

117TH CONGRESS
2D SESSION

S. 3876

To amend title 31, United States Code, to authorize the Secretary of the Treasury to place prohibitions or conditions on certain transmittals of funds in connection with jurisdictions, financial institutions, international transactions, or types of accounts of primary money laundering concern.

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2022

Mr. WARNER introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend title 31, United States Code, to authorize the Secretary of the Treasury to place prohibitions or conditions on certain transmittals of funds in connection with jurisdictions, financial institutions, international transactions, or types of accounts of primary money laundering concern.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Special Measures to
5 Fight Modern Threats Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The Financial Crimes Enforcement Net-
4 work (in this section referred to as “FinCEN”) is
5 the financial intelligence unit of the United States
6 tasked with safeguarding the financial system from
7 illicit use, combating money laundering and its re-
8 lated crimes, including terrorism, and promoting na-
9 tional security.

10 (2) Under law, FinCEN may require domestic
11 financial institutions and financial agencies to take
12 certain “special measures” against jurisdictions, in-
13 stitutions, classes of transactions, or types of ac-
14 counts determined to be of primary money laun-
15 dering concern, providing the Secretary with a range
16 of options, such as enhanced record-keeping, that
17 can be adapted to target specific money laundering
18 and terrorist financing and to bring pressure on
19 those that pose money laundering threats.

20 (3) This special-measures authority was grant-
21 ed in 2001, when most cross-border transactions oc-
22 curred through correspondent or payable-through ac-
23 counts held with large financial institutions that
24 serve as intermediaries to facilitate financial trans-
25 actions on behalf of other banks.

1 (4) Innovations in financial services have trans-
2 formed and expanded methods of cross-border trans-
3 actions that could not have been envisioned 20 years
4 ago when FinCEN was given its special-measures
5 authority.

6 (5) These innovations, particularly through dig-
7 ital assets and informal value transfer systems, while
8 useful to legitimate consumers and law enforcement,
9 can be tools abused by bad actors like sanctions
10 evaders, fraudsters, money launderers, and those
11 who commit ransomware attacks on victimized
12 United States companies and that abuse the finan-
13 cial system to move and obscure the proceeds of
14 their crimes.

15 (6) Ransomware attacks on United States com-
16 panies requiring payments in cryptocurrencies have
17 increased in recent years, with the Treasury esti-
18 mating that ransomware payments in the United
19 States reached \$590,000,000 in just the first half of
20 2021, compared to a total of \$416,000,000 in 2020.

21 (7) In July 2021, the White House, with sup-
22 port of United States allies, asserted that the Peo-
23 ple's Republic of China was responsible for
24 ransomware operations against private companies
25 that included demands of millions of dollars, includ-

ing the 2021 ransomware attacks that breached Microsoft email systems and affected thousands of consumers, State and local municipalities, and government contractors attributed to a cyber espionage group with links to the Ministry of State Security of the People’s Republic of China.

(8) As ransomware attacks organized by Chinese and other foreign bad actors continue to grow in size and scope, modernizing the special-measure authorities of FinCEN will empower FinCEN to adapt its existing tools, monitor and obstruct global financial threats, and meet the challenges of combating 21st century financial crime.

SEC. 3. PROHIBITIONS OR CONDITIONS ON CERTAIN TRANSMITTALS OF FUNDS.

Section 5318A of title 31, United States Code, is amended—

(1) in subsection (a)(2)(C), by striking “subsection (b)(5)” and inserting “paragraphs (5) and (6) of subsection (b)”; and

(2) in subsection (b)—

(A) in paragraph (5), by striking “for or on behalf of a foreign banking institution”; and

(B) by adding at the end the following:

1 “(6) PROHIBITIONS OR CONDITIONS ON CER-
2 TAIN TRANSMITTALS OF FUNDS.—If the Secretary
3 finds a jurisdiction outside of the United States, 1
4 or more financial institutions operating outside of
5 the United States, 1 or more types of accounts with-
6 in, or involving, a jurisdiction outside of the United
7 States, or 1 or more classes of transactions within,
8 or involving, a jurisdiction outside of the United
9 States to be of primary money laundering concern,
10 the Secretary, in consultation with the Secretary of
11 State, the Attorney General, and the Chairman of
12 the Board of Governors of the Federal Reserve Sys-
13 tem, may prohibit, or impose conditions upon, cer-
14 tain transmittals of funds (as such term may be de-
15 fined by the Secretary in a special measure issuance,
16 by regulation, or as otherwise permitted by law), to
17 or from any domestic financial institution or domes-
18 tic financial agency if such transmittal of funds in-
19 volves any such jurisdiction, institution, type of ac-
20 count, or class of transaction.”.

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