tions and shall replace the coins and currencies when they are needed for the program or activity for which they were reserved originally.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 994.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5303	31:938.	Oct. 15, 1966, Pub. L. 89–677, 80 Stat. 955.

The word ''Federal'' is omitted as unnecessary because of the definition of ''agency'' in section 101 of the revised title. The words ''coins and'' and ''Government'' are added for consistency. The words ''or set aside'' and ''of the Government'' are omitted as surplus. The words ''The agency shall reimburse . . . shall replace'' are substituted for ''except (1) that reimbursement shall be made . . . (2) . . . shall be replaced'' for clarity. The words ''applicable . . . of the agency concerned'' are omitted as surplus. The words ''program or activity'' are substituted for ''purpose'' for clarity and consistency.

§ 5304. Regulations

With the approval of the President, the Secretary of the Treasury may prescribe regulations—

(1) to carry out section 5301 of this title; and

(2) the Secretary considers necessary to carry out section 5302 of this title.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 994.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5304	31:822.	May 12, 1933, ch. 25, §44, 48 Stat. 53.
	31:822b.	Jan. 30, 1934, ch. 6, §11, 48 Stat. 342.

Before clause (1), the words ''prescribe regulations'' are substituted for ''make and promulgate rules and regulations'' in 31:822 and ''issue . . . such rules and regulations'' in 31:822b for consistency. In clause (1), the words ''to carry out'' are substituted for ''covering any action taken or to be taken by the President under'' in 31:822 to eliminate unnecessary words. In clause (2), the words ''or proper'' in 31:822b and ''the purposes of'' are omitted as surplus. Reference to 31:821 is omitted as obsolete because silver is no longer coined. Reference to 31:824 is omitted as obsolete because 31:824 is executed and is not part of the revised title.

SUBCHAPTER II—RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS

§ 5311. Declaration of purpose

It is the purpose of this subchapter (except section 5315) to require certain reports or records where they have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 995; Pub. L. 107–56, title III, §358(a), Oct. 26, 2001, 115 Stat. 326.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5311	31:1051.	Oct. 26, 1970, Pub. L. 91–508, §202, 84 Stat. 1118.

AMENDMENTS

2001—Pub. L. 107–56 inserted '', or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism'' before period at end.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–56 applicable with respect to reports filed or records maintained on, before, or after Oct. 26, 2001, see section 358(h) of Pub. L. 107–56, set out as a note under section 1829b of Title 12, Banks and Banking.

SHORT TITLE

This subchapter and chapter 21 (§1951 et seq.) of Title 12, Banks and Banking, are each popularly known as the ''Bank Secrecy Act''. See Short Title note set out under section 1951 of Title 12.

STORED VALUE

Pub. L. 111–24, title V, §503, May 22, 2009, 123 Stat. 1756, provided that:

''(a) IN GENERAL.—Not later than 270 days after the date of enactment of this Act [May 22, 2009], the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, shall issue regulations in final form implementing the Bank Secrecy Act [see Short Title note under section 1951 of Title 12, Banks and Banking], regarding the sale, issuance, redemption, or international transport of stored value, including stored value cards.

''(b) CONSIDERATION OF INTERNATIONAL TRANSPORT.—Regulations under this section regarding international transport of stored value may include reporting requirements pursuant to section 5316 of title 31, United States Code.

''(c) EMERGING METHODS FOR TRANSMITTAL AND STORAGE IN ELECTRONIC FORM.—Regulations under this section shall take into consideration current and future needs and methodologies for transmitting and storing value in electronic form.''

IMPROVEMENT OF INTERNATIONAL STANDARDS AND COOPERATION TO FIGHT TERRORIST FINANCING

Pub. L. 108–458, title VII, §§7701, 7702, 7704, Dec. 17, 2004, 118 Stat. 3858–3860, provided that:

''SEC. 7701. IMPROVING INTERNATIONAL STANDARDS AND COOPERATION TO FIGHT TERRORIST FINANCING.

''(a) FINDINGS.—Congress makes the following findings:

''(1) The global war on terrorism and cutting off terrorist financing is a policy priority for the United States and its partners, working bilaterally and multilaterally through the United Nations, the United Nations Security Council and its committees, such as the 1267 and 1373 Committees, the Financial Action Task Force (FATF), and various international financial institutions, including the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (IBRD), and the regional multilateral development banks, and other multilateral fora.

