*
14 *from a legitimate source, and were intended for a*
15 *lawful purpose, the court shall reduce the forfeiture*
16 *to the maximum amount that is not grossly dis-*
17 *proportional to the gravity of the offense.*

18 *“(2) FACTORS TO BE CONSIDERED.—In deter-*
19 *mining the amount of the forfeiture, the court shall*
20 *consider all aggravating and mitigating facts and*
21 *circumstances that have a bearing on the gravity of*
22 *the offense, including the following:*

23 *“(A) The value of the currency or other*
24 *monetary instruments involved in the offense.*

1 “(B) *Efforts by the person committing the*
2 *offense to structure currency transactions, con-*
3 *ceal property, or otherwise obstruct justice.*

4 “(C) *Whether the offense is part of a pattern*
5 *of repeated violations of Federal law.”.*

6 (d) *CLERICAL AMENDMENT.—The table of sections for*
7 *subchapter II of chapter 53 of title 31, United States Code,*
8 *is amended by inserting after the item relating to section*
9 *5330, the following new item:*

“5331. Bulk cash smuggling into or out of the United States.”.

10 **SEC. 102. FORFEITURE IN CURRENCY REPORTING CASES.**

11 (a) *IN GENERAL.—Subsection (c) of section 5317 of*
12 *title 31, United States Code, is amended to read as follows:*

13 “(c) *FORFEITURE.—*

14 “(1) *IN GENERAL.—The court in imposing sen-*
15 *tence for any violation of section 5313, 5316, or 5324*
16 *of this title, or section 6050I of the Internal Revenue*
17 *Code of 1986, or any conspiracy to commit such vio-*
18 *lation, shall order the defendant to forfeit all prop-*
19 *erty, real or personal, involved in the offense and any*
20 *property traceable thereto.*

21 “(2) *PROCEDURE.—Forfeitures under this sub-*
22 *section shall be governed by the procedures established*
23 *in section 413 of the Controlled Substances Act and*
24 *the guidelines established in paragraph (4).*

1 “(3) *CIVIL FORFEITURE.*—Any property involved
2 in a violation of section 5313, 5316, or 5324 of this
3 title, or section 6050I of the Internal Revenue Code
4 of 1986, or any conspiracy to commit any such viola-
5 tion, and any property traceable to any such viola-
6 tion or conspiracy, may be seized and, subject to
7 paragraph (4), forfeited to the United States in ac-
8 cordance with the procedures governing civil forfeit-
9 ures in money laundering cases pursuant to section
10 981(a)(1)(A) of title 18, United States Code.

11 “(4) *PROPORTIONALITY OF FORFEITURE.*—

12 “(A) *IN GENERAL.*—Upon a showing by the
13 property owner by a preponderance of the evi-
14 dence that any currency or monetary instru-
15 ments involved in the offense giving rise to the
16 forfeiture were derived from a legitimate source,
17 and were intended for a lawful purpose, the
18 court shall reduce the forfeiture to the maximum
19 amount that is not grossly disproportional to the
20 gravity of the offense.

21 “(B) *FACTORS TO BE CONSIDERED.*—In de-
22 termining the amount of the forfeiture, the court
23 shall consider all aggravating and mitigating
24 facts and circumstances that have a bearing on
25 the gravity of the offense, including the following:

1 “(i) *The value of the currency or other*
2 *monetary instruments involved in the of-*
3 *fense.*

4 “(ii) *Efforts by the person committing*
5 *the offense to structure currency trans-*
6 *actions, conceal property, or otherwise ob-*
7 *struct justice.*

8 “(iii) *Whether the offense is part of a*
9 *pattern of repeated violations of Federal*
10 *law.”.*

11 (b) *CONFORMING AMENDMENTS.—(1) Section*
12 *981(a)(1)(A) of title 18, United States Code, is amended*
13 *by striking “of section 5313(a) or 5324(a) of title 31, or”.*

14 (2) *Section 982(a)(1) of title 18, United States Code,*
15 *is amended by striking “of section 5313(a), 5316, or 5324*
16 *of title 31, or”.*

17 **SEC. 103. INTERSTATE CURRENCY COURIERS.**

18 *Section 1957 of title 18, United States Code, is amend-*
19 *ed by adding at the end the following new subsection:*

20 “(g) *Any person who conceals more than \$10,000 in*
21 *currency on his or her person, in any vehicle, in any com-*
22 *partment or container within any vehicle, or in any con-*
23 *tainer placed in a common carrier, and transports, at-*
24 *tempts to transport, or conspires to transport such currency*
25 *in interstate commerce on any public road or highway or*

1 *on any bus, train, airplane, vessel, or other common carrier,*
2 *knowing that the currency was derived from some form of*
3 *unlawful activity, or knowing that the currency was in-*
4 *tended to be used to promote some form of unlawful activity,*
5 *shall be punished as provided in subsection (b). The defend-*
6 *ant’s knowledge may be established by proof that the defend-*
7 *ant was willfully blind to the source or intended use of the*
8 *currency. For purposes of this subsection, the concealment*
9 *of currency on the person of any individual includes con-*
10 *cealment in any article of clothing worn by the individual*
11 *or in any luggage, backpack, or other container worn or*
12 *carried by such individual.”.*

13 **SEC. 104. ILLEGAL MONEY TRANSMITTING BUSINESSES.**

14 *(a) SCIENTER REQUIREMENT FOR SECTION 1960 VIO-*
15 *LATION.—Section 1960 of title 18, United States Code, is*
16 *amended to read as follows:*

17 **“§ 1960. Prohibition of unlicensed money transmitting**
18 **businesses**

19 *“(a) Whoever knowingly conducts, controls, manages,*
20 *supervises, directs, or owns all or part of an unlicensed*
21 *money transmitting business, shall be fined in accordance*
22 *with this title or imprisoned not more than 5 years, or both.*

23 *“(b) As used in this section—*

24 *“(1) the term ‘unlicensed money transmitting*
25 *business’ means a money transmitting business which*

1 *affects interstate or foreign commerce in any manner*
2 *or degree and—*

3 *“(A) is operated without an appropriate*
4 *money transmitting license in a State where*
5 *such operation is punishable as a misdemeanor*
6 *or a felony under State law, whether or not the*
7 *defendant knew that the operation was required*
8 *to be licensed or that the operation was so pun-*
9 *ishable;*

10 *“(B) fails to comply with the money trans-*
11 *mitting business registration requirements under*
12 *section 5330 of title 31, United States Code, or*
13 *regulations prescribed under such section; or*

14 *“(C) otherwise involves the transportation*
15 *or transmission of funds that are known to the*
16 *defendant to have been derived from a criminal*
17 *offense or are intended to be used to be used to*
18 *promote or support unlawful activity;*

19 *“(2) the term ‘money transmitting’ includes*
20 *transferring funds on behalf of the public by any and*
21 *all means including but not limited to transfers with-*
22 *in this country or to locations abroad by wire, check,*
23 *draft, facsimile, or courier; and*

24 *“(3) the term ‘State’ means any State of the*
25 *United States, the District of Columbia, the Northern*

1 *Mariana Islands, and any commonwealth, territory,*
2 *or possession of the United States.”.*

3 *(b) SEIZURE OF ILLEGALLY TRANSMITTED FUNDS.—*
4 *Section 981(a)(1)(A) of title 18, United States Code, is*
5 *amended by striking “or 1957” and inserting “, 1957 or*
6 *1960”.*

7 *(c) CLERICAL AMENDMENT.—The table of sections for*
8 *chapter 95 of title 18, United States Code, is amended in*
9 *the item relating to section 1960 by striking “illegal” and*
10 *inserting “unlicensed”.*

11 **SEC. 105. LONG-ARM JURISDICTION OVER FOREIGN MONEY**
12 **LAUNDERERS.**

13 *Section 1956(b) of title 18, United States Code, is*
14 *amended—*

15 *(1) by striking “(b) Whoever” and inserting*
16 *“(b)(1) Whoever”;*

17 *(2) by redesignating paragraphs (1) and (2) as*
18 *subparagraphs (A) and (B), respectively;*

19 *(3) by striking “subsection (a)(1) or (a)(3),” and*
20 *inserting “subsection (a)(1) or (a)(2) or section*
21 *1957,”; and*

22 *(4) by adding at the end the following new para-*
23 *graphs:*

24 *“(2) For purposes of adjudicating an action filed or*
25 *enforcing a penalty ordered under this section, the district*

1 *courts shall have jurisdiction over any foreign person, in-*
2 *cluding any financial institution authorized under the laws*
3 *of a foreign country, against whom the action is brought,*
4 *if—*

5 “(A) *service of process upon such foreign person*
6 *is made under the Federal Rules of Civil Procedure*
7 *or the laws of the country where the foreign person is*
8 *found; and*

9 “(B) *the foreign person—*

10 “(i) *commits an offense under subsection (a)*
11 *involving a financial transaction that occurs in*
12 *whole or in part in the United States;*

13 “(ii) *converts to such person’s own use*
14 *property in which the United States has an own-*
15 *ership interest by virtue of the entry of an order*
16 *of forfeiture by a court of the United States; or*

17 “(iii) *is a financial institution that main-*
18 *tains a correspondent bank account at a finan-*
19 *cial institution in the United States.*

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

1 **SEC. 106. LAUNDERING MONEY THROUGH A FOREIGN BANK.**

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

4 *“(6) the term ‘financial institution’ includes any*
5 *financial institution described in section 5312(a)(2)*
6 *of title 31, United States Code, or the regulations pro-*
7 *mulgated thereunder, as well as any foreign bank, as*
8 *defined in paragraph (7) of section 1(b) of the Inter-*
9 *national Banking Act of 1978 (12 U.S.C. 3101(7));”.*

10 **SEC. 107. SPECIFIED UNLAWFUL ACTIVITY FOR MONEY**
11 **LAUNDERING.**

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

14 *(1) in subparagraph (B)—*

15 *(A) by striking clause (ii) and inserting the*
16 *following new clause:*

17 *“(ii) any act or acts constituting a*
18 *crime of violence, as defined in section 16 of*
19 *this title;”;* and

20 *(B) by inserting after clause (iii) the fol-*
21 *lowing new clauses:*

22 *“(iv) bribery of a public official, or the*
23 *misappropriation, theft, or embezzlement of*
24 *public funds by or for the benefit of a public*
25 *official;*

1 “(v) *smuggling or export control viola-*
2 *tions involving munitions listed in the*
3 *United States Munitions List or tech-*
4 *nologies with military applications as de-*
5 *finied in the Commerce Control List of the*
6 *Export Administration Regulations; or*

7 “(vi) *an offense with respect to which*
8 *the United States would be obligated by a*
9 *bilateral treaty either to extradite the al-*
10 *leged offender or to submit the case for pros-*
11 *ecution, if the offender were found within*
12 *the territory of the United States;”*; and

13 (2) *in subparagraph (D)—*

14 (A) *by inserting “section 541 (relating to*
15 *goods falsely classified),” before “section 542”;*

16 (B) *by inserting “section 922(1) (relating to*
17 *the unlawful importation of firearms), section*
18 *924(n) (relating to firearms trafficking),” before*
19 *“section 956”;*

20 (C) *by inserting “section 1030 (relating to*
21 *computer fraud and abuse),” before “1032”;*

22 (D) *by inserting “any felony violation of*
23 *the Foreign Agents Registration Act of 1938, as*
24 *amended,” before “or any felony violation of the*
25 *Foreign Corrupt Practices Act”;* and

1 (E) by striking “fraud in the sale of securi-
2 ties” and inserting “fraud in the purchase or
3 sale of securities”.

4 **SEC. 108. LAUNDERING THE PROCEEDS OF TERRORISM.**

5 Section 1956(c)(7)(D) of title 18, United States Code,
6 is amended by inserting “or 2339B” after “2339A”.

7 **SEC. 109. VIOLATIONS OF REPORTING REQUIREMENTS FOR**
8 **NONFINANCIAL TRADES AND BUSINESS.**

9 (a) *CIVIL FORFEITURE*.—Section 981(a)(1)(A) of title
10 18, United States Code, is amended by inserting “section
11 6050I of the Internal Revenue Code of 1986, or” before “sec-
12 tion 1956”.

13 (b) *CRIMINAL FORFEITURE*.—Section 982(a)(1) of title
14 18, United States Code, is amended by inserting “section
15 6050I of the Internal Revenue Code of 1986, or” before “sec-
16 tion 1956”.

17 **SEC. 110. PROCEEDS OF FOREIGN CRIMES.**

18 Section 981(a)(1)(B) of title 18, United States Code,
19 is amended to read as follows:

20 “(B) Any property, real or personal, within the
21 jurisdiction of the United States, constituting, derived
22 from, or traceable to, any proceeds obtained directly
23 or indirectly from an offense against a foreign nation,
24 or any property used to facilitate such offense, if—

1 *(l)(15) and (p)(4) of section 6103 of such Code and other*
2 *applicable laws.*

3 *(b) REPORT.—The Secretary of the Treasury shall sub-*
4 *mit a report to the Congress within 15 days after the end*
5 *of the 6-month period described in subsection (a) containing*
6 *a description of the actions of the Secretary pursuant to*
7 *such subsection, together with such recommendations for*
8 *legislative and administrative action as the Secretary may*
9 *determine to be appropriate to achieve the goal described*
10 *in such subsection.*

11 **SEC. 112. PENALTIES FOR VIOLATIONS OF GEOGRAPHIC**
12 **TARGETING ORDERS AND CERTAIN RECORD**
13 **KEEPING REQUIREMENTS.**

14 *(a) CIVIL PENALTY FOR VIOLATION OF TARGETING*
15 *ORDER.—Section 5321(a)(1) of title 31, United States*
16 *Code, is amended—*

17 *(1) by inserting “or order issued” after “sub-*
18 *chapter or a regulation prescribed”; and*

19 *(2) by inserting “, or willfully violating a regu-*
20 *lation prescribed under section 21 of the Federal De-*
21 *posit Insurance Act or section 123 of Public Law 91-*
22 *508,” after “sections 5314 and 5315”).*

23 *(b) CRIMINAL PENALTIES FOR VIOLATION OF TAR-*
24 *GETING ORDER.—Section 5322 of title 31, United States*
25 *Code, is amended—*

1 (1) *in subsection (a)—*

2 (A) *by inserting “or order issued” after*
3 *“willfully violating this subchapter or a regula-*
4 *tion prescribed”; and*

5 (B) *by inserting “, or willfully violating a*
6 *regulation prescribed under section 21 of the*
7 *Federal Deposit Insurance Act or section 123 of*
8 *Public Law 91–508,” after “under section 5315*
9 *or 5324)”;*

10 (2) *in subsection (b)—*

11 (A) *by inserting “or order issued” after*
12 *“willfully violating this subchapter or a regula-*
13 *tion prescribed”; and*

14 (B) *by inserting “or willfully violating a*
15 *regulation prescribed under section 21 of the*
16 *Federal Deposit Insurance Act or section 123 of*
17 *Public Law 91–508,” after “under section 5315*
18 *or 5324),”;*

19 (c) *STRUCTURING TRANSACTIONS TO EVADE TAR-*
20 *GETING ORDER OR CERTAIN RECORD KEEPING REQUIRE-*
21 *MENTS.—Section 5324(a) of title 31, United States Code,*
22 *is amended—*

23 (1) *by inserting a comma after “shall”;*

24 (2) *by striking “section—” and inserting “sec-*
25 *tion, the reporting requirements imposed by any*

1 *order issued under section 5326, or the record keeping*
2 *requirements imposed by any regulation prescribed*
3 *under section 21 of the Federal Deposit Insurance Act*
4 *or section 123 of Public Law 91-508—”; and*

5 *(3) in paragraphs (1) and (2), by inserting “, to*
6 *file a report required by any order issued under sec-*
7 *tion 5326, or to maintain a record required pursuant*
8 *to any regulation prescribed under section 21 of the*
9 *Federal Deposit Insurance Act or section 123 of Pub-*
10 *lic Law 91-508” after “regulation prescribed under*
11 *any such section” each place that term appears.*

12 *(d) INCREASE IN CIVIL PENALTIES FOR VIOLATION OF*
13 *CERTAIN RECORD KEEPING REQUIREMENTS.—*

14 *(1) FEDERAL DEPOSIT INSURANCE ACT.—Section*
15 *21(j)(1) of the Federal Deposit Insurance Act (12*
16 *U.S.C. 1829b(j)(1)) is amended by striking “\$10,000”*
17 *and inserting “the greater of—*

18 *“(A) the amount (not to exceed \$100,000)*
19 *involved in the transaction (if any) with respect*
20 *to which the violation occurred; or*

21 *“(B) \$25,000”.*

22 *(2) PUBLIC LAW 91-508.—Section 125(a) of Pub-*
23 *lic Law 91-508 (12 U.S.C. 1955(a)) is amended by*
24 *striking “\$10,000” and inserting “the greater of—*

1 *in a 12-month period, shall be fined not more than*
2 *\$500,000, imprisoned for not more than 10 years, or both.”.*

3 **SEC. 113. EXCLUSION OF ALIENS INVOLVED IN MONEY**
4 **LAUNDERING.**

5 *(a) IN GENERAL.—Section 212 of the Immigration*
6 *and Nationality Act, as amended (8 U.S.C. 1182), is*
7 *amended in subsection (a)(2)—*

8 *(1) by redesignating subparagraphs (D), (E),*
9 *(F), (G), and (H) as subparagraphs (E), (F), (G),*
10 *(H), and (I), respectively; and*

11 *(2) by inserting after subparagraph (C) the fol-*
12 *lowing new subparagraph (D):*

13 *“(D) MONEY LAUNDERING ACTIVITIES.—*

14 *“(i) IN GENERAL.—Any alien who the*
15 *consular officer or the Attorney General*
16 *knows or has reason to believe is or has been*
17 *engaged in activities which if engaged in*
18 *within the United States would constitute a*
19 *violation of the money laundering provi-*
20 *sions section 1956, 1957, or 1960 of title 18,*
21 *United States Code, or has knowingly as-*
22 *sisted, abetted, or conspired or colluded with*
23 *others in any such illicit activity is inad-*
24 *missible.*

1 “(i) *RELATED INDIVIDUALS.*—Any
2 alien who the consular officer or the Attor-
3 ney General knows or has reason to believe
4 is the spouse, son, or daughter of an alien
5 inadmissible under clause (i), has, within
6 the previous 5 years, obtained any financial
7 or other benefit from such illicit activity of
8 that alien, and knew or reasonably should
9 have known that the financial or other ben-
10 efit was the product of such illicit activity,
11 is inadmissible, except that the Attorney
12 General may, in the full discretion of the
13 Attorney General, waive the exclusion of the
14 spouse, son, or daughter of an alien under
15 this clause if the Attorney General deter-
16 mines that exceptional circumstances exist
17 that justify such waiver.”.

