II

117TH CONGRESS
2D SESSION

S. 3697

To improve the prohibitions on money laundering, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 2022

Mr. GRASSLEY (for himself, Mr. WHITEHOUSE, Mr. CORNYN, Ms. KLOBUCHAR, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To improve the prohibitions on money laundering, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Combating Money Laundering, Terrorist Financing, and Counterfeiting Act of 2022".

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

SEC. 2. TRANSPORTATION OR TRANSHIPMENT OF BLANK CHECKS IN BEARER FORM.

Section 5316 of title 31, United States Code, is amended by adding at the end the following:

"(e) MONETARY INSTRUMENTS WITH AMOUNT LEFT BLANK.—For purposes of this section, a monetary instrument in bearer form that has the amount left blank, such that the amount could be filled in by the bearer, and that is possessed by the bearer for the purpose of avoiding a reporting requirement, shall be considered to have a value of more than $10,000 if the instrument was drawn on an account that contained, or was intended to contain more than $10,000 at the time—

"(1) the instrument was transported; or

"(2) the instrument was negotiated or was intended to be negotiated.".

SEC. 3. BULK CASH SMUGGLING.

Section 5332(b) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking “5 years” and inserting “10 years”;

(2) by redesignating paragraphs (2), (3), and (4), as paragraphs (3), (4), and (5), respectively;

(3) by inserting after paragraph (1) the following:

“(2) FINE.—

“(A) IN GENERAL.—Whoever violates this section shall be fined under title 18.

“(B) ENHANCED FINE FOR AGGRAVATED CASES.—Whoever violates this section while violating another law of the United States, other than section 5316 or 5324(c) of this title, or as a part of a pattern of any unlawful activity, including a violation of section 5316 or 5324(c) of this title, shall be fined double the amount provided in subsection (b)(3) or (c)(3) (as applicable) of section 3571 of title 18.”; and

(4) in paragraph (5), as redesignated, by striking “paragraph (2)” and inserting “paragraph (3)”.

SEC. 4. SECTION 1957 VIOLATIONS INVOLVING COMMINGLED FUNDS AND AGGREGATED TRANSACTIONS.

Section 1957 of title 18, United States Code, is amended by adding at the end the following:

"(g) In a prosecution for an offense under this section, the Government may satisfy the $10,000 monetary transaction value requirement under subsection (a) by showing that—

"(1) the monetary transaction involved the transfer, withdrawal, encumbrance, or other disposition of more than $10,000 from an account in which more than $10,000 in proceeds of specified unlawful activity was commingled with other funds; or

"(2) the defendant conducted a series of monetary transactions in amounts of not more than $10,000 that—

"(A) exceeded $10,000 in the aggregate; and

"(B) were closely related to each other as demonstrated by factors such as—

"(i) the time period between the transactions;

"(ii) the identity of the parties involved;

"(iii) the nature or purpose of the transactions; and

"(iv) the manner in which the transactions were conducted.".

SEC. 5. CHARGING MONEY LAUNDERING AS A COURSE OF CONDUCT.

Section 1956 of title 18, United States Code, is amended—

(1) in subsection (h), by striking "or section 1957" and inserting ", section 1957, or section 1960"; and

(2) by adding at the end the following:

"(j) MULTIPLE VIOLATIONS.—Multiple violations of this section that are part of the same scheme or continuing course of conduct may be charged, at the election of the Government, in a single count in an indictment or information.".

SEC. 6. ILLEGAL MONEY SERVICES BUSINESSES.

(a) IN GENERAL.—Section 1960 of title 18, United States Code, is amended by striking subsections (a) and (b) and inserting the following:

"(a) OFFENSE.—Whoever knowingly conducts, controls, manages, supervises, directs, or owns all or part of a covered money services business that—

"(1) is operated without an appropriate license in a State where such operation is punishable as a misdemeanor or a felony under State law, whether or not the person knows that the operation is required to be licensed or that the operation is so punishable;

“(2) fails to comply with the money services business registration requirements under section 5330 of title 31, or regulations prescribed under that section, whether or not the person knows that the operation is required to comply with those registration requirements; or

“(3) otherwise engages in a transaction involving funds that the person knows have been derived from a criminal offense or are intended to be used to promote or support unlawful activity,

shall be punished as provided in subsection (b).