''(2) The international financial community has become engaged in the global fight against terrorist financing. The Financial Action Task Force has focused on the new threat posed by terrorist financing to the international financial system, resulting in the establishment of the FATF's Eight Special Recommendations on Terrorist Financing as the international standard on combating terrorist financing.

The Group of Seven and the Group of Twenty Finance Ministers are developing action plans to curb the financing of terror. In addition, other economic and regional fora, such as the Asia-Pacific Economic Cooperation (APEC) Forum, and the Western Hemisphere Financial Ministers, have been used to marshal political will and actions in support of combating the financing of terrorism (CFT) standards.

''(3) FATF's Forty Recommendations on Money Laundering and the Eight Special Recommendations on Terrorist Financing are the recognized global standards for fighting money laundering and terrorist financing. The FATF has engaged in an assessment process for jurisdictions based on their compliance with these standards.

''(4) In March 2004, the IMF and IBRD Boards agreed to make permanent a pilot program of collaboration with the FATF to assess global compliance with the FATF Forty Recommendations on Money Laundering and the Eight Special Recommendations on Terrorist Financing. As a result, anti-money laundering (AML) and combating the financing of terrorism (CFT) assessments are now a regular part of their Financial Sector Assessment Program (FSAP) and Offshore Financial Center assessments, which provide for a comprehensive analysis of the strength of a jurisdiction's financial system. These reviews assess potential systemic vulnerabilities, consider sectoral development needs and priorities, and review the state of implementation of and compliance with key financial codes and regulatory standards, among them the AML and CFT standards.

''(5) To date, 70 FSAPs have been conducted, with over 24 of those incorporating AML and CFT assessments. The international financial institutions (IFIs), the FATF, and the FATF-style regional bodies together are expected to assess AML and CFT regimes in up to 40 countries or jurisdictions per year. This will help countries and jurisdictions identify deficiencies in their AML and CFT regimes and help focus technical assistance efforts.

''(6) Technical assistance programs from the United States and other nations, coordinated with the Department of State and other departments and agencies, are playing an important role in helping countries and jurisdictions address shortcomings in their AML and CFT regimes and bringing their regimes into conformity with international standards. Training is coordinated within the United States Government, which leverages multilateral organizations and bodies and international financial institutions to internationalize the conveyance of technical assistance.

''(7) In fulfilling its duties in advancing incorporation of AML and CFT standards into the IFIs as part of the IFIs' work on protecting the integrity of the international monetary system, the Department of the Treasury, under the guidance of the Secretary of the Treasury, has effectively brought together all of the key United States Government agencies. In particular, United States Government agencies continue to work together to foster broad support for this important undertaking in various multilateral fora, and United States Government agencies recognize the need for close coordination and communication within our own Government.

''(b) SENSE OF CONGRESS REGARDING SUCCESS IN MULTILATERAL ORGANIZATIONS.—It is the sense of Congress that the Secretary of the Treasury should continue to promote the dissemination of international AML and CFT standards, and to press for full implementation of the FATF 40 + 8 Recommendations by all countries in order to curb financial risks and hinder terrorist financing around the globe. The efforts of the Secretary in this regard should include, where necessary or appropriate, multilateral action against countries whose counter-money laundering regimes and efforts against the financing of terrorism fall below recognized international standards.

''SEC. 7702. DEFINITIONS.

''In this subtitle [subtitle G (§§ 7701–7704) of title VII of Pub. L. 108–458, amending sections 262*o*–2 and 262r–4 of Title 22, Foreign Relations and Intercourse]—

''(1) the term 'international financial institutions' has the same meaning as in section 1701(c)(2) of the International Financial Institutions Act [22 U.S.C. 262r(c)(2)];

''(2) the term 'Financial Action Task Force' means the international policy-making and standard-setting body dedicated to combating money laundering and terrorist financing that was created by the Group of Seven in 1989; and

''(3) the terms 'Interagency Paper on Sound Practices to Strengthen the Resilience of the U.S. Financial System' and 'Interagency Paper' mean the interagency paper prepared by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Securities and Exchange Commission that was announced in the Federal Register on April 8, 2003.