18 (b) *CONFORMING AMENDMENT.*—Section
19 212(h)(1)(A)(i) of the Immigration and Nationality Act, as
20 amended (8 U.S.C. 1182), is amended by striking “(D)(i)
21 or (D)(ii)” and inserting “(E)(i) or (E)(ii)”.

1 **SEC. 114. STANDING TO CONTEST FORFEITURE OF FUNDS**
2 **DEPOSITED INTO FOREIGN BANK THAT HAS A**
3 **CORRESPONDENT ACCOUNT IN THE UNITED**
4 **STATES.**

5 *Section 981 of title 18, United States Code, is amended*
6 *by adding the following after the last subsection:*

7 *“(k) CORRESPONDENT BANK ACCOUNTS.—*

8 *“(1) TREATMENT OF ACCOUNTS OF COR-*
9 *RESPONDENT BANK IN DOMESTIC FINANCIAL INSTITU-*
10 *TIONS.—*

11 *“(A) IN GENERAL.—For the purpose of a*
12 *forfeiture under this section or under the Con-*
13 *trolled Substances Act, if funds are deposited*
14 *into a dollar-denominated bank account in a for-*
15 *ign financial institution, and that foreign fi-*
16 *nancial institution has a correspondent account*
17 *with a financial institution in the United*
18 *States, the funds deposited into the foreign fi-*
19 *nancial institution (the respondent bank) shall*
20 *be deemed to have been deposited into the cor-*
21 *respondent account in the United States, and*
22 *any restraining order, seizure warrant, or arrest*
23 *warrant in rem regarding such funds may be*
24 *served on the correspondent bank, and funds in*
25 *the correspondent account up to the value of the*
26 *funds deposited into the dollar-denominated ac-*

1 *count in the foreign financial institution may be*
2 *seized, arrested or restrained.*

3 “(B) *AUTHORITY TO SUSPEND.*—*The Attor-*
4 *ney General, in consultation with the Secretary,*
5 *may suspend or terminate a forfeiture under this*
6 *section if the Attorney General determines that a*
7 *conflict of law exists between the laws of the ju-*
8 *risdiction in which the foreign bank is located*
9 *and the laws of the United States with respect to*
10 *liabilities arising from the restraint, seizure, or*
11 *arrest of such funds, and that such suspension or*
12 *termination would be in the interest of justice*
13 *and would not harm the national interests of the*
14 *United States.*

15 “(2) *NO REQUIREMENT FOR GOVERNMENT TO*
16 *TRACE FUNDS.*—*If a forfeiture action is brought*
17 *against funds that are restrained, seized, or arrested*
18 *under paragraph (1), the Government shall not be re-*
19 *quired to establish that such funds are directly trace-*
20 *able to the funds that were deposited into the respond-*
21 *ent bank, nor shall it be necessary for the Government*
22 *to rely on the application of Section 984 of this title.*

23 “(3) *CLAIMS BROUGHT BY OWNER OF THE*
24 *FUNDS.*—*If a forfeiture action is instituted against*
25 *funds seized, arrested, or restrained under paragraph*

1 (1), the owner of the funds may contest the forfeiture
2 by filing a claim pursuant to section 983.

3 “(4) *DEFINITIONS.*—For purposes of this sub-
4 section, the following definitions shall apply:

5 “(A) *CORRESPONDENT ACCOUNT.*—The term
6 ‘correspondent account’ has the meaning given to
7 the term ‘interbank account’ in section
8 984(c)(2)(B).

9 “(B) *OWNER.*—

10 “(i) *IN GENERAL.*—Except as provided
11 in clause (ii), the term ‘owner’—

12 “(I) means the person who was
13 the owner, as that term is defined in
14 section 983(d)(6), of the funds that
15 were deposited into the foreign bank at
16 the time such funds were deposited;
17 and

18 “(II) does not include either the
19 foreign bank or any financial institu-
20 tion acting as an intermediary in the
21 transfer of the funds into the interbank
22 account.

23 “(ii) *EXCEPTION.*—The foreign bank
24 may be considered the ‘owner’ of the funds

1 (and no other person shall qualify as the
2 owner of such funds) only if—

3 “(I) the basis for the forfeiture ac-
4 tion is wrongdoing committed by the
5 foreign bank; or

6 “(II) the foreign bank establishes,
7 by a preponderance of the evidence,
8 that prior to the restraint, seizure, or
9 arrest of the funds, the foreign bank
10 had discharged all or part of its obliga-
11 tion to the prior owner of the funds, in
12 which case the foreign bank shall be
13 deemed the owner of the funds to the
14 extent of such discharged obligation.”.

15 **SEC. 115. SUBPOENAS FOR RECORDS REGARDING FUNDS IN**
16 **CORRESPONDENT BANK ACCOUNTS.**

17 (a) *IN GENERAL.*—Subchapter II of chapter 53 of title
18 31, United States Code, is amended by inserting after sec-
19 tion 5331 (as added by section 101) the following new sec-
20 tion:

21 **“§ 5332. Subpoenas for records**

22 “(a) *DESIGNATION BY FOREIGN FINANCIAL INSTITU-*
23 *TION OF AGENT.*—Any foreign financial institution that
24 has a correspondent bank account at a financial institution
25 in the United States shall designate a person residing in

1 *the United States as a person authorized to accept a sub-*
2 *poena for bank records or other legal process served on the*
3 *foreign financial institution.*

4 “(b) *MAINTENANCE OF RECORDS BY DOMESTIC FINAN-*
5 *CIAL INSTITUTION.*—

6 “(1) *IN GENERAL.*—*Any domestic financial in-*
7 *stitution that maintains a correspondent bank ac-*
8 *count for a foreign financial institution shall main-*
9 *tain records regarding the names and addresses of the*
10 *owners of the foreign financial institution, and the*
11 *name and address of the person who may be served*
12 *with a subpoena for records regarding any funds*
13 *transferred to or from the correspondent account.*

14 “(2) *PROVISION TO LAW ENFORCEMENT AGEN-*
15 *CY.*—*A domestic financial institution shall provide*
16 *names and addresses maintained under paragraph*
17 *(1) to a Government authority (as defined in section*
18 *1101(3) of the Right to Financial Privacy Act of*
19 *1978) within 7 days of the receipt of a request, in*
20 *writing, for such records.*

21 “(c) *ADMINISTRATIVE SUBPOENA.*—

22 “(1) *IN GENERAL.*—*The Attorney General and*
23 *the Secretary of the Treasury may each issue an ad-*
24 *ministrative subpoena for records relating to the de-*
25 *posit of any funds into a dollar-denominated account*

1 *in a foreign financial institution that maintains a*
2 *correspondent account at a domestic financial institu-*
3 *tion.*

4 “(2) *MANNER OF ISSUANCE.*—*Any subpoena*
5 *issued by the Attorney General or the Secretary of the*
6 *Treasury under paragraph (1) shall be issued in the*
7 *manner described in section 3486 of this title, and*
8 *may be served on the representative designated by the*
9 *foreign financial institution pursuant to subsection*
10 *(a) to accept legal process in the United States, or in*
11 *a foreign country pursuant to any mutual legal as-*
12 *sistance treaty, multilateral agreement, or other re-*
13 *quest for international law enforcement assistance.*

14 “(d) *CORRESPONDENT ACCOUNT DEFINED.*—*For pur-*
15 *poses of this section, the term ‘correspondent account’ has*
16 *the same meaning as the term ‘interbank account’ as such*
17 *term is defined in section 984(c)(2)(B) of title 18, United*
18 *States Code.”.*

19 “(b) *CLERICAL AMENDMENTS.*—*The table of sections for*
20 *subchapter II of chapter 53 of title 31, United States Code,*
21 *is amended by inserting after the item relating to section*
22 *5331 the following new item:*

 “5332. *Subpoenas for records.*”.

23 “(c) *EFFECTIVE DATE.*—*Section 5332(a) of title 31,*
24 *United States Code, (as added by subsection (a) of this sec-*

1 tion shall apply after the end of the 30-day period begin-
 2 ning on the date of the enactment of this Act.

3 (d) *REQUESTS FOR RECORDS.*—Section
 4 3486(a)(1)(A)(i) of title 18, United States Code, is amended
 5 by striking “; or (II) a Federal offense involving the sexual
 6 exploitation or abuse of children,” and inserting “; (II) a
 7 Federal offense involving the sexual exploitation or abuse
 8 of children, or (III) a money laundering offense in violation
 9 of section 1956, 1957 or 1960 of this title,”.

10 **SEC. 116. AUTHORITY TO ORDER CONVICTED CRIMINAL TO**
 11 **RETURN PROPERTY LOCATED ABROAD.**

12 (a) *FORFEITURE OF SUBSTITUTE PROPERTY.*—Sec-
 13 tion 413(p) of the Controlled Substances Act (21 U.S.C.
 14 853) is amended to read as follows:

15 “(p) *FORFEITURE OF SUBSTITUTE PROPERTY.*—

16 “(1) *IN GENERAL.*—Paragraph (2) of this sub-
 17 section shall apply, if any property described in sub-
 18 section (a), as a result of any act or omission of the
 19 defendant—

20 “(A) cannot be located upon the exercise of
 21 due diligence;

22 “(B) has been transferred or sold to, or de-
 23 posited with, a third party;

24 “(C) has been placed beyond the jurisdiction
 25 of the court;

1 “(D) has been substantially diminished in
2 value; or

3 “(E) has been commingled with other prop-
4 erty which cannot be divided without difficulty.

5 “(2) *SUBSTITUTE PROPERTY.*—In any case de-
6 scribed in any of subparagraphs (A) through (E) of
7 paragraph (1), the court shall order the forfeiture of
8 any other property of the defendant, up to the value
9 of any property described in subparagraphs (A)
10 through (E) of paragraph (1), as applicable.

11 “(3) *RETURN OF PROPERTY TO JURISDICTION.*—
12 In the case of property described in paragraph (1)(C),
13 the court may, in addition to any other action au-
14 thorized by this subsection, order the defendant to re-
15 turn the property to the jurisdiction of the court so
16 that the property may be seized and forfeited.”.

17 (b) *PROTECTIVE ORDERS.*—Section 413(e) of the Con-
18 trolled Substances Act (21 U.S.C. 853(e)) is amended by
19 adding at the end the following:

20 “(4) *ORDER TO REPATRIATE AND DEPOSIT.*—

21 “(A) *IN GENERAL.*—Pursuant to its authority to
22 enter a pretrial restraining order under this section,
23 including its authority to restrain any property for-
24 feitable as substitute assets, the court may order a de-
25 fendant to repatriate any property that may be seized

1 *and forfeited, and to deposit that property pending*
2 *trial in the registry of the court, or with the United*
3 *States Marshals Service or the Secretary of the Treas-*
4 *ury, in an interest-bearing account, if appropriate.*

5 *“(B) FAILURE TO COMPLY.—Failure to comply*
6 *with an order under this subsection, or an order to*
7 *repatriate property under subsection (p), shall be*
8 *punishable as a civil or criminal contempt of court,*
9 *and may also result in an enhancement of the sen-*
10 *tence of the defendant under the obstruction of justice*
11 *provision of the Federal Sentencing Guidelines.”.*

12 **SEC. 117. CORPORATION REPRESENTED BY A FUGITIVE.**

13 *Section 2466 of title 28, United States Code, is amend-*
14 *ed by designating the present matter as subsection (a), and*
15 *adding at the end the following:*

16 *“(b) Subsection (a) may be applied to a claim filed*
17 *by a corporation if any majority shareholder, or individual*
18 *filing the claim on behalf of the corporation is a person*
19 *to whom subsection (a) applies.”.*

20 **SEC. 118. ENFORCEMENT OF FOREIGN JUDGMENTS.**

21 *Section 2467 of title 28, United States Code, is*
22 *amended—*

23 *(1) in subsection (d), by inserting after para-*
24 *graph (2) the following new paragraph:*

1 “(3) *PRESERVATION OF PROPERTY.*—*To preserve*
2 *the availability of property subject to a foreign for-*
3 *feiture or confiscation judgment, the Government may*
4 *apply for, and the court may issue, a restraining*
5 *order pursuant to section 983(j) of title 18, United*
6 *States Code, at any time before or after an applica-*
7 *tion is filed pursuant to subsection (c)(1). The court,*
8 *in issuing the restraining order—*

9 “(A) *may rely on information set forth in*
10 *an affidavit describing the nature of the pro-*
11 *ceeding or investigation underway in the foreign*
12 *country, and setting forth a reasonable basis to*
13 *believe that the property to be restrained will be*
14 *named in a judgment of forfeiture at the conclu-*
15 *sion of such proceeding; or*

16 “(B) *may register and enforce a restraining*
17 *order that has been issued by a court of com-*
18 *petent jurisdiction in the foreign country and*
19 *certified by the Attorney General pursuant to*
20 *subsection (b)(2).*

21 *No person may object to the restraining order on any*
22 *ground that is the subject of parallel litigation involv-*
23 *ing the same property that is pending in a foreign*
24 *court.”;*

1 (2) *in subsection (b)(1)(C), by striking “estab-*
2 *lishing that the defendant received notice of the pro-*
3 *ceedings in sufficient time to enable the defendant”*
4 *and inserting “establishing that the foreign nation*
5 *took steps, in accordance with the principles of due*
6 *process, to give notice of the proceedings to all persons*
7 *with an interest in the property in sufficient time to*
8 *enable such persons”;*

9 (3) *in subsection (d)(1)(D), by striking “the de-*
10 *fendant in the proceedings in the foreign court did*
11 *not receive notice” and inserting “the foreign nation*
12 *did not take steps, in accordance with the principles*
13 *of due process, to give notice of the proceedings to a*
14 *person with an interest in the property”;* and

15 (4) *in subsection (a)(2)(A), by inserting “, any*
16 *violation of foreign law that would constitute a viola-*
17 *tion of an offense for which property could be forfeited*
18 *under Federal law if the offense were committed in*
19 *the United States” after “United Nations Conven-*
20 *tion”.*

21 **SEC. 119. REPORTING PROVISIONS AND ANTI-TERRORIST**
22 **ACTIVITIES OF UNITED STATES INTEL-**
23 **LIGENCE AGENCIES.**

24 (a) *AMENDMENT RELATING TO THE PURPOSES OF*
25 *CHAPTER 53 OF TITLE 31, UNITED STATES CODE.—Sec-*

1 *tion 5311 of title 31, United States Code, is amended by*
2 *inserting before the period at the end the following: “, or*
3 *in the conduct of intelligence or counterintelligence activi-*
4 *ties, including analysis, to protect against international*
5 *terrorism”.*

6 (b) *AMENDMENT RELATING TO REPORTING OF SUS-*
7 *PICIOUS ACTIVITIES.—Section 5318(g)(4)(B) of title 31,*
8 *United States Code, is amended by striking “or supervisory*
9 *agency” and inserting “, supervisory agency, or United*
10 *States intelligence agency for use in the conduct of intel-*
11 *ligence or counterintelligence activities, including analysis,*
12 *to protect against international terrorism”.*