“(b) CRIMINAL PENALTY.—Any person who violates—

“(1) subsection (a) shall be fined in accordance with this title, imprisoned for not more than 5 years, or both; and

“(2) subsection (a) by conducting, controlling, managing, supervising, directing, or owning all or part of a covered money services business that engaged in activity as a covered money services business involving more than $1,000,000 during a 12-month period, or by engaging in a transaction or transactions involving more than $1,000,000 during a 12-month period, shall be fined double the amount provided in subsection (b)(3) or (c)(3) (as applicable) of section 3571, imprisoned for not more than 10 years, or both.

"(c) DEFINITIONS.—In this section—

"(1) the term 'covered money services business' means a money services business that—

"(A) operates on behalf of the public; and

"(B) affects interstate or foreign commerce in any manner or degree;

"(2) the term 'money services business'—

"(A) has the meaning given the term in section 5330 of title 31 and any regulations prescribed under that section; and

"(B) includes a person that engages in the transfer, transportation, or exchange of currency, funds, or value that substitutes for currency by any and all means, even when not performed for profit; and

"(3) the term 'State' means any State of the United States, the District of Columbia, the Northern Mariana Islands, and any commonwealth, territory, or possession of the United States.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 1960 OF TITLE 18, UNITED STATES CODE.—

(A) SECTION HEADING.—Section 1960 of title 18, United States Code, is amended in the section heading—

(i) by striking "**unlicensed**" and inserting "**illegal**"; and

(ii) by striking "**transmitting**" and inserting "**services**".

(B) TABLE OF SECTIONS.—The table of sections for chapter 95 of title 18, United States Code, is amended by striking the item relating to section 1960 and inserting the following:

"1960. Prohibition of illegal money services businesses.".

(2) SECTION 5330 OF TITLE 31, UNITED STATES CODE.—

(A) HEADINGS.—Section 5330 of title 31, United States Code, is amended—

(i) in the section heading, by striking "**transmitting**" and inserting "**services**";

(ii) in subsection (c)—

(I) in the subsection heading, by striking "TRANSMITTING" and inserting "SERVICES";

(II) in paragraph (1), in the paragraph heading, by striking

"TRANSMITTING" and inserting "SERVICES"; and

(III) in paragraph (2), in the paragraph heading, by striking "TRANSMITTING" and inserting "SERVICES"; and

(iii) in subsection (d)(1), in the paragraph heading, by striking "TRANSMITTING" and inserting "SERVICES".

(B) TEXT.—Section 5330 of title 31, United States Code, is amended—

(i) by striking "money transmitting business" each place that term appears and inserting "money services business"; and

(ii) in subsection (a)(3), by striking "money transmitting businesses" and inserting "a money services business".

(C) TABLE OF SECTIONS.—The table of sections for subchapter II of chapter 53 of title 31, United States Code, is amended by striking the item relating to section 5330 and inserting the following:

"5330. Registration of money services businesses.".

SEC. 7. PROHIBITING MONEY LAUNDERING THROUGH HAWALAS, OTHER INFORMAL VALUE TRANSFER SYSTEMS, AND CLOSELY RELATED TRANSACTIONS.

The matter following section 1956(a)(1)(B)(ii) of title 18, United States Code, is amended by striking ‘‘For purposes of this paragraph, a financial transaction’’ and inserting ‘‘For purposes of this paragraph and section 1957, a financial transaction or a monetary transaction, as applicable,’’.

SEC. 8. TECHNICAL AMENDMENT TO RESTORE WIRETAP AUTHORITY FOR CERTAIN MONEY LAUNDERING AND COUNTERFEITING OFFENSES.

(a) CURRENCY REPORTING OFFENSES.—Section 2516(1)(g) of title 18, United States Code, is amended by striking ‘‘or section 5324 of title 31, United States Code (relating to structuring transactions to evade reporting requirement prohibited)’’ and inserting ‘‘or section 5324 or 5332 of that title (relating to evasion of Federal transaction reporting requirements)’’.