''SEC. 7704. COORDINATION OF UNITED STATES GOVERNMENT EFFORTS.

''The Secretary of the Treasury, or the designee of the Secretary, as the lead United States Government official to the Financial Action Task Force (FATF), shall continue to convene the interagency United States Government FATF working group. This group, which includes representatives from all relevant Federal agencies, shall meet at least once a year to advise the Secretary on policies to be pursued by the United States regarding the development of common international AML and CFT standards, to assess the adequacy and implementation of such standards, and to recommend to the Secretary improved or new standards, as necessary.''

INTERNATIONAL MONEY LAUNDERING ABATEMENT AND FINANCIAL ANTI-TERRORISM ACT OF 2001; FINDINGS AND PURPOSES

Pub. L. 107–56, title III, § 302, Oct. 26, 2001, 115 Stat. 296, as amended by Pub. L. 108–458, title VI, § 6202(c), Dec. 17, 2004, 118 Stat. 3745, provided that:

''(a) FINDINGS.—The Congress finds that—

''(1) money laundering, estimated by the International Monetary Fund to amount to between 2 and 5 percent of global gross domestic product, which is at least $600,000,000,000 annually, provides the financial fuel that permits transnational criminal enterprises to conduct and expand their operations to the detriment of the safety and security of American citizens;

''(2) money laundering, and the defects in financial transparency on which money launderers rely, are critical to the financing of global terrorism and the provision of funds for terrorist attacks;

''(3) money launderers subvert legitimate financial mechanisms and banking relationships by using them as protective covering for the movement of criminal proceeds and the financing of crime and terrorism, and, by so doing, can threaten the safety of United States citizens and undermine the integrity of United States financial institutions and of the global financial and trading systems upon which prosperity and growth depend;

''(4) certain jurisdictions outside of the United States that offer 'offshore' banking and related facilities designed to provide anonymity, coupled with weak financial supervisory and enforcement regimes, provide essential tools to disguise ownership and movement of criminal funds derived from, or used to commit, offenses ranging from narcotics trafficking, terrorism, arms smuggling, and trafficking in human beings, to financial frauds that prey on law-abiding citizens;

''(5) transactions involving such offshore jurisdictions make it difficult for law enforcement officials and regulators to follow the trail of money earned by criminals, organized international criminal enterprises, and global terrorist organizations;

''(6) correspondent banking facilities are one of the banking mechanisms susceptible in some circumstances to manipulation by foreign banks to permit the laundering of funds by hiding the identity of real parties in interest to financial transactions;

''(7) private banking services can be susceptible to manipulation by money launderers, for example corrupt foreign government officials, particularly if those services include the creation of offshore accounts and facilities for large personal funds transfers to channel funds into accounts around the globe;

''(8) United States anti-money laundering efforts are impeded by outmoded and inadequate statutory provisions that make investigations, prosecutions, and forfeitures more difficult, particularly in cases in which money laundering involves foreign persons, foreign banks, or foreign countries;

''(9) the ability to mount effective counter-measures to international money launderers requires national, as well as bilateral and multilateral action, using tools specially designed for that effort; and

''(10) the Basle Committee on Banking Regulation and Supervisory Practices and the Financial Action Task Force on Money Laundering, of both of which the United States is a member, have each adopted international anti-money laundering principles and recommendations.

''(b) PURPOSES.—The purposes of this title [see Short Title of 2001 Amendment note set out under section 5301 of this title] are—

''(1) to increase the strength of United States measures to prevent, detect, and prosecute international money laundering and the financing of terrorism;

''(2) to ensure that—

''(A) banking transactions and financial relationships and the conduct of such transactions and relationships, do not contravene the purposes of subchapter II of chapter 53 of title 31, United States Code, section 21 of the Federal Deposit Insurance Act [12 U.S.C. 1829b], or chapter 2 of title I of Public Law 91–508 (84 Stat. 1116) [12 U.S.C. 1951 et seq.], or facilitate the evasion of any such provision; and

''(B) the purposes of such provisions of law continue to be fulfilled, and such provisions of law are effectively and efficiently administered;

''(3) to strengthen the provisions put into place by the Money Laundering Control Act of 1986 (18 U.S.C. 981 note) [see Short Title of 1986 Amendment note set out under section 981 of Title 18, Crimes and Criminal Procedure], especially with respect to crimes by non-United States nationals and foreign financial institutions;