13 (c) *AMENDMENT RELATING TO AVAILABILITY OF RE-*
14 *PORTS.—Section 5319 of title 31, United States Code, is*
15 *amended to read as follows:*

16 **“§ 5319. Availability of reports**

17 *“The Secretary of the Treasury shall make information*
18 *in a report filed under this subchapter available to an agen-*
19 *cy, including any State financial institutions supervisory*
20 *agency or United States intelligence agency, upon request*
21 *of the head of the agency. The report shall be available for*
22 *a purpose that is consistent with this subchapter. The Sec-*
23 *retary may only require reports on the use of such informa-*
24 *tion by any State financial institutions supervisory agency*
25 *for other than supervisory purposes or by United States in-*

1 *telligence agencies. However, a report and records of reports*
2 *are exempt from disclosure under section 552 of title 5.”.*

3 (d) *AMENDMENTS TO THE RIGHT TO FINANCIAL PRI-*
4 *VACY ACT.—The Right to Financial Privacy Act of 1978*
5 *is amended—*

6 (1) *in section 1112(a) (12 U.S.C. 3412(a)), by*
7 *inserting “, or intelligence or counterintelligence ac-*
8 *tivity, investigation or analysis related to inter-*
9 *national terrorism” after “legitimate law enforcement*
10 *inquiry”;*

11 (2) *in section 1114(a)(1) (12 U.S.C.*
12 *3414(a)(1))—*

13 (A) *in subparagraph (A), by striking “or”*
14 *at the end;*

15 (B) *in subparagraph (B), by striking the*
16 *period at the end and inserting “; or”; and*

17 (C) *by adding at the end the following:*

18 “(C) *a Government authority authorized to*
19 *conduct investigations of, or intelligence or coun-*
20 *terintelligence analyses related to, international*
21 *terrorism for the purpose of conducting such in-*
22 *vestigations or analyses.”; and*

23 (3) *in section 1120(a)(2) (12 U.S.C. 3420(a)(2)),*
24 *by inserting “, or for a purpose authorized by section*
25 *1112(a)” before the semicolon at the end.*

1 (e) *AMENDMENT TO THE FAIR CREDIT REPORTING*
2 *ACT.*—

3 (1) *IN GENERAL.*—*The Fair Credit Reporting*
4 *Act (15 U.S.C. 1681 et seq.) is amended—*

5 (A) *by redesignating the second of the 2 sec-*
6 *tions designated as section 624 (15 U.S.C.*
7 *1681u) (relating to disclosure to FBI for coun-*
8 *terintelligence purposes) as section 625; and*

9 (B) *by adding at the end the following new*
10 *section:*

11 **“§ 626. Disclosures to governmental agencies for**
12 **counterterrorism purposes**

13 “(a) *DISCLOSURE.*—*Notwithstanding section 604 or*
14 *any other provision of this title, a consumer reporting agen-*
15 *cy shall furnish a consumer report of a consumer and all*
16 *other information in a consumer’s file to a government*
17 *agency authorized to conduct investigations of, or intel-*
18 *ligence or counterintelligence activities or analysis related*
19 *to, international terrorism when presented with a written*
20 *certification by such government agency that such informa-*
21 *tion is necessary for the agency’s conduct or such investiga-*
22 *tion, activity or analysis.*

23 “(b) *FORM OF CERTIFICATION.*—*The certification de-*
24 *scribed in subsection (a) shall be signed by the Secretary*
25 *of the Treasury, or an officer designated by the Secretary*

1 *from among officers of the Department of the Treasury*
2 *whose appointments to office are required to be made by*
3 *the President, by and with the advice and consent of the*
4 *Senate.*

5 “(c) *CONFIDENTIALITY.*—*No consumer reporting agen-*
6 *cy, or officer, employee, or agent of such consumer reporting*
7 *agency, shall disclose to any person, or specify in any con-*
8 *sumer report, that a government agency has sought or ob-*
9 *tained access to information under subsection (a).*

10 “(d) *RULE OF CONSTRUCTION.*—*Nothing in section*
11 *625 shall be construed to limit the authority of the Director*
12 *of the Federal Bureau of Investigation under this section.*

13 “(e) *SAFE HARBOR.*—*Notwithstanding any other pro-*
14 *vision of this subchapter, any consumer reporting agency*
15 *or agent or employee thereof making disclosure of consumer*
16 *reports or other information pursuant to this section in*
17 *good-faith reliance upon a certification of a governmental*
18 *agency pursuant to the provisions of this section shall not*
19 *be liable to any person for such disclosure under this sub-*
20 *chapter, the constitution of any State, or any law or regula-*
21 *tion of any State or any political subdivision of any*
22 *State.”.*

23 (2) *CLERICAL AMENDMENTS.*—*The table of sec-*
24 *tions for the Fair Credit Reporting Act (15 U.S.C.*
25 *1681 et seq.) is amended—*

1 (A) by redesignating the second of the 2
2 items designated as section 624 as section 625;
3 and

4 (B) by inserting after the item relating to
5 section 625 (as so redesignated) the following
6 new item:

“626. Disclosures to governmental agencies for counterterrorism purposes.”.

7 **SEC. 120. FINANCIAL CRIMES ENFORCEMENT NETWORK.**

8 (a) *IN GENERAL.*—Subchapter I of chapter 3 of title
9 31, United States Code, is amended—

10 (1) by redesignating section 310 as section 311;
11 and

12 (2) by inserting after section 309 the following
13 new section:

14 **“§310. Financial Crimes Enforcement Network**

15 “(a) *IN GENERAL.*—The Financial Crimes Enforce-
16 ment Network established by order of the Secretary of the
17 Treasury (Treasury Order Numbered 105-08) on April 25,
18 1990, shall be a bureau in the Department of the Treasury.

19 “(b) *DIRECTOR.*—

20 “(1) *APPOINTMENT.*—The head of the Financial
21 Crimes Enforcement Network shall be the Director
22 who shall be appointed by the President, by and with
23 the consent of the Senate, to a term of 4 years.

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

1 “(A) Advise and make recommendations on
2 matters relating to financial intelligence, finan-
3 cial criminal activities, and other financial ac-
4 tivities to the Under Secretary for Enforcement.

5 “(B) Maintain a government-wide data ac-
6 cess service, with access, in accordance with ap-
7 plicable legal requirements, to the following:

8 “(i) Information collected by the De-
9 partment of the Treasury, including report
10 information filed under subchapters II and
11 III of chapter 53 of this title (such as re-
12 ports on cash transactions, foreign financial
13 agency transactions and relationships, for-
14 eign currency transactions, exporting and
15 importing monetary instruments, and sus-
16 picious activities), chapter 2 of Public Law
17 91–508, section 21 of the Federal Deposit
18 Insurance Act and section 6050I of the In-
19 ternal Revenue Code of 1986.

20 “(ii) Information regarding national
21 and international currency flows.

22 “(iii) Other records and data main-
23 tained by other Federal, State, local, and
24 foreign agencies, including financial and
25 other records developed in specific cases.

1 “(iv) *Other privately and publicly*
2 *available information.*

3 “(C) *Analyze and disseminate the available*
4 *data in accordance with applicable legal require-*
5 *ments and policies and guidelines established by*
6 *the Secretary of the Treasury and the Under Sec-*
7 *retary for Enforcement to—*

8 “(i) *identify possible criminal activity*
9 *to appropriate Federal, State, local, and*
10 *foreign law enforcement agencies;*

11 “(ii) *support ongoing criminal finan-*
12 *cial investigations and prosecutions and re-*
13 *lated proceedings, including civil and*
14 *criminal tax and forfeiture proceedings;*

15 “(iii) *identify possible instances of*
16 *noncompliance with subchapters II and III*
17 *of chapter 53 of this title, chapter 2 of Pub-*
18 *lic Law 91–508, and section 21 of the Fed-*
19 *eral Deposit Insurance Act to Federal agen-*
20 *cies with statutory responsibility for enforc-*
21 *ing compliance with such provisions and*
22 *other appropriate Federal regulatory agen-*
23 *cies;*

1 “(iv) evaluate and recommend possible
2 uses of special currency reporting require-
3 ments under section 5326; and

4 “(v) determine emerging trends and
5 methods in money laundering and other fi-
6 nancial crimes.

7 “(D) Establish and maintain a financial
8 crimes communications center to furnish law en-
9 forcement authorities with intelligence informa-
10 tion related to emerging or ongoing investiga-
11 tions and undercover operations.

12 “(E) Furnish research, analytical, and in-
13 formational services to financial institutions, ap-
14 propriate Federal regulatory agencies with re-
15 gard to financial institutions, and appropriate
16 Federal, State, local, and foreign law enforce-
17 ment authorities, in accordance with policies
18 and guidelines established by the Secretary of the
19 Treasury or the Under Secretary of the Treasury
20 for Enforcement, in the interest of detection, pre-
21 vention, and prosecution of terrorism, organized
22 crime, money laundering, and other financial
23 crimes.

24 “(F) Establish and maintain a special unit
25 dedicated to combatting the use of informal,

1 *nonbank networks and payment and barter sys-*
2 *tem mechanisms that permit the transfer of*
3 *funds or the equivalent of funds without records*
4 *and without compliance with criminal and tax*
5 *laws.*

6 “(G) *Provide computer and data support*
7 *and data analysis to the Secretary of the Treas-*
8 *ury for tracking and controlling foreign assets.*

9 “(H) *Coordinate with financial intelligence*
10 *units in other countries on anti-terrorism and*
11 *anti-money laundering initiatives, and similar*
12 *efforts.*

13 “(I) *Administer the requirements of sub-*
14 *chapters II and III of chapter 53 of this title,*
15 *chapter 2 of Public Law 91–508, and section 21*
16 *of the Federal Deposit Insurance Act, to the ex-*
17 *tent delegated such authority by the Secretary of*
18 *the Treasury.*

19 “(J) *Such other duties and powers as the*
20 *Secretary of the Treasury may delegate or pre-*
21 *scribe.*

22 “(c) *REQUIREMENTS RELATING TO MAINTENANCE AND*
23 *USE OF DATA BANKS.—The Secretary of the Treasury shall*
24 *establish and maintain operating procedures with respect*
25 *to the government-wide data access service and the financial*

1 *crimes communications center maintained by the Financial*
2 *Crimes Enforcement Network which provide—*

3 “(1) *for the coordinated and efficient transmittal*
4 *of information to, entry of information into, and*
5 *withdrawal of information from, the data mainte-*
6 *nance system maintained by the Network,*
7 *including—*

8 “(A) *the submission of reports through the*
9 *Internet or other secure network, whenever pos-*
10 *sible;*

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

14 “(C) *a procedure that provides for a prompt*
15 *initial review of suspicious activity reports and*
16 *other reports, or such other means as the Sec-*
17 *retary may provide, to identify information that*
18 *warrants immediate action; and*

19 “(2) *in accordance with section 552a of title 5*
20 *and the Right to Financial Privacy Act of 1978, ap-*
21 *propriate standards and guidelines for determining—*

22 “(A) *who is to be given access to the infor-*
23 *mation maintained by the Network;*

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

1 “(C) *how information about activities or re-*
2 *lationships which involve or are closely associ-*
3 *ated with the exercise of constitutional rights is*
4 *to be screened out of the data maintenance sys-*
5 *tem.*

6 “(d) *AUTHORIZATION OF APPROPRIATIONS.—There*
7 *are authorized to be appropriated for the Financial Crimes*
8 *Enforcement Network such sums as may be necessary for*
9 *fiscal years 2002, 2003, 2004, and 2005.*”.

10 “(b) *COMPLIANCE WITH EXISTING REPORTS COMPLI-*
11 *ANCE.—The Secretary of the Treasury shall study methods*
12 *for improving compliance with the reporting requirements*
13 *established in section 5314 of title 31, United States Code,*
14 *and shall submit a report on such study to the Congress*
15 *by the end of the 6-month period beginning on the date of*
16 *the enactment of this Act and each 1-year period thereafter.*
17 *The initial report shall include historical data on compli-*
18 *ance with such reporting requirements.*

19 “(c) *CLERICAL AMENDMENT.—The table of sections for*
20 *subchapter I of chapter 3 of title 31, United States Code,*
21 *is amended—*

22 “(1) *by redesignating the item relating to section*
23 *310 as section 311; and*

24 “(2) *by inserting after the item relating to section*
25 *309 the following new item:*

“310. *Financial Crimes Enforcement Network*”.

1 **SEC. 121. CUSTOMS SERVICE BORDER SEARCHES.**

2 *Section 5317(b) of title 31, United States Code, is*
3 *amended to read as follows:*

4 “(b) *SEARCHES AT BORDER.*—

5 “(1) *IN GENERAL.*—*For purposes of ensuring*
6 *compliance with the laws enforced by the United*
7 *States Customs Service, a customs officer may stop*
8 *and search, at the border and without a search war-*
9 *rant, any vehicle, vessel, aircraft, or other conveyance,*
10 *any envelope or other container, and any person en-*
11 *tering, transiting, or departing from the United*
12 *States.*

13 “(2) *INTERNATIONAL SHIPMENTS OF MAIL.*—
14 *With respect to shipments of international mail that*
15 *are exported or imported by the United States Postal*
16 *Service, the Customs Service and other appropriate*
17 *Federal agencies shall, subject to paragraph (3),*
18 *apply the customs laws of the United States and all*
19 *other laws relating to the importation or exportation*
20 *of such shipments in the same manner to both ship-*
21 *ments by the United States Postal Service and simi-*
22 *lar shipments by private companies.*

23 “(3) *SAFEGUARDS.*—*No provision of this sub-*
24 *section shall be construed as authorizing any customs*
25 *officer or any other person to read any correspond-*
26 *ence unless—*

1 “(A) a search warrant has been issued pur-
2 suant to Rule 41 of the Federal Rules of Crimi-
3 nal Procedure which permits such correspond-
4 ence to be read; or

5 “(B) the sender or addressee of the cor-
6 respondence has given written consent for any
7 such action.”.

8 **SEC. 122. PROHIBITION ON FALSE STATEMENTS TO FINAN-**
9 **CIAL INSTITUTIONS CONCERNING THE IDEN-**
10 **TITY OF A CUSTOMER.**

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

14 **“§1008. False statements concerning the identity of**
15 **customers of financial institutions**

16 “(a) *IN GENERAL.*—Whoever, in connection with in-
17 formation submitted to or requested by a financial institu-
18 tion, knowingly in any manner—

19 “(1) falsifies, conceals, or covers up, or attempts
20 to falsify, conceal, or cover up, the identity of any
21 person in connection with any transaction with a fi-
22 nancial institution;

23 “(2) makes, or attempts to make, any materially
24 false, fraudulent, or fictitious statement or representa-

1 *tion of the identity of any person in connection with*
2 *a transaction with a financial institution;*

3 *“(3) makes or uses, or attempts to make or use,*
4 *any false writing or document knowing the same to*
5 *contain any materially false, fictitious, or fraudulent*
6 *statement or entry concerning the identity of any per-*
7 *son in connection with a transaction with a financial*
8 *institution; or*

9 *“(4) uses or presents, or attempts to use or*
10 *present, in connection with a transaction with a fi-*
11 *nancial institution, an identification document or*
12 *means of identification the possession of which is a*
13 *violation of section 1028;*

14 *shall be fined under this title, imprisoned not more than*
15 *5 years, or both.*

16 *“(b) DEFINITIONS.—In this section, the following defi-*
17 *nitions shall apply:*

18 *“(1) FINANCIAL INSTITUTION.—The term ‘finan-*
19 *cial institution’—*

20 *“(A) has the same meaning as in section 20;*

21 *and*

22 *“(B) in addition, has the same meaning as*
23 *in section 5312(a)(2) of title 31, United States*
24 *Code.*

1 “(2) *IDENTIFICATION DOCUMENT.*—*The term*
2 *‘identification document’ has the same meaning as in*
3 *section 1028(d).*”

4 “(3) *MEANS OF IDENTIFICATION.*—*The term*
5 *‘means of identification’ has the same meaning as in*
6 *section 1028(d).*”.

7 ***(b) TECHNICAL AND CONFORMING AMENDMENTS.***—

8 (1) *TITLE 18, UNITED STATES CODE.*—*Section*
9 *1956(c)(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 fi-*
13 *nancial institutions), section 1014 (relating to fraud-*
14 *ulent 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 institu-*
 tions.”.

19 ***SEC. 123. VERIFICATION OF IDENTIFICATION.***

20 (a) *IN GENERAL.*—*Section 5318 of title 31, United*
21 *States Code, is amended by adding at the end the following*
22 *new subsection:*

23 “(i) *IDENTIFICATION AND VERIFICATION OF*
24 *ACCOUNTHOLDERS.*—

1 “(1) *IN GENERAL.*—Subject to the requirements
2 of this subsection, the Secretary of the Treasury shall
3 prescribe regulations setting forth the minimum
4 standards regarding customer identification that shall
5 apply in connection with the opening of an account
6 at a financial institution.