(b) MONEY LAUNDERING.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting ‘‘section 1960 (relating to illegal money services businesses),’’ before ‘‘section 659’’.

(c) COUNTERFEITING.—Section 2516(1)(d) of title 18, United States Code, is amended by striking "or 473" and inserting "473, 474, or 474A".

SEC. 9. MAKING THE INTERNATIONAL MONEY LAUNDERING STATUTE APPLY TO TAX EVASION.

Section 1956(a)(2)(A) of title 18, United States Code, is amended—

(1) by inserting "(i)" before "with the intent to promote"; and

(2) by adding at the end the following:

"(ii) with the intent to engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or".

SEC. 10. CONDUCT IN AID OF COUNTERFEITING.

(a) IN GENERAL.—Section 474(a) of title 18, United States Code, is amended by inserting after the paragraph beginning "Whoever has in his control, custody, or possession any plate" the following:

"Whoever, with intent to defraud, has custody, control, or possession of any material, tool, machinery, or other equipment that can be used to make, alter, forge, or counterfeit any obligation or other security of the United States or any part of such obligation or security, except under the authority of the Secretary of the Treasury; or".

(b) FOREIGN OBLIGATIONS AND SECURITIES.—Section 481 of title 18, United States Code, is amended by inserting after the paragraph beginning "Whoever, with intent to defraud" the following:

"Whoever, with intent to defraud, has custody, control, or possession of any material, tool, machinery, or other equipment that can be used to make, alter, forge, or counterfeit any obligation or other security of any foreign government, bank, or corporation; or".

(c) COUNTERFEIT ACTS.—Section 470 of title 18, United States Code, is amended by striking "or 474" and inserting "474, or 474A".

(d) STRENGTHENING DETERRENTS TO COUNTERFEITING.—Section 474A of title 18, United States Code, is amended—

(1) in subsection (a), by inserting ", custody," after "control";

(2) in subsection (b)—

(A) by inserting ", custody," after "control"; and

(B) by striking "any essentially identical feature or device adapted to the making of any such obligation or security," and inserting "any material or other thing made after or in similitude of any such deterrent,"; and

(3) by adding at the end the following:

"(d) Whoever has in his control, custody, or possession any obligation or security of the United States or any foreign government from which the ink or other distinctive counterfeit deterrent has been completely or partially removed, except under the authority of the Secretary of the Treasury, is guilty of a class B felony.".

SEC. 11. DANGER PAY ALLOWANCE.

Section 151 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (5 U.S.C. 5928 note) is amended by striking "or the United States Marshals Service" and inserting "the United States Marshals Service, U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, or the United States Secret Service".

SEC. 12. CLARIFICATION OF SECRET SERVICE AUTHORITY TO INVESTIGATE MONEY LAUNDERING.

Section 3056(b)(3) of title 18, United States Code, is amended—

(1) by inserting "money laundering, structured transactions, unlicensed money transmitting," after "documents or devices,"; and

(2) by striking "federally insured".

SEC. 13. REMITTANCES AND MONEY LAUNDERING THREAT ANALYSIS.

(a) DEFINITIONS.—In this section—

(1) the term "appropriate congressional committees" means—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate;

(C) the Caucus on International Narcotics Control of the Senate;

(D) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(E) the Committee on the Judiciary of the House of Representatives;

(F) the Committee on Homeland Security of the House of Representatives; and

(G) the Committee on Financial Services of the House of Representatives;

(2) the term "drug kingpins, crime syndicates, and other persons", with respect to the use of remittances to finance terrorism, narcotics trafficking, human trafficking, money laundering, and other forms of illicit financing, domestically or internationally, means any persons who—

(A) are connected to individuals and organizations associated with financing terrorism, narcotics trafficking, human trafficking, money laundering, and other forms of illicit financing, domestically or internationally; and

(B) have been designated as—

(i) a significant foreign narcotics trafficker under the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901 et seq.);

(ii) a significant transnational criminal organization under Executive Order 13581 (76 Fed. Reg. 44757, 84 Fed. Reg. 10255; relating to blocking property of transnational criminal organizations); or