''(4) to provide a clear national mandate for subjecting to special scrutiny those foreign jurisdictions, financial institutions operating outside of the United States, and classes of international transactions or types of accounts that pose particular, identifiable opportunities for criminal abuse;

''(5) to provide the Secretary of the Treasury (in this title referred to as the 'Secretary') with broad discretion, subject to the safeguards provided by the Administrative Procedure Act under title 5, United States Code [5 U.S.C. 551 et seq., 701 et seq.], to take measures tailored to the particular money laundering problems presented by specific foreign jurisdictions, financial institutions operating outside of the United States, and classes of international transactions or types of accounts;

''(6) to ensure that the employment of such measures by the Secretary permits appropriate opportunity for comment by affected financial institutions;

''(7) to provide guidance to domestic financial institutions on particular foreign jurisdictions, financial institutions operating outside of the United States, and classes of international transactions or types of accounts that are of primary money laundering concern to the United States Government;

''(8) to ensure that the forfeiture of any assets in connection with the anti-terrorist efforts of the United States permits for adequate challenge consistent with providing due process rights;

''(9) to clarify the terms of the safe harbor from civil liability for filing suspicious activity reports;

''(10) to strengthen the authority of the Secretary to issue and administer geographic targeting orders, and to clarify that violations of such orders or any other requirement imposed under the authority contained in chapter 2 of title I of Public Law 91–508 [12 U.S.C. 1951 et seq.] and subchapter II of chapter 53 of title 31, United States Code, may result in criminal and civil penalties;

''(11) to ensure that all appropriate elements of the financial services industry are subject to appropriate requirements to report potential money laundering transactions to proper authorities, and that jurisdictional disputes do not hinder examination of compliance by financial institutions with relevant reporting requirements;

''(12) to strengthen the ability of financial institutions to maintain the integrity of their employee population; and

''(13) to strengthen measures to prevent the use of the United States financial system for personal gain by corrupt foreign officials and to facilitate the repatriation of any stolen assets to the citizens of countries to whom such assets belong.''

FOUR-YEAR CONGRESSIONAL REVIEW; EXPEDITED CONSIDERATION

Pub. L. 107–56, title III, §303, Oct. 26, 2001, 115 Stat. 298, as amended by Pub. L. 108–458, title VI, §6202(d), Dec. 17, 2004, 118 Stat. 3745, which provided that, effective on and after the first day of fiscal year 2005, the provisions of title III of Pub. L. 107–56 and the amendments made by such title would terminate if the Congress enacted a joint resolution, the text after the resolving clause of which was as follows: ''That provisions of the International Money Laundering Abatement and Financial Antiterrorism Act of 2001, and the amendments made thereby, shall no longer have the force of law.'', was repealed by Pub. L. 108–458, title VI, §§6204, 6205, Dec. 17, 2004, 118 Stat. 3747, effective as if included in Pub. L. 107–56, as of the date of enactment of such Act.

COOPERATIVE EFFORTS TO DETER MONEY LAUNDERING

Pub. L. 107–56, title III, §314, Oct. 26, 2001, 115 Stat. 307, as amended by Pub. L. 108–458, title VI, §6202(f), Dec. 17, 2004, 118 Stat. 3745, provided that:

''(a) COOPERATION AMONG FINANCIAL INSTITUTIONS, REGULATORY AUTHORITIES, AND LAW ENFORCEMENT AUTHORITIES.—

''(1) REGULATIONS.—The Secretary [of the Treasury] shall, within 120 days after the date of enactment of this Act [Oct. 26, 2001], adopt regulations to encourage further cooperation among financial institutions, their regulatory authorities, and law enforcement authorities, with the specific purpose of encouraging regulatory authorities and law enforcement authorities to share with financial institutions information regarding individuals, entities, and organizations engaged in, or reasonably suspected based on credible evidence of engaging in, terrorist acts or money laundering activities.