7 “(2) *MINIMUM REQUIREMENTS.*—The regulations
8 shall, at a minimum, require financial institutions to
9 implement procedures for—

10 “(A) verifying the identity of any person
11 seeking to open an account to the extent reason-
12 able and practicable;

13 “(B) maintaining records of the informa-
14 tion used to verify a person’s identity, including
15 name, address, and other identifying informa-
16 tion;

17 “(C) consulting applicable lists of known or
18 suspected terrorists or terrorist organizations
19 generated by government agencies to determine
20 whether a person seeking to open an account ap-
21 pears on any such list.

22 “(3) *FACTORS TO BE CONSIDERED.*—In pre-
23 scribing regulations under this subsection, the Sec-
24 retary shall take into consideration the various types
25 of accounts maintained by various types of financial

1 *institutions, the various methods of opening accounts,*
2 *and the various types of identifying information*
3 *available.*

4 “(4) *CERTAIN FINANCIAL INSTITUTIONS.—In the*
5 *case of any financial institution the business of which*
6 *is engaging in financial activities described in section*
7 *4(k) of the Bank Holding Company Act of 1956 (in-*
8 *cluding financial activities subject to the jurisdiction*
9 *of the Commodity Futures Trading Commission), the*
10 *regulations prescribed by the Secretary under para-*
11 *graph (1) shall be prescribed jointly with each Fed-*
12 *eral functional regulator (as defined in section 509 of*
13 *the Gramm-Leach-Bliley Act, including the Com-*
14 *modity Futures Trading Commission) appropriate*
15 *for such financial institution.*

16 “(5) *EXEMPTIONS.—The Secretary of the Treas-*
17 *ury (and, in the case of any financial institution de-*
18 *scribed in paragraph (4), any Federal agency de-*
19 *scribed in such paragraph) may, by regulation or*
20 *order, exempt any financial institution or type of ac-*
21 *count from the requirements of any regulation pre-*
22 *scribed under this subsection in accordance with such*
23 *standards and procedures as the Secretary may pre-*
24 *scribe.*

1 “(6) *EFFECTIVE DATE.*—*Final regulations pre-*
2 *scribed under this subsection shall take effect before*
3 *the end of the 1-year period beginning on the date of*
4 *the enactment of the Financial Anti-Terrorism Act of*
5 *2001.*”.

6 (b) *STUDY AND REPORT REQUIRED.*—*Within 6*
7 *months after the date of the enactment of this Act, the Sec-*
8 *retary of the Treasury, in consultation with the Federal*
9 *functional regulators (as defined in section 509 of the*
10 *Gramm-Leach-Bliley Act) and other appropriate Govern-*
11 *ment agencies, shall submit a report to the Congress con-*
12 *taining recommendations for—*

13 (1) *determining the most timely and effective*
14 *way to require foreign nationals to provide domestic*
15 *financial institutions and agencies with appropriate*
16 *and accurate information, comparable to that which*
17 *is required of United States nationals, concerning*
18 *their identity, address, and other related information*
19 *necessary to enable such institutions and agencies to*
20 *comply with the requirements of this section;*

21 (2) *requiring foreign nationals to apply for and*
22 *obtain, before opening an account with a domestic fi-*
23 *nancial institution, an identification number which*
24 *would function similarly to a Social Security number*
25 *or tax identification number; and*

1 (3) *establishing a system for domestic financial*
2 *institutions and agencies to review information main-*
3 *tained by relevant Government agencies for purposes*
4 *of verifying the identities of foreign nationals seeking*
5 *to open accounts at those institutions and agencies.*

6 **SEC. 124. CONSIDERATION OF ANTI-MONEY LAUNDERING**

7 **RECORD.**

8 (a) *BANK HOLDING COMPANY ACT OF 1956.*—

9 (1) *IN GENERAL.*—*Section 3(c) of the Bank*
10 *Holding Company Act of 1956 (12 U.S.C. 1842(c)) is*
11 *amended by adding at the end the following new*
12 *paragraph:*

13 “(6) *MONEY LAUNDERING.*—*In every case the*
14 *Board shall take into consideration the effectiveness of*
15 *the company or companies in combating and pre-*
16 *venting money laundering activities, including in*
17 *overseas branches.”.*

18 (2) *SCOPE OF APPLICATION.*—*The amendment*
19 *made by paragraph (1) shall apply with respect to*
20 *any application submitted to the Board of Governors*
21 *of the Federal Reserve System under section 3 of the*
22 *Bank Holding Company Act of 1956 after December*
23 *31, 2000, which has not been approved by the Board*
24 *before the date of the enactment of this Act.*

1 **(b) MERGERS SUBJECT TO REVIEW UNDER FEDERAL**
2 **DEPOSIT INSURANCE ACT.—**

3 **(1) IN GENERAL.—***Section 18(c) of the Federal*
4 *Deposit Insurance Act (12 U.S.C. 1828(c)) is*
5 *amended—*

6 **(A) by redesignating paragraph (11) as**
7 **paragraph (12); and**

8 **(B) by inserting after paragraph (10), the**
9 **following new paragraph:**

10 **“(11) MONEY LAUNDERING.—***In every case, the*
11 *responsible agency shall take into consideration the ef-*
12 *fectiveness of any insured depository institution in-*
13 *volved in the proposed merger transaction in com-*
14 *bating and preventing money laundering activities,*
15 *including in overseas branches.”.*

16 **(2) SCOPE OF APPLICATION.—***The amendment*
17 *made by paragraph (1) shall apply with respect to*
18 *any application submitted to the responsible agency*
19 *under section 18(c) of the Federal Deposit Insurance*
20 *Act after December 31, 2000, which has not been ap-*
21 *proved by all appropriate responsible agencies before*
22 *the date of the enactment of this Act.*

1 **SEC. 125. REPORTING OF SUSPICIOUS ACTIVITIES BY IN-**
2 **FORMAL UNDERGROUND BANKING SYSTEMS,**
3 **SUCH AS HAWALAS.**

4 (a) *DEFINITION FOR SUBCHAPTER.*—Subparagraph
5 (R) of section 5312(a)(2) of title 31, United States Code,
6 is amended to read as follows:

7 “(R) a licensed sender of money or any
8 other person who engages as a business in the
9 transmission of funds, including through an in-
10 formal value transfer banking system or network
11 of people facilitating the transfer of value domes-
12 tically or internationally outside of the conven-
13 tional financial institutions system;”.

14 (b) *MONEY TRANSMITTING BUSINESS.*—Section
15 5330(d)(1)(A) of title 31, United States Code, is amended
16 by inserting before the semicolon the following: “or any
17 other person who engages as a business in the transmission
18 of funds, including through an informal value transfer
19 banking system or network of people facilitating the trans-
20 fer of value domestically or internationally outside of the
21 conventional financial institutions system”.

22 (c) *APPLICABILITY OF RULES.*—Section 5318 of title
23 31, United States Code, as amended by this title, is amend-
24 ed by adding at the end the following:

25 “(l) *APPLICABILITY OF RULES.*—Any rules prescribed
26 pursuant to the authority contained in section 21 of the

1 *Federal Deposit Insurance Act shall apply, in addition to*
2 *any other financial institution to which such rules apply,*
3 *to any person that engages as a business in the trans-*
4 *mission of funds, including through an informal value*
5 *transfer banking system or network of people facilitating*
6 *the transfer of value domestically or internationally outside*
7 *of the conventional financial institutions system.”.*

8 (d) *REPORT.—Not later than 1 year after the date of*
9 *enactment of this Act, the Secretary of the Treasury shall*
10 *report to Congress on the need for any additional legislation*
11 *relating to—*

12 (1) *informal value transfer banking systems or*
13 *networks of people facilitating the transfer of value*
14 *domestically or internationally outside of the conven-*
15 *tional financial institutions system;*

16 (2) *anti-money laundering controls; and*

17 (3) *regulatory controls relating to underground*
18 *money movement and banking systems, such as the*
19 *system referred to as “hawala”, including whether the*
20 *threshold for the filing of suspicious activity reports*
21 *under section 5318(g) of title 31, United States Code*
22 *should be lowered in the case of such systems.*

1 **TITLE II—PUBLIC-PRIVATE**
2 **COOPERATION**

3 **SEC. 201. ESTABLISHMENT OF HIGHLY SECURE NETWORK.**

4 (a) *IN GENERAL.*—*The Secretary of the Treasury shall*
5 *establish a highly secure network in the Financial Crimes*
6 *Enforcement Network that—*

7 (1) *allows financial institutions to file reports*
8 *required under subchapter II or III of chapter 53 of*
9 *title 31, United States Code, chapter 2 of Public Law*
10 *91–508, or section 21 of the Federal Deposit Insur-*
11 *ance Act through the network; and*

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

15 (b) *EXPEDITED DEVELOPMENT.*—*The Secretary of the*
16 *Treasury shall take such action as may be necessary to en-*
17 *sure that the website required under subsection (a) is fully*
18 *operational before the end of the 9-month period beginning*
19 *on the date of the enactment of this Act.*

20 **SEC. 202. REPORT ON IMPROVEMENTS IN DATA ACCESS**
21 **AND OTHER ISSUES.**

22 *Before the end of the 6-month period beginning on the*
23 *date of the enactment of this Act, the Secretary of the Treas-*
24 *ury shall report to the Congress on the following issues:*

1 (1) *DATA COLLECTION AND ANALYSIS.*—*Progress*
2 *made since such date of enactment in meeting the re-*
3 *quirements of section 310(c) of title 31, United States*
4 *Code (as added by this Act).*

5 (2) *BARRIERS TO EXCHANGE OF FINANCIAL*
6 *CRIME INFORMATION.*—*Technical, legal, and other*
7 *barriers to the exchange of financial crime prevention*
8 *and detection information among and between Fed-*
9 *eral law enforcement agencies, including an identi-*
10 *fication of all Federal law enforcement data systems*
11 *between which or among which data cannot be shared*
12 *for whatever reason.*

13 (3) *PRIVATE BANKING.*—*Private banking activi-*
14 *ties in the United States, including information on*
15 *the following:*

16 (A) *The nature and extent of private bank-*
17 *ing activities in the United States.*

18 (B) *Regulatory efforts to monitor private*
19 *banking activities and ensure that such activities*
20 *are conducted in compliance with subchapter II*
21 *of chapter 53 of title 31, United States Code, and*
22 *section 21 of the Federal Deposit Insurance Act.*

23 (C) *With regard to financial institutions*
24 *that offer private banking services, the policies*
25 *and procedures of such institutions that are de-*

1 *signed to ensure compliance with the require-*
2 *ments of subchapter II of chapter 53 of title 31,*
3 *United States Code, and section 21 of the Fed-*
4 *eral Deposit Insurance Act with respect to pri-*
5 *vate banking activity.*

6 **SEC. 203. REPORTS TO THE FINANCIAL SERVICES INDUS-**
7 **TRY ON SUSPICIOUS FINANCIAL ACTIVITIES.**

8 *At least once each calendar quarter, the Secretary of*
9 *the Treasury shall—*

10 (1) *publish a report containing a detailed anal-*
11 *ysis identifying patterns of suspicious activity and*
12 *other investigative insights derived from suspicious*
13 *activity reports and investigations conducted by Fed-*
14 *eral, State, and local law enforcement agencies to the*
15 *extent appropriate; and*

16 (2) *distribute such report to financial institu-*
17 *tions (as defined in section 5312 of title 31, United*
18 *States Code).*

19 **SEC. 204. EFFICIENT USE OF CURRENCY TRANSACTION RE-**
20 **PORT SYSTEM.**

21 (a) *FINDINGS.—The Congress finds the following:*

22 (1) *The Congress established the currency trans-*
23 *action reporting requirements in 1970 because the*
24 *Congress found then that such reports have a high de-*
25 *gree of usefulness in criminal, tax, and regulatory in-*

1 *vestigations and proceedings and the usefulness of*
2 *such reports has only increased in the years since the*
3 *requirements were established.*

4 (2) *In 1994, in response to reports and testi-*
5 *mony that excess amounts of currency transaction re-*
6 *ports were interfering with effective law enforcement,*
7 *the Congress reformed the currency transaction report*
8 *exemption requirements to provide—*

9 (A) *mandatory exemptions for certain re-*
10 *ports that had little usefulness for law enforce-*
11 *ment, such as cash transfers between depository*
12 *institutions and cash deposits from government*
13 *agencies; and*

14 (B) *discretionary authority for the Sec-*
15 *retary of the Treasury to provide exemptions,*
16 *subject to criteria and guidelines established by*
17 *the Secretary, for financial institutions with re-*
18 *gard to regular business customers that maintain*
19 *accounts at an institution into which frequent*
20 *cash deposits are made.*

21 (3) *Today there is evidence that some financial*
22 *institutions are not utilizing the exemption system, or*
23 *are filing reports even if there is an exemption in ef-*
24 *fect, with the result that the volume of currency trans-*

1 *action reports is once again interfering with effective*
2 *law enforcement.*

3 *(b) STUDY AND REPORT.—*

4 *(1) STUDY REQUIRED.—The Secretary of the*
5 *Treasury shall conduct a study of—*

6 *(A) the possible expansion of the statutory*
7 *exemption system in effect under 5313 of title 31,*
8 *United States Code; and*

9 *(B) methods for improving financial insti-*
10 *tution utilization of the statutory exemption pro-*
11 *visions as a way of reducing the submission of*
12 *currency transaction reports that have little or*
13 *no value for law enforcement purposes, including*
14 *improvements in the systems in effect at finan-*
15 *cial institutions for regular review of the exemp-*
16 *tion procedures used at the institution and the*
17 *training of personnel in its effective use.*

18 *(2) REPORT REQUIRED.—The Secretary of the*
19 *Treasury shall submit a report to the Congress before*
20 *the end of the 90-day period beginning on the date of*
21 *the enactment of this Act containing the findings and*
22 *conclusions of the Secretary with regard to the study*
23 *required under subsection (a) and such recommenda-*
24 *tions for legislative or administrative action as the*
25 *Secretary determines to be appropriate.*

1 **SEC. 205. PUBLIC-PRIVATE TASK FORCE ON TERRORIST FI-**
2 **NANCING ISSUES.**

3 *Section 1564 of the Annunzio-Wylie Anti-Money*
4 *Laundering Act (31 U.S.C. 5311 note) is amended by add-*
5 *ing at the end the following new subsection:*

6 “(d) *TERRORIST FINANCING ISSUES.*—

7 “(1) *IN GENERAL.*—*The Secretary of the Treas-*
8 *ury shall provide, either within the Bank Secrecy Act*
9 *Advisory Group, or as a subcommittee or other ad-*
10 *junct of the Advisory Group, for a task force of rep-*
11 *resentatives from agencies and officers represented on*
12 *the Advisory Group, a representative of the Director*
13 *of the Office of Homeland Security, and representa-*
14 *tives of financial institutions, private organizations*
15 *that represent the financial services industry, and*
16 *other interested parties to focus on—*

17 “(A) *issues specifically related to the fi-*
18 *nances of terrorist groups, the means terrorist*
19 *groups use to transfer funds around the world*
20 *and within the United States, including through*
21 *the use of charitable organizations, nonprofit or-*
22 *ganizations, and nongovernmental organizations,*
23 *and the extent to which financial institutions in*
24 *the United States are unwittingly involved in*
25 *such finances and the extent to which such insti-*
26 *tutions are at risk as a result;*

1 “(B) the relationship, particularly the fi-
2 nancial relationship, between international nar-
3 cotics traffickers and foreign terrorist organiza-
4 tions, the extent to which their memberships
5 overlap and engage in joint activities, and the
6 extent to which they cooperate with each other in
7 raising and transferring funds for their respec-
8 tive purposes; and

9 “(C) means of facilitating the identification
10 of accounts and transactions involving terrorist
11 groups and facilitating the exchange of informa-
12 tion concerning such accounts and transactions
13 between financial institutions and law enforce-
14 ment organizations.

15 “(2) *APPLICABILITY OF OTHER PROVISIONS.*—
16 Sections 552, 552a, and 552b of title 5, United States
17 Code, and the Federal Advisory Committee Act shall
18 not apply to the task force established pursuant to
19 paragraph (1).”.

20 **SEC. 206. SUSPICIOUS ACTIVITY REPORTING REQUIRE-**
21 **MENTS.**

22 (a) *DEADLINE FOR SUSPICIOUS ACTIVITY REPORTING*
23 *REQUIREMENTS FOR REGISTERED BROKERS AND DEAL-*
24 *ERS.*—The Secretary of the Treasury, in consultation with
25 the Securities and Exchange Commission, shall publish pro-

1 posed regulations in the Federal Register before January
2 1, 2002, requiring brokers and dealers registered with the
3 Securities and Exchange Commission under the Securities
4 Exchange Act of 1934 to submit suspicious activity reports
5 under section 5318(g) of title 31, United States Code. Such
6 regulations shall be published in final form no later than
7 June 1, 2002.