(iii) a Specially Designated Global Terrorist under Executive Order 13224 (66 Fed. Reg. 49079, 67 Fed. Reg. 44751, 68 Fed. Reg. 4075, 70 Fed. Reg. 8499; relating to blocking property and prohibiting transactions with persons who commit, threaten to commit, or support terrorism);

(3) the term ''human trafficking'' has the meaning given the term ''severe forms of trafficking

in persons'' in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102);

(4) the term ''money services business'' has the meaning given the term in section 5330 of title 31, United States Code, as amended by section 6(b)(2); and

(5) the term ''money transmitting service'' has the meaning given the term in section 5330 of title 31, United States Code.

(b) ANALYSIS.—

(1) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Attorney General, the Secretary of Homeland Security, and the head of any other appropriate Federal law enforcement agency, shall submit to the appropriate congressional committees a threat and operational analysis of the use of remittances by drug kingpins, crime syndicates, and other persons to finance terrorism, narcotics trafficking, human trafficking, money laundering, and other forms of illicit financing, domestically or internationally.

(2) CONTENTS.—The Secretary of the Treasury shall include in the threat and operational analysis required under paragraph (1) the following:

(A) Current and potential threats posed by individuals and organized groups seeking—

(i) to exploit security vulnerabilities with respect to remittances and money transmitting services; or

(ii) to unlawfully use remittances to finance terrorism, narcotics trafficking, human trafficking, money laundering, or other forms of illicit financing, domestically or internationally.

(B) Methods and pathways used to exploit security vulnerabilities.

(C) Challenges presented by identity theft in the use of remittances and money transmitting services.

(D) Improvements needed to enhance cooperation between and among Federal, State, and local officials, including State regulators, State and local prosecutors, and other law enforcement officials.

(E) Improvements needed to enhance cooperation between money services businesses and Federal, State, and local officials, including State regulators, State and local prosecutors, and other law enforcement officials.

(3) ANALYSIS REQUIREMENTS.—In compiling the threat and operational analysis required under paragraph (1), the Secretary of the Treasury, in consultation with the Attorney General, the Secretary of Homeland Security, and the head of any other appropriate Federal law enforcement agency, shall consider and examine the personnel needs, technology needs, and infrastructure needs of Federal law enforcement agencies.

(c) REMITTANCES STRATEGY AND IMPLEMENTATION PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date on which the Secretary of the Treasury submits the threat analysis under subsection (b), and every 5 years thereafter for 10 years, the Secretary of the Treasury, in consultation with the Attorney General, the Secretary of Homeland Security, and the head of any other appropriate Federal law enforcement agency, shall submit to the appropriate congressional committees a remittances strategy and implementation plan.

(2) CONTENTS.—In preparing the remittances strategy and implementation plan under paragraph (1), the Secretary of the Treasury shall consider the following:

(A) The remittances threat and operational analysis required under subsection (b), with an emphasis on efforts to mitigate threats and challenges identified in the analysis.

(B) Efforts to reduce the use of remittances and money transmitting services by drug kingpins, crime syndicates, and other persons to finance terrorism, narcotics trafficking, human trafficking, money laundering, and other forms of illicit financing, domestically or internationally.

(C) Efforts to prevent human trafficking and the unlawful movement of illicit drugs and other contraband through the use of remittances and money transmitting services, and standards against which the effectiveness of those efforts may be determined.

(D) Efforts to focus collection and information analysis to disrupt transnational criminal organizations attempting to exploit security vulnerabilities, and standards against which the effectiveness of those efforts may be determined.

(E) Personnel, technology, and infrastructure needs of Federal law enforcement agencies.

(F) Efforts to prevent, detect, investigate, and mitigate money laundering activities through remittances and money transmitting services, and standards against which the effectiveness of those efforts may be determined.

(G) The lawful use of remittances, the role that remittances play in countries' economies, and how any recommended measures would impose additional burdens on remittances in light of their lawful uses.

SEC. 14. RULE OF CONSTRUCTION.

Nothing in this Act, or any amendment made by this Act, shall be construed to apply to the authorized law enforcement, protective, or intelligence activities of the United States or of an intelligence agency of the United States.

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