''(2) COOPERATION AND INFORMATION SHARING PROCEDURES.—The regulations adopted under paragraph (1) may include or create procedures for cooperation and information sharing focusing on—

''(A) matters specifically related to the finances of terrorist groups, the means by which terrorist groups transfer funds around the world and within the United States, including through the use of charitable organizations, nonprofit organizations, and nongovernmental organizations, the extent to which financial institutions in the United States are unwittingly involved in such finances, and the extent to which such institutions are at risk as a result;

''(B) the relationship, particularly the financial relationship, between international narcotics traffickers and foreign terrorist organizations, the extent to which their memberships overlap and engage in joint activities, and the extent to which they cooperate with each other in raising and transferring funds for their respective purposes; and

''(C) means of facilitating the identification of accounts and transactions involving terrorist groups and facilitating the exchange of information concerning such accounts and transactions between financial institutions and law enforcement organizations.

''(3) CONTENTS.—The regulations adopted pursuant to paragraph (1) may—

''(A) require that each financial institution designate 1 or more persons to receive information concerning, and monitor accounts of, individuals, entities, and organizations identified pursuant to paragraph (1); and

''(B) further establish procedures for the protection of the shared information, consistent with the capacity, size, and nature of the financial institution to which the particular procedures apply.

''(4) RULE OF CONSTRUCTION.—The receipt of information by a financial institution pursuant to this section shall not relieve or otherwise modify the obligations of the financial institution with respect to any other person or account.

''(5) USE OF INFORMATION.—Information received by a financial institution pursuant to this section shall not be used for any purpose other than identifying and reporting on activities that may involve terrorist acts or money laundering activities.

''(b) COOPERATION AMONG FINANCIAL INSTITUTIONS.—Upon notice provided to the Secretary, 2 or more financial institutions and any association of financial institutions may share information with one another regarding individuals, entities, organizations, and countries suspected of possible terrorist or money laundering activities. A financial institution or association that transmits, receives, or shares such information for the purposes of identifying and reporting activities that may involve terrorist acts or money laundering activities shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision thereof, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such disclosure or for any failure to provide notice of such disclosure to the person who is the subject of such disclosure, or any other person identified in the disclosure, except where such transmission, receipt, or sharing violates this section or regulations promulgated pursuant to this section.

''(c) RULE OF CONSTRUCTION.—Compliance with the provisions of this title [see Short Title of 2001 Amendment note set out under section 5301 of this title] requiring or allowing financial institutions and any association of financial institutions to disclose or share information regarding individuals, entities, and organizations engaged in or suspected of engaging in terrorist acts or money laundering activities shall not constitute a violation of the provisions of title V of the Gramm-Leach-Bliley Act (Public Law 106–102) [15 U.S.C. 6801 et seq.].

''(d) REPORTS TO THE FINANCIAL SERVICES INDUSTRY ON SUSPICIOUS FINANCIAL ACTIVITIES.—At least semiannually, the Secretary shall—

''(1) publish a report containing a detailed analysis identifying patterns of suspicious activity and other investigative insights derived from suspicious activity reports and investigations conducted by Federal, State, and local law enforcement agencies to the extent appropriate; and

''(2) distribute such report to financial institutions (as defined in section 5312 of title 31, United States Code).''

REPORT AND RECOMMENDATION ON LEGISLATIVE ACTION ON INTERNATIONAL COUNTER MONEY LAUNDERING PROVISIONS

Pub. L. 107–56, title III, § 324, Oct. 26, 2001, 115 Stat. 316, provided that: ''Not later than 30 months after the date of enactment of this Act [Oct. 26, 2001], the Secretary [of the Treasury], in consultation with the Attorney General, the Federal banking agencies (as defined at section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813]), the National Credit Union Administration Board, the Securities and Exchange Commission, and such other agencies as the Secretary may determine, at the discretion of the Secretary, shall evaluate the operations of the provisions of this subtitle [subtitle A (§§ 311–330) of title III of Pub. L. 107–56, enacting section 5318A of this title, amending sections 5312 and 5318 of this title, sections 1828 and 1842 of Title 12, Banks and Banking, sections 981, 983, and 1956 of Title 18, Crimes and Criminal Procedure, section 853 of Title 21, Food and Drugs, and sections 2466 and 2467 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as notes under this section and section 5318 of this title, sections 1828 and 1842 of Title 12, and section 983 of Title 18] and make recommendations to Congress as to any legislative action with respect to this subtitle as the Secretary may determine to be necessary or advisable.''