8 (b) *SUSPICIOUS ACTIVITY REPORTING REQUIREMENTS*
9 *FOR FUTURES COMMISSION MERCHANTS, COMMODITY*
10 *TRADING ADVISORS, AND COMMODITY POOL OPERATORS.*—
11 *The Secretary of the Treasury, in consultation with the*
12 *Commodity Futures Trading Commission, may prescribe*
13 *regulations requiring futures commission merchants, com-*
14 *modity trading advisors, and commodity pool operators*
15 *registered under the Commodity Exchange Act to submit*
16 *suspicious activity reports under section 5318(g) of title 31,*
17 *United States Code.*

18 **SEC. 207. AMENDMENTS RELATING TO REPORTING OF SUS-**
19 **PICIOUS ACTIVITIES.**

20 (a) *AMENDMENT RELATING TO CIVIL LIABILITY IMMUN-*
21 *ITY FOR DISCLOSURES.*—Section 5318(g)(3) of title 31,
22 *United States Code, is amended to read as follows:*

23 “(3) *LIABILITY FOR DISCLOSURES.*—

24 “(A) *IN GENERAL.*—Any financial institu-
25 *tion that makes a voluntary disclosure of any*

1 *possible violation of law or regulation to a gov-*
2 *ernment agency or makes a disclosure pursuant*
3 *to this subsection or any other authority, and*
4 *any director, officer, employee, or agent of such*
5 *institution who makes, or requires another to*
6 *make any such disclosure, shall not be liable to*
7 *any person under any law or regulation of the*
8 *United States, any constitution, law, or regula-*
9 *tion of any State or political subdivision of any*
10 *State, or under any contract or other legally en-*
11 *forceable agreement (including any arbitration*
12 *agreement), for such disclosure or for any failure*
13 *to provide notice of such disclosure to any per-*
14 *son.*

15 “(B) *RULE OF CONSTRUCTION.*—Subpara-
16 *graph (A) shall not be construed as creating—*

17 “(i) *any inference that the term ‘per-*
18 *son’, as used in such subparagraph, may be*
19 *construed more broadly than its ordinary*
20 *usage so to include any government or*
21 *agency of government; or*

22 “(ii) *any immunity against, or other-*
23 *wise affecting, any civil or criminal action*
24 *brought by any government or agency of*
25 *government to enforce any constitution, law,*

1 or regulation of such government or agen-
2 cy.”.

3 (b) *PROHIBITION ON NOTIFICATION OF DISCLO-*
4 *SURES.*—Section 5318(g)(2) of title 31, United States Code,
5 *is amended to read as follows:*

6 “(2) *NOTIFICATION PROHIBITED.*—

7 “(A) *IN GENERAL.*—If a financial institu-
8 tion or any director, officer, employee, or agent
9 of any financial institution, voluntarily or pur-
10 suant to this section or any other authority, re-
11 ports a suspicious transaction to a government
12 agency—

13 “(i) the financial institution, director,
14 officer, employee, or agent may not notify
15 any person involved in the transaction that
16 the transaction has been reported; and

17 “(ii) no officer or employee of the Fed-
18 eral Government or of any State, local, trib-
19 al, or territorial government within the
20 United States, who has any knowledge that
21 such report was made may disclose to any
22 person involved in the transaction that the
23 transaction has been reported other than as
24 necessary to fulfill the official duties of such
25 officer or employee.

1 “(B) *DISCLOSURES IN CERTAIN EMPLOY-*
2 *MENT REFERENCES.—Notwithstanding the ap-*
3 *plication of subparagraph (A) in any other con-*
4 *text, subparagraph (A) shall not be construed as*
5 *prohibiting any financial institution, or any di-*
6 *rector, officer, employee, or agent of such institu-*
7 *tion, from including, in a written employment*
8 *reference that is provided in accordance with sec-*
9 *tion 18(v) of the Federal Deposit Insurance Act*
10 *in response to a request from another financial*
11 *institution or a written termination notice or*
12 *employment reference that is provided in accord-*
13 *ance with the rules of the self-regulatory organi-*
14 *zations registered with the Securities and Ex-*
15 *change Commission, information that was in-*
16 *cluded in a report to which subparagraph (A)*
17 *applies, but such written employment reference*
18 *may not disclose that such information was also*
19 *included in any such report or that such report*
20 *was made.”.*

1 **SEC. 208. AUTHORIZATION TO INCLUDE SUSPICIONS OF IL-**
2 **LEGAL ACTIVITY IN WRITTEN EMPLOYMENT**
3 **REFERENCES.**

4 *Section 18 of the Federal Deposit Insurance Act (12*
5 *U.S.C. 1828) is amended by adding at the end the following*
6 *new subsection:*

7 *“(w) WRITTEN EMPLOYMENT REFERENCES MAY CON-*
8 *TAIN SUSPICIONS OF INVOLVEMENT IN ILLEGAL ACTIV-*
9 *ITY.—*

10 *“(1) IN GENERAL.—Notwithstanding any other*
11 *provision of law, any insured depository institution,*
12 *and any director, officer, employee, or agent of such*
13 *institution, may disclose in any written employment*
14 *reference relating to a current or former institution-*
15 *affiliated party of such institution which is provided*
16 *to another insured depository institution in response*
17 *to a request from such other institution, information*
18 *concerning the possible involvement of such institu-*
19 *tion-affiliated party in potentially unlawful activity,*
20 *to the extent—*

21 *“(A) the disclosure does not contain infor-*
22 *mation which the institution, director, officer,*
23 *employee, or agent knows to be false; and*

24 *“(B) the institution, director, officer, em-*
25 *ployee, or agent has not acted with malice or*

1 *with reckless disregard for the truth in making*
2 *the disclosure.*

3 “(2) *DEFINITION.*—*For purposes of this sub-*
4 *section, the term ‘insured depository institution’ in-*
5 *cludes any uninsured branch or agency of a foreign*
6 *bank.”.*

7 **SEC. 209. INTERNATIONAL COOPERATION ON IDENTIFICA-**
8 **TION OF ORIGINATORS OF WIRE TRANSFERS.**

9 *The Secretary of the Treasury shall—*

10 (1) *in consultation with the Attorney General*
11 *and the Secretary of State, take all reasonable steps*
12 *to encourage foreign governments to require the inclu-*
13 *sion of the name of the originator in wire transfer in-*
14 *structions sent to the United States and other coun-*
15 *tries, with the information to remain with the trans-*
16 *fer from its origination until the point of disburse-*
17 *ment; and*

18 (2) *report annually to the Committee on Finan-*
19 *cial Services of the House of Representatives and the*
20 *Committee on Banking, Housing, and Urban Affairs*
21 *of the Senate on—*

22 (A) *progress toward the goal enumerated in*
23 *paragraph (1), as well as impediments to imple-*
24 *mentation and an estimated compliance rate;*
25 *and*

1 (B) impediments to instituting a regime in
2 which all appropriate identification, as defined
3 by the Secretary, about wire transfer recipients
4 shall be included with wire transfers from their
5 point of origination until disbursement.

6 **SEC. 210. CHECK TRUNCATION STUDY.**

7 Before the end of the 90-day period beginning on the
8 date of the enactment of this Act, the Secretary of the Treas-
9 ury, in consultation with the Attorney General and the
10 Board of Governors of the Federal Reserve System, shall
11 conduct a study of the impact on crime prevention, law en-
12 forcement, and the administration of consumer protection
13 laws of any policy of the Board of Governors of the Federal
14 Reserve System relating to the promotion of check
15 electronification, through truncation or other means, or mi-
16 gration from paper checks.

1 **TITLE III—COMBATTING INTER-**
2 **NATIONAL MONEY LAUN-**
3 **DERING**

4 **SEC. 301. SPECIAL MEASURES FOR JURISDICTIONS, FINAN-**
5 **CIAL INSTITUTIONS, OR INTERNATIONAL**
6 **TRANSACTIONS OF PRIMARY MONEY LAUN-**
7 **DERING CONCERN.**

8 *(a) IN GENERAL.—Subchapter II of chapter 53 of title*
9 *31, United States Code, is amended by inserting after sec-*
10 *tion 5318 the following new section:*

11 **“§ 5318A. Special measures for jurisdictions, financial**
12 **institutions, or international transactions**
13 **of primary money laundering concern**

14 *“(a) INTERNATIONAL COUNTER-MONEY LAUNDERING*
15 *REQUIREMENTS.—*

16 *“(1) IN GENERAL.—The Secretary may require*
17 *domestic financial institutions and domestic financial*
18 *agencies to take 1 or more of the special measures de-*
19 *scribed in subsection (b) if the Secretary finds that*
20 *reasonable grounds exist for concluding that a juris-*
21 *isdiction outside of the United States, 1 or more finan-*
22 *cial institutions operating outside of the United*
23 *States, 1 or more classes of transactions within, or in-*
24 *volving, a jurisdiction outside of the United States, or*

1 1 or more types of accounts is of primary money
2 laundering concern, in accordance with subsection (c).

3 “(2) *FORM OF REQUIREMENT.*—The special
4 measures described in—

5 “(A) subsection (b) may be imposed in such
6 sequence or combination as the Secretary shall
7 determine;

8 “(B) paragraphs (1) through (4) of sub-
9 section (b) may be imposed by regulation, order,
10 or otherwise as permitted by law; and

11 “(C) subsection (b)(5) may be imposed only
12 by regulation.

13 “(3) *DURATION OF ORDERS; RULEMAKING.*—Any
14 order by which a special measure described in para-
15 graphs (1) through (4) of subsection (b) is imposed
16 (other than an order described in section 5326)—

17 “(A) shall be issued together with a notice
18 of proposed rulemaking relating to the imposi-
19 tion of such special measure; and

20 “(B) may not remain in effect for more
21 than 120 days, except pursuant to a regulation
22 prescribed on or before the end of the 120-day pe-
23 riod beginning on the date of issuance of such
24 order.

1 “(4) *PROCESS FOR SELECTING SPECIAL MEAS-*
2 *URES.—In selecting which special measure or meas-*
3 *ures to take under this subsection, the Secretary—*

4 “(A) *shall consult with the Chairman of the*
5 *Board of Governors of the Federal Reserve Sys-*
6 *tem, any other appropriate Federal banking*
7 *agency (as defined in section 3 of the Federal*
8 *Deposit Insurance Act), the Securities and Ex-*
9 *change Commission, the National Credit Union*
10 *Administration Board, and in the sole discretion*
11 *of the Secretary such other agencies and inter-*
12 *ested parties as the Secretary may find to be ap-*
13 *propriate; and*

14 “(B) *shall consider—*

15 “(i) *whether similar action has been or*
16 *is being taken by other nations or multilat-*
17 *eral groups;*

18 “(ii) *whether the imposition of any*
19 *particular special measure would create a*
20 *significant competitive disadvantage, in-*
21 *cluding any undue cost or burden associated*
22 *with compliance, for financial institutions*
23 *organized or licensed in the United States;*
24 *and*

1 “(iii) *the extent to which the action or*
2 *the timing of the action would have a sig-*
3 *nificant adverse systemic impact on the*
4 *international payment, clearance, and set-*
5 *tlement system, or on legitimate business*
6 *activities involving the particular jurisdic-*
7 *tion, institution, or class of transactions.*

8 “(5) *NO LIMITATION ON OTHER AUTHORITY.—*
9 *This section shall not be construed as superseding or*
10 *otherwise restricting any other authority granted to*
11 *the Secretary, or to any other agency, by this sub-*
12 *chapter or otherwise.*

13 “(b) *SPECIAL MEASURES.—The special measures re-*
14 *ferred to in subsection (a), with respect to a jurisdiction*
15 *outside of the United States, financial institution operating*
16 *outside of the United States, class of transaction within,*
17 *or involving, a jurisdiction outside of the United States,*
18 *or 1 or more types of accounts are as follows:*

19 “(1) *RECORDKEEPING AND REPORTING OF CER-*
20 *TAIN FINANCIAL TRANSACTIONS.—*

21 “(A) *IN GENERAL.—The Secretary may re-*
22 *quire any domestic financial institution or do-*
23 *mestic financial agency to maintain records, file*
24 *reports, or both, concerning the aggregate*
25 *amount of transactions, or concerning each*

1 *transaction, with respect to a jurisdiction out-*
2 *side of the United States, 1 or more financial in-*
3 *stitutions operating outside of the United States,*
4 *1 or more classes of transactions within, or in-*
5 *volving, a jurisdiction outside of the United*
6 *States, or 1 or more types of accounts if the Sec-*
7 *retary finds any such jurisdiction, institution, or*
8 *class of transactions to be of primary money*
9 *laundering concern.*

10 “(B) *FORM OF RECORDS AND REPORTS.—*

11 *Such records and reports shall be made and re-*
12 *tained at such time, in such manner, and for*
13 *such period of time, as the Secretary shall deter-*
14 *mine, and shall include such information as the*
15 *Secretary may determine, including—*

16 “(i) *the identity and address of the*
17 *participants in a transaction or relation-*
18 *ship, including the identity of the origi-*
19 *nator of any funds transfer;*

20 “(ii) *the legal capacity in which a par-*
21 *ticipant in any transaction is acting;*

22 “(iii) *the identity of the beneficial*
23 *owner of the funds involved in any trans-*
24 *action, in accordance with such procedures*
25 *as the Secretary determines to be reasonable*

1 and practicable to obtain and retain the in-
2 formation; and

3 “(iv) a description of any transaction.

4 “(2) *INFORMATION RELATING TO BENEFICIAL*
5 *OWNERSHIP.*—In addition to any other requirement
6 under any other provision of law, the Secretary may
7 require any domestic financial institution or domestic
8 financial agency to take such steps as the Secretary
9 may determine to be reasonable and practicable to ob-
10 tain and retain information concerning the beneficial
11 ownership of any account opened or maintained in
12 the United States by a foreign person (other than a
13 foreign entity whose shares are subject to public re-
14 porting requirements or are listed and traded on a
15 regulated exchange or trading market), or a represent-
16 ative of such a foreign person, that involves a juris-
17 diction outside of the United States, 1 or more finan-
18 cial institutions operating outside of the United
19 States, 1 or more classes of transactions within, or in-
20 volving, a jurisdiction outside of the United States, or
21 1 or more types of accounts if the Secretary finds any
22 such jurisdiction, institution, transaction, or account
23 to be of primary money laundering concern.