INTERNATIONAL COOPERATION ON IDENTIFICATION OF ORIGINATORS OF WIRE TRANSFERS

Pub. L. 107–56, title III, § 328, Oct. 26, 2001, 115 Stat. 319, provided that: ''The Secretary [of the Treasury] shall—

''(1) in consultation with the Attorney General and the Secretary of State, take all reasonable steps to encourage foreign governments to require the inclusion of the name of the originator in wire transfer instructions sent to the United States and other countries, with the information to remain with the transfer from its origination until the point of disbursement; and

''(2) report annually to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on—

''(A) progress toward the goal enumerated in paragraph (1), as well as impediments to implementation and an estimated compliance rate; and

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

CRIMINAL PENALTIES

Pub. L. 107–56, title III, § 329, Oct. 26, 2001, 115 Stat. 319, provided that: ''Any person who is an official or employee of any department, agency, bureau, office, commission, or other entity of the Federal Government, and any other person who is acting for or on behalf of any such entity, who, directly or indirectly, in connection with the administration of this title [see Short Title of 2001 Amendment note set out under section 5301 of this title], corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for—

''(1) being influenced in the performance of any official act;

''(2) being influenced to commit or aid in the committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

''(3) being induced to do or omit to do any act in violation of the official duty of such official or person,

shall be fined in an amount not more than 3 times the monetary equivalent of the thing of value, or imprisoned for not more than 15 years, or both. A violation of this section shall be subject to chapter 227 of title 18, United States Code, and the provisions of the United States Sentencing Guidelines.''

REPORT ON INVESTMENT COMPANIES

Pub. L. 107–56, title III, § 356(c), Oct. 26, 2001, 115 Stat. 324, as amended by Pub. L. 108–458, title VI, § 6202(j), Dec. 17, 2004, 118 Stat. 3746, provided that:

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 26, 2001], the Secretary [of the Treasury], the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission shall jointly submit a report to the Congress on recommendations for effective regulations to apply the requirements of subchapter II of chapter 53 of title 31, United States Code, to investment companies pursuant to section 5312(a)(2)(I) of title 31, United States Code.

''(2) DEFINITION.—For purposes of this subsection, the term 'investment company'—

''(A) has the same meaning as in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3); and

''(B) includes any person that, but for the exceptions provided for in paragraph (1) or (7) of section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)), would be an investment company.

''(3) ADDITIONAL RECOMMENDATIONS.—The report required by paragraph (1) may make different recommendations for different types of entities covered by this subsection.

''(4) BENEFICIAL OWNERSHIP OF PERSONAL HOLDING COMPANIES.—The report described in paragraph (1) shall also include recommendations as to whether the Secretary should promulgate regulations to treat any corporation, business trust, or other grantor trust whose assets are predominantly securities, bank certificates of deposit, or other securities or investment instruments (other than such as relate to operating subsidiaries of such corporation or trust) and that has 5 or fewer common shareholders or holders of beneficial or other equity interest, as a financial institution within the meaning of that phrase in section 5312(a)(2)(I) and whether to require such corporations or trusts to disclose their beneficial owners when opening accounts or initiating funds transfers at any domestic financial institution.''

REPORT ON NEED FOR ADDITIONAL LEGISLATION RELATING TO INFORMAL MONEY TRANSFER SYSTEMS

Pub. L. 107–56, title III, § 359(d), Oct. 26, 2001, 115 Stat. 329, provided that: ''Not later than 1 year after the date of enactment of this Act [Oct. 26, 2001], the Secretary of the Treasury shall report to Congress on the need for any additional legislation relating to persons who engage as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system, counter money laundering and regulatory controls relating to underground money movement and banking systems, including whether the threshold for the filing of suspicious activity reports under section 5318(g) of title 31, United States Code should be lowered in the case of such systems.''

UNIFORM STATE LICENSING AND REGULATION OF CHECK CASHING, CURRENCY EXCHANGE, AND MONEY TRANSMITTING BUSINESSES

Pub. L. 103–325, title IV, § 407, Sept. 23, 1994, 108 Stat. 2247, provided that:

''(a) UNIFORM LAWS AND ENFORCEMENT.—For purposes of preventing money laundering and protecting the payment system from fraud and abuse, it is the sense of the Congress that the several States should—

''(1) establish uniform laws for licensing and regulating businesses which—

''(A) provide check cashing, currency exchange, or money transmitting or remittance services, or issue or redeem money orders, travelers' checks, and other similar instruments; and

''(B) are not depository institutions (as defined in section 5313(g) of title 31, United States Code); and

''(2) provide sufficient resources to the appropriate State agency to enforce such laws and regulations prescribed pursuant to such laws.