24 “(3) *INFORMATION RELATING TO CERTAIN PAY-*
25 *ABLE-THROUGH ACCOUNTS.*—If the Secretary finds a

1 *jurisdiction outside of the United States, 1 or more*
2 *financial institutions operating outside of the United*
3 *States, or 1 or more classes of transactions within,*
4 *or involving, a jurisdiction outside of the United*
5 *States to be of primary money laundering concern,*
6 *the Secretary may require any domestic financial in-*
7 *stitution or domestic financial agency that opens or*
8 *maintains a payable-through account in the United*
9 *States for a foreign financial institution involving*
10 *any such jurisdiction or any such financial institu-*
11 *tion operating outside of the United States, or a pay-*
12 *able through account through which any such trans-*
13 *action may be conducted, as a condition of opening*
14 *or maintaining such account—*

15 *“(A) to identify each customer (and rep-*
16 *resentative of such customer) of such financial*
17 *institution who is permitted to use, or whose*
18 *transactions are routed through, such payable-*
19 *through account; and*

20 *“(B) to obtain, with respect to each such*
21 *customer (and each such representative), infor-*
22 *mation that is substantially comparable to that*
23 *which the depository institution obtains in the*
24 *ordinary course of business with respect to its*
25 *customers residing in the United States.*

1 “(4) *INFORMATION RELATING TO CERTAIN COR-*
2 *RESPONDENT ACCOUNTS.—If the Secretary finds a ju-*
3 *risdiction outside of the United States, 1 or more fi-*
4 *ancial institutions operating outside of the United*
5 *States, or 1 or more classes of transactions within, or*
6 *involving, a jurisdiction outside of the United States*
7 *to be of primary money laundering concern, the Sec-*
8 *retary may require any domestic financial institution*
9 *or domestic financial agency that opens or maintains*
10 *a correspondent account in the United States for a*
11 *foreign financial institution involving any such juris-*
12 *diction or any such financial institution operating*
13 *outside of the United States, or a correspondent ac-*
14 *count through which any such transaction may be*
15 *conducted, as a condition of opening or maintaining*
16 *such account—*

17 “(A) *to identify each customer (and rep-*
18 *resentative of such customer) of any such finan-*
19 *cial institution who is permitted to use, or whose*
20 *transactions are routed through, such cor-*
21 *respondent account; and*

22 “(B) *to obtain, with respect to each such*
23 *customer (and each such representative), infor-*
24 *mation that is substantially comparable to that*
25 *which the depository institution obtains in the*

1 *ordinary course of business with respect to its*
2 *customers residing in the United States.*

3 “(5) *PROHIBITIONS OR CONDITIONS ON OPENING*
4 *OR MAINTAINING CERTAIN CORRESPONDENT OR PAY-*
5 *ABLE-THROUGH ACCOUNTS.—If the Secretary finds a*
6 *jurisdiction outside of the United States, 1 or more fi-*
7 *nancial institutions operating outside of the United*
8 *States, or 1 or more classes of transactions within, or*
9 *involving, a jurisdiction outside of the United States*
10 *to be of primary money laundering concern, the Sec-*
11 *retary, in consultation with the Secretary of State,*
12 *the Attorney General, and the Chairman of the Board*
13 *of Governors of the Federal Reserve System, may pro-*
14 *hibit, or impose conditions upon, the opening or*
15 *maintaining in the United States of a correspondent*
16 *account or payable-through account by any domestic*
17 *financial institution or domestic financial agency for*
18 *or on behalf of a foreign banking institution, if such*
19 *correspondent account or payable-through account in-*
20 *volves any such jurisdiction or institution, or if any*
21 *such transaction may be conducted through such cor-*
22 *respondent account or payable-through account.*

23 “(c) *CONSULTATIONS AND INFORMATION TO BE CON-*
24 *SIDERED IN FINDING JURISDICTIONS, INSTITUTIONS,*

1 *TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRI-*
2 *MARY MONEY LAUNDERING CONCERN.—*

3 “(1) *IN GENERAL.—In making a finding that*
4 *reasonable grounds exist for concluding that a juris-*
5 *isdiction outside of the United States, 1 or more finan-*
6 *cial institutions operating outside of the United*
7 *States, 1 or more classes of transactions within, or in-*
8 *volving, a jurisdiction outside of the United States, or*
9 *1 or more types of accounts is of primary money*
10 *laundering concern so as to authorize the Secretary to*
11 *take 1 or more of the special measures described in*
12 *subsection (b), the Secretary shall consult with the*
13 *Secretary of State, and the Attorney General.*

14 “(2) *ADDITIONAL CONSIDERATIONS.—In making*
15 *a finding described in paragraph (1), the Secretary*
16 *shall consider in addition such information as the*
17 *Secretary determines to be relevant, including the fol-*
18 *lowing potentially relevant factors:*

19 “(A) *JURISDICTIONAL FACTORS.—In the*
20 *case of a particular jurisdiction—*

21 “(i) *evidence that organized criminal*
22 *groups, international terrorists, or both,*
23 *have transacted business in that jurisdic-*
24 *tion;*

1 “(ii) the extent to which that jurisdic-
2 tion or financial institutions operating in
3 that jurisdiction offer bank secrecy or spe-
4 cial regulatory advantages to nonresidents
5 or nondomiciliaries of that jurisdiction;

6 “(iii) the substance and quality of ad-
7 ministration of the bank supervisory and
8 counter-money laundering laws of that ju-
9 risdiction;

10 “(iv) the relationship between the vol-
11 ume of financial transactions occurring in
12 that jurisdiction and the size of the economy
13 of the jurisdiction;

14 “(v) the extent to which that jurisdic-
15 tion is characterized as an offshore banking
16 or secrecy haven by credible international
17 organizations or multilateral expert groups;

18 “(vi) whether the United States has a
19 mutual legal assistance treaty with that ju-
20 risdiction, and the experience of United
21 States law enforcement officials, and regu-
22 latory officials in obtaining information
23 about transactions originating in or routed
24 through or to such jurisdiction; and

1 “(vii) *the extent to which that jurisdic-*
2 *tion is characterized by high levels of offi-*
3 *cial or institutional corruption.*

4 “(B) *INSTITUTIONAL FACTORS.—In the case*
5 *of a decision to apply 1 or more of the special*
6 *measures described in subsection (b) only to a fi-*
7 *ancial institution or institutions, or to a trans-*
8 *action or class of transactions, or to a type of ac-*
9 *count, or to all 3, within or involving a par-*
10 *ticular jurisdiction—*

11 “(i) *the extent to which such financial*
12 *institutions, transactions, or types of ac-*
13 *counts are used to facilitate or promote*
14 *money laundering in or through the jurisdic-*
15 *tion;*

16 “(ii) *the extent to which such institu-*
17 *tions, transactions, or types of accounts are*
18 *used for legitimate business purposes in the*
19 *jurisdiction; and*

20 “(iii) *the extent to which such action is*
21 *sufficient to ensure, with respect to trans-*
22 *actions involving the jurisdiction and insti-*
23 *tutions operating in the jurisdiction, that*
24 *the purposes of this subchapter continue to*
25 *be fulfilled, and to guard against inter-*

1 *national money laundering and other fi-*
2 *nancial crimes.*

3 “(d) *NOTIFICATION OF SPECIAL MEASURES INVOKED*
4 *BY THE SECRETARY.*—*Not later than 10 days after the date*
5 *of any action taken by the Secretary under subsection*
6 *(a)(1), the Secretary shall notify, in writing, the Committee*
7 *on Financial Services of the House of Representatives and*
8 *the Committee on Banking, Housing, and Urban Affairs*
9 *of the Senate of any such action.*

10 “(e) *DEFINITIONS.*—*Notwithstanding any other provi-*
11 *sion of this subchapter, for purposes of this section, the fol-*
12 *lowing definitions shall apply:*

13 “(1) *BANK DEFINITIONS.*—*The following defini-*
14 *tions shall apply with respect to a bank:*

15 “(A) *ACCOUNT.*—*The term ‘account’—*

16 “(i) *means a formal banking or busi-*
17 *ness relationship established to provide reg-*
18 *ular services, dealings, and other financial*
19 *transactions; and*

20 “(ii) *includes a demand deposit, sav-*
21 *ings deposit, or other transaction or asset*
22 *account and a credit account or other exten-*
23 *sion of credit.*

24 “(B) *CORRESPONDENT ACCOUNT.*—*The term*
25 *‘correspondent account’ means an account estab-*

1 *lished to receive deposits from, make payments*
2 *on behalf of a foreign financial institution, or*
3 *handle other financial transactions related to*
4 *such institution.*

5 “(C) *PAYABLE-THROUGH ACCOUNT.*—*The*
6 *term ‘payable-through account’ means an ac-*
7 *count, including a transaction account (as de-*
8 *fined in section 19(b)(1)(C) of the Federal Re-*
9 *serve Act), opened at a depository institution by*
10 *a foreign financial institution by means of which*
11 *the foreign financial institution permits its cus-*
12 *tomers to engage, either directly or through a*
13 *subaccount, in banking activities usual in con-*
14 *nection with the business of banking in the*
15 *United States.*

16 “(D) *SECRETARY.*—*The term ‘Secretary’*
17 *means the Secretary of the Treasury.*

18 “(2) *DEFINITIONS APPLICABLE TO INSTITUTIONS*
19 *OTHER THAN BANKS.*—*With respect to any financial*
20 *institution other than a bank, the Secretary shall,*
21 *after consultation with the appropriate Federal func-*
22 *tional regulators (as defined in section 509 of the*
23 *Gramm-Leach-Bliley Act), define by regulation the*
24 *term ‘account’, and shall include within the meaning*
25 *of that term, to the extent, if any, that the Secretary*

1 *deems appropriate, arrangements similar to payable-*
2 *through and correspondent accounts.*

3 “(3) *REGULATORY DEFINITION.*—*The Secretary*
4 *shall promulgate regulations defining beneficial own-*
5 *ership of an account for purposes of this subchapter.*
6 *Such regulations shall address issues related to an in-*
7 *dividual’s authority to fund, direct, or manage the*
8 *account (including the power to direct payments into*
9 *or out of the account), and an individual’s material*
10 *interest in the income or corpus of the account, and*
11 *shall ensure that the identification of individuals*
12 *under this section does not extend to any individual*
13 *whose beneficial interest in the income or corpus of*
14 *the account is immaterial.*

15 “(4) *OTHER TERMS.*—*The Secretary may, by*
16 *regulation, further define the terms in paragraphs (1)*
17 *and (2) and define other terms for the purposes of this*
18 *section, as the Secretary deems appropriate.”.*

19 (b) *FINANCIAL INSTITUTIONS SPECIFIED IN SUB-*
20 *CHAPTER II OF CHAPTER 53 OF TITLE 31, UNITED STATES*
21 *CODE.*—

22 (1) *CREDIT UNIONS.*—*Subparagraph (E) of sec-*
23 *tion 5312(2) of title 31, United States Code, is*
24 *amended to read as follows:*

25 “(E) *any credit union;*”.

1 (2) *FUTURES COMMISSION MERCHANT; COM-*
2 *MODITY TRADING ADVISOR; COMMODITY POOL OPER-*
3 *ATOR.*—Section 5312 of title 31, United States Code,
4 is amended by adding at the end the following new
5 subsection:

6 “(c) *ADDITIONAL DEFINITIONS.*—For purposes of this
7 subchapter, the following definitions shall apply:

8 “(1) *CERTAIN INSTITUTIONS INCLUDED IN DEFINI-*
9 *ITION.*—The term ‘financial institution’ (as defined
10 in subsection (a)) includes the following:

11 “(A) *Any futures commission merchant,*
12 *commodity trading advisor, or commodity pool*
13 *operator registered, or required to register, under*
14 *the Commodity Exchange Act.”.*

15 (3) *CFTC INCLUDED.*—For purposes of this Act
16 and any amendment made by this Act to any other
17 provision of law, the term “Federal functional regu-
18 lator” includes the Commodity Futures Trading Com-
19 mission.

20 (c) *CLERICAL AMENDMENT.*—The table of sections for
21 subchapter II of chapter 53 of title 31, United States Code,
22 is amended by inserting after the item relating to section
23 5318 the following new item:

 “5318A. *Special measures for jurisdictions, financial institutions, or international*
 transactions of primary money laundering concern.”.

1 **SEC. 302. SPECIAL DUE DILIGENCE FOR CORRESPONDENT**
2 **ACCOUNTS AND PRIVATE BANKING AC-**
3 **COUNTS.**

4 (a) *IN GENERAL.*—Section 5318 of title 31, United
5 States Code, is amended by inserting after subsection (i)
6 (as added by section 123 of this Act) the following new sub-
7 section:

8 “(j) *DUE DILIGENCE FOR UNITED STATES PRIVATE*
9 *BANKING AND CORRESPONDENT BANK ACCOUNTS INVOLV-*
10 *ING FOREIGN PERSONS.*—

11 “(1) *IN GENERAL.*—Each financial institution
12 that establishes, maintains, administers, or manages
13 a private banking account or a correspondent account
14 in the United States for a non-United States person,
15 including a foreign individual visiting the United
16 States, or a representative of a non-United States
17 person, shall establish appropriate, specific, and,
18 where necessary, enhanced due diligence policies, pro-
19 cedures, and controls to detect and report instances of
20 money laundering through those accounts.

21 “(2) *MINIMUM STANDARDS FOR CORRESPONDENT*
22 *ACCOUNTS.*—

23 “(A) *IN GENERAL.*—Subparagraph (B)
24 shall apply if a correspondent account is re-
25 quested or maintained by, or on behalf of, a for-
26 eign bank operating—

1 “(i) under an offshore banking license;

2 or

3 “(ii) under a banking license issued by
4 a foreign country that has been
5 designated—

6 “(I) as noncooperative with inter-
7 national anti-money laundering prin-
8 ciples or procedures by an intergovern-
9 mental group or organization of which
10 the United States is a member with
11 which designation the Secretary of the
12 Treasury concurs; or

13 “(II) by the Secretary as war-
14 ranting special measures due to money
15 laundering concerns.

16 “(B) *POLICIES, PROCEDURES, AND CON-*
17 *TROLS.—The enhanced due diligence policies,*
18 *procedures, and controls required under para-*
19 *graph (1) for foreign banks described in subpara-*
20 *graph (A) shall, at a minimum, ensure that the*
21 *financial institution in the United States takes*
22 *reasonable steps—*

23 “(i) to ascertain for any such foreign
24 bank, the shares of which are not publicly
25 traded, the identity of each of the owners of

1 *the foreign bank, and the nature and extent*
2 *of the ownership interest of each such*
3 *owner;*

4 “(ii) *to conduct enhanced scrutiny of*
5 *such account to guard against money laun-*
6 *dering and report any suspicious trans-*
7 *actions under section 5318(g); and*

8 “(iii) *to ascertain whether such foreign*
9 *bank provides correspondent accounts to*
10 *other foreign banks and, if so, the identity*
11 *of those foreign banks and related due dili-*
12 *gence information, as appropriate under*
13 *paragraph (1).*

14 “(3) *MINIMUM STANDARDS FOR PRIVATE BANK-*
15 *ING ACCOUNTS.—If a private banking account is re-*
16 *quested or maintained by, or on behalf of, a non-*
17 *United States person, then the due diligence policies,*
18 *procedures, and controls required under paragraph*
19 *(1) shall, at a minimum, ensure that the financial in-*
20 *stitution takes reasonable steps—*

21 “(A) *to ascertain the identity of the nomi-*
22 *nal and beneficial owners of, and the source of*
23 *funds deposited into, such account as needed to*
24 *guard against money laundering and report any*

1 *suspicious transactions under section 5318(g);*
2 *and*

3 “(B) *to conduct enhanced scrutiny of any*
4 *such account that is requested or maintained by,*
5 *or on behalf of, a senior foreign political figure,*
6 *or any immediate family member or close asso-*
7 *ciate of a senior foreign political figure, to pre-*
8 *vent, detect, and report transactions that may*
9 *involve the proceeds of foreign corruption.*

10 “(4) *DEFINITIONS.—For purposes of this sub-*
11 *section, the following definitions shall apply:*

12 “(A) *OFFSHORE BANKING LICENSE.—The*
13 *term ‘offshore banking license’ means a license to*
14 *conduct banking activities which, as a condition*
15 *of the license, prohibits the licensed entity from*
16 *conducting banking activities with the citizens*
17 *of, or with the local currency of, the country*
18 *which issued the license.*

19 “(B) *PRIVATE BANK ACCOUNT.—The term*
20 *‘private bank account’ means an account (or any*
21 *combination of accounts) that—*

22 “(i) *requires a minimum aggregate de-*
23 *posits of funds or other assets of not less*
24 *than \$1,000,000;*

1 “(ii) is established on behalf of 1 or
2 more individuals who have a direct or bene-
3 ficial ownership interest in the account; and

4 “(iii) is assigned to, or is administered
5 or managed by, in whole or in part, an offi-
6 cer, employee, or agent of a financial insti-
7 tution acting as a liaison between the fi-
8 nancial institution and the direct or bene-
9 ficial owner of the account.

10 “(5) *REGULATORY AUTHORITY.*—Before the end
11 of the 6-month period beginning on the date of the en-
12 actment of the *Financial Anti-Terrorism Act of 2001*,
13 the Secretary, in consultation with the appropriate
14 Federal functional regulators (as defined in section
15 509 of the *Gramm-Leach-Bliley Act*) shall further de-
16 fine and clarify, by regulation, the requirements of
17 this subsection.”.

18 (b) *EFFECTIVE DATE.*—The amendments made by this
19 section shall take effect beginning 180 days after the date
20 of the enactment of this Act with respect to accounts covered
21 by subsection (j) of section 5318 of title 31, United States
22 Code (as added by this section) that are opened before, on,
23 or after the date of the enactment of this Act.

1 **SEC. 303. PROHIBITION ON UNITED STATES COR-**
2 **RESPONDENT ACCOUNTS WITH FOREIGN**
3 **SHELL BANKS.**

4 *Section 5318 of title 31, United States Code, is amend-*
5 *ed by inserting after subsection (j) (as added by section 302*
6 *of this title) the following new subsection:*

7 *“(k) PROHIBITION ON UNITED STATES COR-*
8 *RESPONDENT ACCOUNTS WITH FOREIGN SHELL BANKS.—*

9 *“(1) IN GENERAL.—A depository institution*
10 *shall not establish, maintain, administer, or manage*
11 *a correspondent account in the United States for, or*
12 *on behalf of, a foreign bank that does not have a*
13 *physical presence in any country.*

14 *“(2) PREVENTION OF INDIRECT SERVICE TO FOR-*
15 *EIGN SHELL BANKS.—*

16 *“(A) IN GENERAL.—A depository institu-*
17 *tion shall take reasonable steps to ensure that*
18 *any correspondent account established, main-*
19 *tained, administered, or managed by that insti-*
20 *tution in the United States for a foreign bank is*
21 *not being used by that foreign bank to indirectly*
22 *provide banking services to another foreign bank*
23 *that does not have a physical presence in any*
24 *country.*

25 *“(B) REGULATIONS.—The Secretary shall,*
26 *in regulations, delineate reasonable steps nec-*

1 *essary for a depository institution to comply*
2 *with this subsection.*

3 “(3) *EXCEPTION.—Paragraphs (1) and (2) shall*
4 *not be construed as prohibiting a depository institu-*
5 *tion from providing a correspondent account to a for-*
6 *ign bank, if the foreign bank—*

7 “(A) *is an affiliate of a depository institu-*
8 *tion, credit union, or other foreign bank that*
9 *maintains a physical presence in the United*
10 *States or a foreign country, as applicable; and*

11 “(B) *is subject to supervision by a banking*
12 *authority in the country regulating the affiliated*
13 *depository institution, credit union, or foreign*
14 *bank, described in subparagraph (A), as applica-*
15 *ble.*

16 “(4) *DEFINITIONS.—For purposes of this section,*
17 *the following definitions shall apply:*

18 “(A) *AFFILIATE.—The term ‘affiliate’*
19 *means a foreign bank that is controlled by or is*
20 *under common control with a depository institu-*
21 *tion, credit union, or foreign bank.*

22 “(B) *DEPOSITORY INSTITUTION.—The ‘de-*
23 *pository institution’—*

1 “(i) has the meaning given such term
2 in section 3 of the Federal Deposit Insur-
3 ance Act; and

4 “(ii) includes a credit union.

5 “(C) *PHYSICAL PRESENCE.*—The term
6 ‘physical presence’ means a place of business
7 that—

8 “(i) is maintained by a foreign bank;

9 “(ii) is located at a fixed address
10 (other than solely an electronic address) in
11 a country in which the foreign bank is au-
12 thorized to conduct banking activities, at
13 which location the foreign bank—

14 “(I) employs 1 or more individ-
15 uals on a full-time basis; and

16 “(II) maintains operating records
17 related to its banking activities; and

18 “(iii) is subject to inspection by the
19 banking authority which licensed the for-
20 eign bank to conduct banking activities.”.

21 **SEC. 304. ANTI-MONEY LAUNDERING PROGRAMS.**

22 (a) *IN GENERAL.*—Section 5318(h) of title 31, United
23 States Code, is amended to read as follows:

24 “(h) *ANTI-MONEY LAUNDERING PROGRAMS.*—

1 “(1) *IN GENERAL.*—*In order to guard against*
2 *money laundering through financial institutions, each*
3 *financial institution shall establish anti-money laun-*
4 *dering programs, including, at a minimum—*

5 “(A) *the development of internal policies,*
6 *procedures, and controls;*

7 “(B) *the designation of an officer of the fi-*
8 *nancial institution responsible for compliance;*

9 “(C) *an ongoing employee training pro-*
10 *gram; and*

11 “(D) *an independent audit function to test*
12 *programs.*

13 “(2) *REGULATIONS.*—*The Secretary may, after*
14 *consultation with the appropriate Federal functional*
15 *regulators (as defined in section 509 of the Gramm-*
16 *Leach-Bliley Act), prescribe minimum standards for*
17 *programs established under paragraph (1), and may*
18 *exempt from the application of those standards any*
19 *financial institution that is not subject to the provi-*
20 *sions of the regulations contained in part 103 of title*
21 *31, of the Code of Federal Regulations, as in effect on*
22 *the date of the enactment of the Financial Anti-Ter-*
23 *rorism Act of 2001, or any successor to such regula-*
24 *tions, for so long as such financial institution is not*
25 *subject to the provisions of such regulations.”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
2 *section (a) shall take effect at the end of the 180-day period*
3 *beginning on the date of the enactment of this Act.*

4 (c) *DATE OF APPLICATION OF REGULATIONS; FACTORS*
5 *TO BE TAKEN INTO ACCOUNT.*—*Before the end of the 180-*
6 *day period beginning on the date of the enactment of this*
7 *Act, the Secretary of the Treasury shall prescribe regula-*
8 *tions to implement the amendment made by subsection (a).*
9 *In prescribing such regulations, the Secretary shall consider*
10 *the extent to which the requirements imposed under such*
11 *regulations are commensurate with the size, location, and*
12 *activities of the financial institutions to which such regula-*
13 *tions apply.*

14 **SEC. 305. CONCENTRATION ACCOUNTS AT FINANCIAL IN-**
15 **STITUTIONS.**

16 *Section 5318(h) of title 31, United States Code (as*
17 *amended by section 304) is amended by adding at the end*
18 *the following:*

19 “(3) *CONCENTRATION ACCOUNTS.*—*The Secretary*
20 *may prescribe regulations under this subsection that*
21 *govern maintenance of concentration accounts by fi-*
22 *nancial institutions, in order to ensure that such ac-*
23 *counts are not used to prevent association of the iden-*
24 *tity of an individual customer with the movement of*

1 *funds of which the customer is the direct or beneficial*
2 *owner, which regulations shall, at a minimum—*

3 *“(A) prohibit financial institutions from al-*
4 *lowing clients to direct transactions that move*
5 *their funds into, out of, or through the concentra-*
6 *tion accounts of the financial institution;*

7 *“(B) prohibit financial institutions and*
8 *their employees from informing customers of the*
9 *existence of, or the means of identifying, the con-*
10 *centration accounts of the institution; and*

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

20 **SEC. 306. INTERNATIONAL COOPERATION IN INVESTIGA-**
21 **TIONS OF MONEY LAUNDERING, FINANCIAL**
22 **CRIMES, AND THE FINANCES OF TERRORIST**
23 **GROUPS.**

24 *(a) NEGOTIATIONS.—*

1 (1) *IN GENERAL.*—*In addition to the require-*
2 *ments of section 4702 of the Anti-Drug Abuse Act of*
3 *1988, the Secretary of the Treasury (hereinafter in*
4 *this section referred to as the “Secretary”), in con-*
5 *sultation with the Attorney General, the Secretary of*
6 *State, and the Board of Governors of the Federal Re-*
7 *serve System, shall enter into negotiations with the*
8 *appropriate financial supervisory agencies and other*
9 *officials of any foreign country the financial institu-*
10 *tions of which do business with United States finan-*
11 *cial institutions or which may be utilized by any for-*
12 *eign terrorist organization (as designated under sec-*
13 *tion 219 of the Immigration and Nationality Act),*
14 *any person who is a member or representative of any*
15 *such organization, or any person engaged in money*
16 *laundering or financial or other crimes.*

17 (2) *PURPOSES OF NEGOTIATIONS.*—*In carrying*
18 *out negotiations under paragraph (1), the Secretary*
19 *shall seek to enter into and further cooperative efforts,*
20 *voluntary information exchanges, the use of letters*
21 *rogatory, mutual legal assistance treaties, and inter-*
22 *national agreements to—*

23 (A) *ensure that foreign banks and other fi-*
24 *nancial institutions maintain adequate records*
25 *of—*

1 (i) large United States currency trans-
2 actions; and

3 (ii) transaction and account informa-
4 tion relating to any foreign terrorist organi-
5 zation (as designated under section 219 of
6 the Immigration and Nationality Act), any
7 person who is a member or representative of
8 any such organization, or any person en-
9 gaged in money laundering or financial or
10 other crimes; and

11 (B) establish a mechanism whereby such
12 records may be made available to United States
13 law enforcement officials and domestic financial
14 institution supervisors, when appropriate.

15 (b) *REPORTS.*—

16 (1) *INTERIM REPORT.*—Not later than 1 year
17 after the date of the enactment of this Act, the Sec-
18 retary shall submit an interim report to the Congress
19 on progress in the negotiations under subsection (a).

20 (2) *FINAL REPORT.*—Not later than 2 years after
21 the date of the enactment of this Act, the Secretary
22 shall submit a final report to the President and the
23 Congress, on the outcome of negotiations under sub-
24 section (a).

1 (3) *IDENTIFICATION OF CERTAIN COUNTRIES.*—

2 *In the report submitted under paragraph (2), the Sec-*
3 *retary shall identify countries—*

4 (A) *with respect to which the Secretary de-*
5 *termines there is evidence that the financial in-*
6 *stitutions in such countries are being utilized,*
7 *knowingly or unwittingly, by any foreign ter-*
8 *rorist organization (as designated under section*
9 *219 of the Immigration and Nationality Act),*
10 *any person who is a member or representative of*
11 *any such organization, or any person engaged in*
12 *money laundering or financial or other crimes;*
13 *and*

14 (B) *which have not reached agreement with*
15 *United States authorities to meet the objectives of*
16 *subparagraphs (A) and (B) of subsection (a)(2).*

17 (c) *AUTHORITY FOR OTHER ACTION.*—

18 (1) *IN GENERAL.*—*If the President determines*
19 *that—*

20 (A) *a foreign country is described in sub-*
21 *paragraphs (A) and (B) of subsection (b)(3); and*

22 (B) *such country—*

23 (i) *is not negotiating in good faith to*
24 *reach an agreement described in subsection*
25 *(a)(2); or*

1 (ii) or a financial institution of such
2 country, has not complied with a request,
3 made by an official of the United States
4 Government authorized to make such re-
5 quest, for information regarding a foreign
6 terrorist organization (as designated under
7 section 219 of the Immigration and Nation-
8 ality Act), a person who is a member or
9 representative of any such organization, or
10 a person engaged in money laundering for
11 or with any such organization,

12 the President may impose appropriate penalties and
13 sanctions on such country and, except as provided in
14 paragraph (3), financial institutions of such country.

15 (2) *PENALTIES AND SANCTIONS.*—The penalties
16 and sanctions which may be imposed by the President
17 under paragraph (1) include temporarily or
18 permanently—

19 (A) prohibiting such persons, institutions,
20 or other entities as the President may designate
21 in any such country from participating in any
22 United States dollar clearing or wire transfer
23 system; and

24 (B) prohibiting such persons, institutions or
25 entities as the President may designate in such

1 *countries from maintaining an account with any*
2 *bank or other financial institution chartered*
3 *under the laws of the United States or any State.*

4 (3) *EXEMPTION FOR CERTAIN FINANCIAL INSTI-*
5 *TUTIONS.—Financial institutions that maintain ade-*
6 *quate records shall be exempt from such penalties and*
7 *sanctions.*

8 **SEC. 307. PROHIBITION ON ACCEPTANCE OF ANY BANK IN-**
9 **STRUMENT FOR UNLAWFUL INTERNET GAM-**
10 **BLING.**

11 (a) *IN GENERAL.—No person engaged in the business*
12 *of betting or wagering may knowingly accept, in connection*
13 *with the participation of another person in unlawful Inter-*
14 *net gambling—*

15 (1) *credit, or the proceeds of credit, extended to*
16 *or on behalf of such other person (including credit ex-*
17 *tended through the use of a credit card);*

18 (2) *an electronic fund transfer or funds trans-*
19 *mitted by or through a money transmitting business,*
20 *or the proceeds of an electronic fund transfer or*
21 *money transmitting service, from or on behalf of the*
22 *other person;*

23 (3) *any check, draft, or similar instrument*
24 *which is drawn by or on behalf of the other person*

1 *and is drawn on or payable at or through any finan-*
2 *cial institution; or*

3 *(4) the proceeds of any other form of financial*
4 *transaction as the Secretary may prescribe by regula-*
5 *tion which involves a financial institution as a payor*
6 *or financial intermediary on behalf of or for the ben-*
7 *efit of the other person.*

8 *(b) DEFINITIONS.—For purposes of this Act, the fol-*
9 *lowing definitions shall apply:*

10 *(1) BETS OR WAGERS.—The term “bets or*
11 *wagers”—*

12 *(A) means the staking or risking by any*
13 *person of something of value upon the outcome of*
14 *a contest of others, a sporting event, or a game*
15 *subject to chance, upon an agreement or under-*
16 *standing that the person or another person will*
17 *receive something of greater value than the*
18 *amount staked or risked in the event of a certain*
19 *outcome;*

20 *(B) includes the purchase of a chance or op-*
21 *portunity to win a lottery or other prize (which*
22 *opportunity to win is predominantly subject to*
23 *chance);*

24 *(C) includes any scheme of a type described*
25 *in section 3702 of title 28, United States Code;*

1 (D) includes any instructions or informa-
2 tion pertaining to the establishment or movement
3 of funds in an account by the bettor or customer
4 with the business of betting or wagering; and

5 (E) does not include—

6 (i) any activity governed by the securi-
7 ties laws (as that term is defined in section
8 3(a)(47) of the Securities Exchange Act of
9 1934) for the purchase or sale at a future
10 date of securities (as that term is defined in
11 section 3(a)(10) of such Act);

12 (ii) any transaction on or subject to
13 the rules of a contract market designated
14 pursuant to the Commodity Exchange Act;

15 (iii) any over-the-counter derivative
16 instrument;

17 (iv) any contract of indemnity or
18 guarantee;

19 (v) any contract for insurance;

20 (vi) any deposit or other transaction
21 with a depository institution (as defined in
22 section 3(c) of the Federal Deposit Insur-
23 ance Act);

1 (vii) any participation in a simula-
2 tion sports game or an educational game or
3 contest that—

4 (I) is not dependent solely on the
5 outcome of any single sporting event or
6 nonparticipant's singular individual
7 performance in any single sporting
8 event;

9 (II) has an outcome that reflects
10 the relative knowledge and skill of the
11 participants with such outcome deter-
12 mined predominantly by accumulated
13 statistical results of sporting events;
14 and

15 (III) offers a prize or award to a
16 participant that is established in ad-
17 vance of the game or contest and is not
18 determined by the number of partici-
19 pants or the amount of any fees paid
20 by those participants; and

21 (viii) any transaction with a business
22 licensed by a State.

23 (2) *BUSINESS OF BETTING OR WAGERING.*—The
24 term “business of betting or wagering” does not in-
25 clude, other than for purposes of subsection (e), any

1 creditor, credit card issuer, insured depository insti-
2 tution, financial institution, operator of a terminal
3 at which an electronic fund transfer may be initiated,
4 money transmitting business, or international, na-
5 tional, regional, or local network utilized to effect a
6 credit transaction, electronic fund transfer, stored
7 value product transaction, or money transmitting
8 service, or any participant in such network.

9 (3) *INTERNET*.—The term “Internet” means the
10 international computer network of interoperable pack-
11 et switched data networks.

12 (4) *UNLAWFUL INTERNET GAMBLING*.—The term
13 “unlawful Internet gambling” means to place, receive,
14 or otherwise transmit a bet or wager by any means
15 which involves the use, at least in part, of the Inter-
16 net where such bet or wager is unlawful under any
17 applicable Federal or State law in the State in which
18 the bet or wager is initiated, received, or otherwise
19 made.

20 (5) *OTHER TERMS*.—

21 (A) *CREDIT; CREDITOR; AND CREDIT*
22 *CARD*.—The terms “credit”, “creditor”, and
23 “credit card” have the meanings given such
24 terms in section 103 of the Truth in Lending
25 Act.

1 (B) *ELECTRONIC FUND TRANSFER.*—*The*
2 *term “electronic fund transfer”*—

3 (i) *has the meaning given such term in*
4 *section 903 of the Electronic Fund Transfer*
5 *Act; and*

6 (ii) *includes any fund transfer covered*
7 *by Article 4A of the Uniform Commercial*
8 *Code, as in effect in any State.*

9 (C) *FINANCIAL INSTITUTION.*—*The term “fi-*
10 *nancial institution” has the meaning given such*
11 *term in section 903 of the Electronic Fund*
12 *Transfer Act.*

13 (D) *MONEY TRANSMITTING BUSINESS AND*
14 *MONEY TRANSMITTING SERVICE.*—*The terms*
15 *“money transmitting business” and “money*
16 *transmitting service” have the meanings given*
17 *such terms in section 5330(d) of title 31, United*
18 *States Code.*

19 (E) *SECRETARY.*—*The term “Secretary”*
20 *means the Secretary of the Treasury.*

21 (c) *CIVIL REMEDIES.*—

22 (1) *JURISDICTION.*—*The district courts of the*
23 *United States shall have original and exclusive juris-*
24 *isdiction to prevent and restrain violations of this sec-*
25 *tion by issuing appropriate orders in accordance with*

1 *this section, regardless of whether a prosecution has*
2 *been initiated under this section.*

3 (2) *PROCEEDINGS.—*

4 (A) *INSTITUTION BY FEDERAL GOVERN-*
5 *MENT.—*

6 (i) *IN GENERAL.—The United States,*
7 *acting through the Attorney General, may*
8 *institute proceedings under this subsection*
9 *to prevent or restrain a violation of this sec-*
10 *tion.*

11 (ii) *RELIEF.—Upon application of the*
12 *United States under this subparagraph, the*
13 *district court may enter a preliminary in-*
14 *junction or an injunction against any per-*
15 *son to prevent or restrain a violation of this*
16 *section, in accordance with Rule 65 of the*
17 *Federal Rules of Civil Procedure.*

18 (B) *INSTITUTION BY STATE ATTORNEY GEN-*
19 *ERAL.—*

20 (i) *IN GENERAL.—The attorney general*
21 *of a State (or other appropriate State offi-*
22 *cial) in which a violation of this section al-*
23 *legedly has occurred or will occur may in-*
24 *stitute proceedings under this subsection to*
25 *prevent or restrain the violation.*

1 (ii) *RELIEF.*—Upon application of the
2 attorney general (or other appropriate State
3 official) of an affected State under this sub-
4 paragraph, the district court may enter a
5 preliminary injunction or an injunction
6 against any person to prevent or restrain a
7 violation of this section, in accordance with
8 Rule 65 of the Federal Rules of Civil Proce-
9 dure.