''(b) MODEL STATUTE.—It is the sense of the Congress that the several States should develop, through the auspices of the National Conference of Commissioners on Uniform State Laws, the American Law Institute, or such other forum as the States may determine to be appropriate, a model statute to carry out the goals described in subsection (a) which would include the following:

''(1) LICENSING REQUIREMENTS.—A requirement that any business described in subsection (a)(1) be licensed and regulated by an appropriate State agency in order to engage in any such activity within the State.

''(2) LICENSING STANDARDS.—A requirement that—

''(A) in order for any business described in subsection (a)(1) to be licensed in the State, the appropriate State agency shall review and approve—

''(i) the business record and the capital adequacy of the business seeking the license; and

''(ii) the competence, experience, integrity, and financial ability of any individual who—

''(I) is a director, officer, or supervisory employee of such business; or

''(II) owns or controls such business; and

''(B) any record, on the part of any business seeking the license or any person referred to in subparagraph (A)(ii), of—

''(i) any criminal activity;

''(ii) any fraud or other act of personal dishonesty;

''(iii) any act, omission, or practice which constitutes a breach of a fiduciary duty; or

''(iv) any suspension or removal, by any agency or department of the United States or any State, from participation in the conduct of any federally or State licensed or regulated business,

may be grounds for the denial of any such license by the appropriate State agency.

''(3) REPORTING REQUIREMENTS.—A requirement that any business described in subsection (a)(1)—

''(A) disclose to the appropriate State agency the fees charged to consumers for services described in subsection (a)(1)(A); and

''(B) conspicuously disclose to the public, at each location of such business, the fees charged to consumers for such services.

''(4) PROCEDURES TO ENSURE COMPLIANCE WITH FEDERAL CASH TRANSACTION REPORTING REQUIREMENTS.—A civil or criminal penalty for operating any business referred to in paragraph (1) without establishing and complying with appropriate procedures to ensure compliance with subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions).

''(5) CRIMINAL PENALTIES FOR OPERATION OF BUSINESS WITHOUT A LICENSE.—A criminal penalty for operating any business referred to in paragraph (1) without a license within the State after the end of an appropriate transition period beginning on the date of enactment of such model statute by the State.

''(c) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study of—

''(1) the progress made by the several States in developing and enacting a model statute which—

''(A) meets the requirements of subsection (b); and

''(B) furthers the goals of—

''(i) preventing money laundering by businesses which are required to be licensed under any such statute; and

''(ii) protecting the payment system, including the receipt, payment, collection, and clearing of

checks, from fraud and abuse by such businesses; and

''(2) the adequacy of—

''(A) the activity of the several States in enforcing the requirements of such statute; and

''(B) the resources made available to the appropriate State agencies for such enforcement activity.

''(d) REPORT REQUIRED.—Not later than the end of the 3-year period beginning on the date of enactment of this Act [Sept. 23, 1994] and not later than the end of each of the first two 1-year periods beginning after the end of such 3-year period, the Secretary of the Treasury shall submit a report to the Congress containing the findings and recommendations of the Secretary in connection with the study under subsection (c), together with such recommendations for legislative and administrative action as the Secretary may determine to be appropriate.

''(e) RECOMMENDATIONS IN CASES OF INADEQUATE REGULATION AND ENFORCEMENT BY STATES.—If the Secretary of the Treasury determines that any State has been unable to—

''(1) enact a statute which meets the requirements described in subsection (b);

''(2) undertake adequate activity to enforce such statute; or

''(3) make adequate resources available to the appropriate State agency for such enforcement activity,

the report submitted pursuant to subsection (d) shall contain recommendations of the Secretary which are designed to facilitate the enactment and enforcement by the State of such a statute.

''(f) FEDERAL FUNDING STUDY.—

''(1) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study to identify possible available sources of Federal funding to cover costs which will be incurred by the States in carrying out the purposes of this section.