10 (C) *INDIAN LANDS.*—

11 (i) *IN GENERAL.*—Notwithstanding
12 subparagraphs (A) and (B), for a violation
13 that is alleged to have occurred, or may
14 occur, on Indian lands (as that term is de-
15 fined in section 4 of the Indian Gaming
16 Regulatory Act)—

17 (I) the United States shall have
18 the enforcement authority provided
19 under subparagraph (A);

20 (II) the enforcement authorities
21 specified in an applicable Tribal-State
22 compact negotiated under section 11 of
23 the Indian Gaming Regulatory Act
24 shall be carried out in accordance with
25 that compact; and

1 *(III) class III Internet gaming ac-*
2 *tivities shall be lawful only if such ac-*
3 *tivities are—*

4 *(aa) located in a State that*
5 *permits Internet gambling;*

6 *(bb) conducted in conform-*
7 *ance with a tribal-State compact*
8 *pursuant to section 11(d)(3) of the*
9 *Indian Gaming Regulatory Act;*
10 *and*

11 *(cc) the person placing or*
12 *transmitting the wager or bet is*
13 *located in a jurisdiction that per-*
14 *mits Internet gambling.*

15 *(ii) RULE OF CONSTRUCTION.—No pro-*
16 *vision of this section shall be construed as*
17 *altering, superseding, or otherwise affecting*
18 *the application of the Indian Gaming Regu-*
19 *latory Act.*

20 *(D) BANKING REGULATORS.—Before initi-*
21 *ating any proceeding under this paragraph with*
22 *respect to a violation or potential violation of*
23 *subsection (e) by an insured depository institu-*
24 *tion (as defined in section 3 of the Federal De-*
25 *posit Insurance Act), the Attorney General of the*

1 *United States or an attorney general of a State*
2 *(or other appropriate State official) shall—*

3 *(i) notify the appropriate Federal*
4 *banking agency (as defined in such section)*
5 *of such violation or potential violation; and*

6 *(ii) allow such agency a reasonable*
7 *time to issue an order to such insured de-*
8 *pository institution under section 8(x) of*
9 *the Federal Deposit Insurance Act.*

10 (3) *EXPEDITED PROCEEDINGS.*—*In addition to*
11 *any proceeding under paragraph (2), a district court*
12 *may, in exigent circumstances, enter a temporary re-*
13 *straining order against a person alleged to be in vio-*
14 *lation of this section upon application of the United*
15 *States under paragraph (2)(A), or the attorney gen-*
16 *eral (or other appropriate State official) of an af-*
17 *fected State under paragraph (2)(B), in accordance*
18 *with Rule 65(b) of the Federal Rules of Civil Proce-*
19 *dure.*

20 (4) *LIMITATION.*—*No provision of this section*
21 *shall be construed as authorizing an injunction*
22 *against an interactive computer service (as defined in*
23 *section 230(f) of the Communications Act of 1934)*
24 *unless such interactive computer service is acting in*
25 *concert or participation with a person who violates*

1 *this section and such service receives actual notice of*
2 *the order.*

3 *(d) CRIMINAL PENALTY.—*

4 *(1) IN GENERAL.—Whoever violates this section*
5 *shall be fined under title 18, United States Code, or*
6 *imprisoned for not more than 5 years, or both.*

7 *(2) PERMANENT INJUNCTION.—Upon conviction*
8 *of a person under this subsection, the court may enter*
9 *a permanent injunction enjoining such person from*
10 *placing, receiving, or otherwise making bets or wagers*
11 *or sending, receiving, or inviting information assist-*
12 *ing in the placing of bets or wagers.*

13 *(e) CIRCUMVENTIONS PROHIBITED.—Notwithstanding*
14 *subsection (b)(2), a creditor, credit card issuer, financial*
15 *institution, operator of a terminal at which an electronic*
16 *fund transfer may be initiated, money transmitting busi-*
17 *ness, or international, national, regional, or local network*
18 *utilized to effect a credit transaction, electronic fund trans-*
19 *fer, or money transmitting service, or any participant in*
20 *such network, may be liable under this section if such cred-*
21 *itor, issuer, institution, operator, business, network, or par-*
22 *ticipant has actual knowledge and control of bets and*
23 *wagers—*

24 *(1) operates, manages, supervises, or directs an*
25 *Internet website at which unlawful bets or wagers*

1 *may be placed, received, or otherwise made or at*
2 *which unlawful bets or wagers are offered to be*
3 *placed, received, or otherwise made; or*

4 *(2) owns or controls, or is owned or controlled*
5 *by, any person who operates, manages, supervises, or*
6 *directs an Internet website at which unlawful bets or*
7 *wagers may be placed, received, or otherwise made or*
8 *at which unlawful bets or wagers are offered to be*
9 *placed, received, or otherwise made.*

10 *(f) ENFORCEMENT ACTIONS.—Section 8 of the Federal*
11 *Deposit Insurance Act (12 U.S.C. 1818) is amended by add-*
12 *ing at the end the following new subsection:*

13 *“(x) DEPOSITORY INSTITUTION INVOLVEMENT IN*
14 *INTERNET GAMBLING.—If any appropriate Federal bank-*
15 *ing agency determines that any insured depository institu-*
16 *tion is engaged in any of the following activities, the agency*
17 *may issue an order to such institution prohibiting such in-*
18 *stitution from continuing to engage in any of the following*
19 *activities:*

20 *“(1) Extending credit, or facilitating an exten-*
21 *sion of credit, electronic fund transfer, or money*
22 *transmitting service with the actual knowledge that*
23 *any person is violating section 3(a) of the Unlawful*
24 *Internet Gambling Funding Prohibition Act in con-*

1 *nection with such extension of credit, electronic fund*
2 *transfer, or money transmitting service.*

3 *“(2) Paying, transferring, or collecting on any*
4 *check, draft, or other instrument drawn on any depos-*
5 *itory institution with the actual knowledge that any*
6 *person is violating section 3(a) of the Unlawful Inter-*
7 *net Gambling Funding Prohibition Act in connection*
8 *with such check, draft, or other instrument.”.*

9 **SEC. 308. INTERNET GAMBLING IN OR THROUGH FOREIGN**
10 **JURISDICTIONS.**

11 *(a) IN GENERAL.—In deliberations between the United*
12 *States Government and any other country on money laun-*
13 *dering, corruption, and crime issues, the United States Gov-*
14 *ernment should—*

15 *(1) encourage cooperation by foreign govern-*
16 *ments and relevant international fora in identifying*
17 *whether Internet gambling operations are being used*
18 *for money laundering, corruption, or other crimes;*

19 *(2) advance policies that promote the cooperation*
20 *of foreign governments, through information sharing*
21 *or other measures, in the enforcement of this Act; and*

22 *(3) encourage the Financial Action Task Force*
23 *on Money Laundering, in its annual report on money*
24 *laundering typologies, to study the extent to which*

1 *Internet gambling operations are being used for*
2 *money laundering.*

3 *(b) REPORT REQUIRED.—The Secretary of the Treas-*
4 *ury shall submit an annual report to the Congress on the*
5 *deliberations between the United States and other countries*
6 *on issues relating to Internet gambling.*

7 **TITLE IV—CURRENCY**
8 **PROTECTION**

9 **SEC. 401. COUNTERFEITING DOMESTIC CURRENCY AND OB-**
10 **LIGATIONS.**

11 *(a) COUNTERFEIT ACTS COMMITTED OUTSIDE THE*
12 *UNITED STATES.—Section 470 of title 18, United States*
13 *Code, is amended—*

14 *(1) in paragraph (2), by inserting “analog, dig-*
15 *ital, or electronic image,” after “plate, stone,”; and*

16 *(2) by striking “shall be fined under this title,*
17 *imprisoned not more than 20 years, or both” and in-*
18 *serting “shall be punished as is provided for the like*
19 *offense within the United States”.*

20 *(b) OBLIGATIONS OR SECURITIES OF THE UNITED*
21 *STATES.—Section 471 of title 18, United States Code, is*
22 *amended by striking “fifteen years” and inserting “20*
23 *years”.*

24 *(c) UTTERING COUNTERFEIT OBLIGATIONS OR SECU-*
25 *RITIES.—Section 472 of title 18, United States Code, is*

1 amended by striking “fifteen years” and inserting “20
2 years”.

3 (d) *DEALING IN COUNTERFEIT OBLIGATIONS OR SE-*
4 *CURITIES.*—Section 473 of title 18, United States Code, is
5 amended by striking “ten years” and inserting “20 years”.

6 (e) *PLATES, STONES, OR ANALOG, DIGITAL, OR ELEC-*
7 *TRONIC IMAGES FOR COUNTERFEITING OBLIGATIONS OR*
8 *SECURITIES.*—

9 (1) *IN GENERAL.*—Section 474(a) of title 18,
10 United States Code, is amended by inserting after the
11 second paragraph the following new paragraph:

12 “Whoever, with intent to defraud, makes, executes, ac-
13 quires, scans, captures, records, receives, transmits, repro-
14 duces, sells, or has in such person’s control, custody, or pos-
15 session, an analog, digital, or electronic image of any obli-
16 gation or other security of the United States; or”.

17 (2) *AMENDMENT TO DEFINITION.*—Section
18 474(b) of title 18, United States Code, is amended by
19 striking the first sentence and inserting the following
20 new sentence: “For purposes of this section, the term
21 ‘analog, digital, or electronic image’ includes any
22 analog, digital, or electronic method used for the mak-
23 ing, execution, acquisition, scanning, capturing, re-
24 cording, retrieval, transmission, or reproduction of

1 *any obligation or security, unless such use is author-*
2 *ized by the Secretary of the Treasury.”.*

3 (3) *TECHNICAL AND CONFORMING AMEND-*
4 *MENT.—The heading for section 474 of title 18,*
5 *United States Code, is amended by striking “or*
6 ***stones****” and inserting “,* ***stones, or analog,***
7 ***digital, or electronic images****”.*

8 (4) *CLERICAL AMENDMENT.—The table of sec-*
9 *tions for chapter 25 of title 18, United States Code,*
10 *is amended in the item relating to section 474 by*
11 *striking “or stones” and inserting “, stones, or ana-*
12 *log, digital, or electronic images”.*

13 (f) *TAKING IMPRESSIONS OF TOOLS USED FOR OBLI-*
14 *GATIONS OR SECURITIES.—Section 476 of title 18, United*
15 *States Code, is amended—*

16 (1) *by inserting “analog, digital, or electronic*
17 *image,” after “impression, stamp,”; and*

18 (2) *by striking “ten years” and inserting “25*
19 *years”.*

20 (g) *POSSESSING OR SELLING IMPRESSIONS OF TOOLS*
21 *USED FOR OBLIGATIONS OR SECURITIES.—Section 477 of*
22 *title 18, United States Code, is amended—*

23 (1) *in the first paragraph, by inserting “analog,*
24 *digital, or electronic image,” after “imprint, stamp,”;*

1 (2) *in the second paragraph, by inserting “ana-*
 2 *log, digital, or electronic image,” after “imprint,*
 3 *stamp,”; and*

4 (3) *in the third paragraph, by striking “ten*
 5 *years” and inserting “25 years”.*

6 (h) *CONNECTING PARTS OF DIFFERENT NOTES.—Sec-*
 7 *tion 484 of title 18, United States Code, is amended by*
 8 *striking “five years” and inserting “10 years”.*

9 (i) *BONDS AND OBLIGATIONS OF CERTAIN LENDING*
 10 *AGENCIES.—The first and second paragraphs of section 493*
 11 *of title 18, United States Code, are each amended by strik-*
 12 *ing “five years” and inserting “10 years”.*

13 **SEC. 402. COUNTERFEITING FOREIGN CURRENCY AND OB-**
 14 **LIGATIONS.**

15 (a) *FOREIGN OBLIGATIONS OR SECURITIES.—Section*
 16 *478 of title 18, United States Code, is amended by striking*
 17 *“five years” and inserting “20 years”.*

18 (b) *UTTERING COUNTERFEIT FOREIGN OBLIGATIONS*
 19 *OR SECURITIES.—Section 479 of title 18, United States*
 20 *Code, is amended by striking “three years” and inserting*
 21 *“20 years”.*

22 (c) *POSSESSING COUNTERFEIT FOREIGN OBLIGATIONS*
 23 *OR SECURITIES.—Section 480 of title 18, United States*
 24 *Code, is amended by striking “one year” and inserting “20*
 25 *years”.*

1 (d) *PLATES, STONES, OR ANALOG, DIGITAL, OR ELEC-*
2 *TRONIC IMAGES FOR COUNTERFEITING FOREIGN OBLIGA-*
3 *TIONS OR SECURITIES.—*

4 (1) *IN GENERAL.—*Section 481 of title 18,
5 *United States Code, is amended by inserting after the*
6 *second paragraph the following new paragraph:*

7 “Whoever, with intent to defraud, makes, executes, ac-
8 *quires, scans, captures, records, receives, transmits, repro-*
9 *duces, sells, or has in such person’s control, custody, or pos-*
10 *session, an analog, digital, or electronic image of any bond,*
11 *certificate, obligation, or other security of any foreign gov-*
12 *ernment, or of any treasury note, bill, or promise to pay,*
13 *lawfully issued by such foreign government and intended*
14 *to circulate as money; or”.*

15 (2) *INCREASED SENTENCE.—*The last paragraph
16 *of section 481 of title 18, United States Code, is*
17 *amended by striking “five years” and inserting “25*
18 *years”.*

19 (3) *TECHNICAL AND CONFORMING AMEND-*
20 *MENT.—*The heading for section 481 of title 18,
21 *United States Code, is amended by striking “or*
22 *stones” and inserting “, stones, or analog,*
23 *digital, or electronic images”.*

24 (4) *CLERICAL AMENDMENT.—*The table of sec-
25 *tions for chapter 25 of title 18, United States Code,*

1 *is amended in the item relating to section 481 by*
 2 *striking “or stones” and inserting “, stones, or ana-*
 3 *log, digital, or electronic images”.*

4 *(e) FOREIGN BANK NOTES.—Section 482 of title 18,*
 5 *United States Code, is amended by striking “two years”*
 6 *and inserting “20 years”.*

7 *(f) UTTERING COUNTERFEIT FOREIGN BANK*
 8 *NOTES.—Section 483 of title 18, United States Code, is*
 9 *amended by striking “one year” and inserting “20 years”.*

10 **SEC. 403. PRODUCTION OF DOCUMENTS.**

11 *Section 5114(a) of title 31, United States Code (relat-*
 12 *ing to engraving and printing currency and security docu-*
 13 *ments), is amended—*

14 *(1) by striking “(a) The Secretary of the Treas-*
 15 *ury” and inserting:*

16 *“(a) AUTHORITY TO ENGRAVE AND PRINT.—*

17 *“(1) IN GENERAL.—The Secretary of the Treas-*
 18 *ury”;* *and*

19 *(2) by adding at the end the following new para-*
 20 *graph:*

21 *“(2) ENGRAVING AND PRINTING FOR OTHER GOV-*
 22 *ERNMENTS.—The Secretary of the Treasury may, if*
 23 *the Secretary determines that it will not interfere*
 24 *with engraving and printing needs of the United*
 25 *States, produce currency, postage stamps, and other*

1 *security documents for foreign governments, subject to*
2 *a determination by the Secretary of State that such*
3 *production would be consistent with the foreign policy*
4 *of the United States.”.*

5 **SEC. 404. REIMBURSEMENT.**

6 *Section 5143 of title 31, United States Code (relating*
7 *to payment for services of the Bureau of Engraving and*
8 *Printing), is amended—*

9 *(1) in the first sentence, by inserting “, any for-*
10 *ign government, or any territory of the United*
11 *States” after “agency”;*

12 *(2) in the second sentence, by inserting “and*
13 *other” after “administrative”; and*

14 *(3) in the last sentence, by inserting “, foreign*
15 *government, or territory of the United States” after*
16 *“agency”.*

Union Calendar No. 151

107TH CONGRESS
1ST SESSION

H. R. 3004

[Report No. 107-250, Part I]

A BILL

To combat the financing of terrorism and other
financial crimes, and for other purposes.

OCTOBER 17, 2001

Reported from the Committee on Financial Services with
an amendment

OCTOBER 17, 2001

Referral to the Committees on the Judiciary and Ways
and Means extended for a period ending not later than
October 17, 2001

OCTOBER 17, 2001

Committees on the Judiciary and Ways and Means dis-
charged; committed to the Committee of the Whole
House on the State of the Union, and ordered to be
printed