''(2) REPORT.—The Secretary of the Treasury shall submit a report to the Congress on the study conducted pursuant to paragraph (1) not later than the end of the 18-month period beginning on the date of enactment of this Act [Sept. 23, 1994].''

ANTI-MONEY LAUNDERING TRAINING TEAM

Pub. L. 102–550, title XV, §1518, Oct. 28, 1992, 106 Stat. 4060, provided that: ''The Secretary of the Treasury and the Attorney General shall jointly establish a team of experts to assist and provide training to foreign governments and agencies thereof in developing and expanding their capabilities for investigating and prosecuting violations of money laundering and related laws.''

ADVISORY GROUP ON REPORTING REQUIREMENTS

Pub. L. 102–550, title XV, §1564, Oct. 28, 1992, 106 Stat. 4073, provided that:

''(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act [Oct. 28, 1992], the Secretary of the Treasury shall establish a Bank Secrecy Act Advisory Group consisting of representatives of the Department of the Treasury, the Department of Justice, and the Office of National Drug Control Policy and of other interested persons and financial institutions subject to the reporting requirements of subchapter II of chapter 53 of title 31, United States Code, or section 6050I of the Internal Revenue Code of 1986 [26 U.S.C. 6050I].

''(b) PURPOSES.—The Advisory Group shall provide a means by which the Secretary—

''(1) informs private sector representatives, on a regular basis, of the ways in which the reports submitted pursuant to the requirements referred to in subsection (a) have been used;

''(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used; and

''(3) receives advice on the manner in which the reporting requirements referred to in subsection (a) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

''(c) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act [5 U.S.C. App.] shall not apply to the Bank Secrecy Act Advisory Group established pursuant to subsection (a).''

GAO FEASIBILITY STUDY OF FINANCIAL CRIMES ENFORCEMENT NETWORK

Pub. L. 102–550, title XV, §1565, Oct. 28, 1992, 106 Stat. 4074, provided that:

''(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a feasibility study of the Financial Crimes Enforcement Network (popularly referred to as 'Fincen') established by the Secretary of the Treasury in cooperation with other agencies and departments of the United States and appropriate Federal banking agencies.

''(b) SPECIFIC REQUIREMENTS.—In conducting the study required under subsection (a), the Comptroller General shall examine and evaluate—

''(1) the extent to which Federal, State, and local governmental and nongovernmental organizations are voluntarily providing information which is necessary for the system to be useful for law enforcement purposes;

''(2) the extent to which the operational guidelines established for the system provide for the coordinated and efficient entry of information into, and withdrawal of information from, the system;

''(3) the extent to which the operating procedures established for the system provide appropriate standards or guidelines for determining—

''(A) who is to be given access to the information in the system;

''(B) what limits are to be imposed on the use of such information; and

''(C) how information about activities or relationships which involve or are closely associated with the exercise of constitutional rights is to be screened out of the system; and

''(4) the extent to which the operating procedures established for the system provide for the prompt verification of the accuracy and completeness of information entered into the system and the prompt deletion or correction of inaccurate or incomplete information.

''(c) REPORT TO CONGRESS.—Before the end of the 1-year period, beginning on the date of the enactment of this Act [Oct. 28, 1992], the Comptroller General of the United States shall submit a report to the Congress containing the findings and conclusions of the Comptroller General in connection with the study conducted pursuant to subsection (a), together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.''

REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS

Pub. L. 101–647, title I, §101, Nov. 29, 1990, 104 Stat. 4789, provided that: ''Not later than 180 days after the effective date of this section [Nov. 29, 1990], and every 2 years for 4 years, the Secretary of the Treasury shall report to the Congress the following:

''(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

''(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 [26 U.S.C. 6050I] (regarding transactions involving currency) in the previous fiscal year;

''(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

''(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

''(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to in paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

''(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

''(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.''

INTERNATIONAL CURRENCY TRANSACTION REPORTING

Pub. L. 100–690, title IV, §4701, Nov. 18, 1988, 102 Stat. 4290, stated Congressional findings concerning success of cash transaction and money laundering control statutes in United States and desirability of United States playing a leadership role in development of similar international system, urged United States Government to seek active cooperation of other countries in enforcement of such statutes, urged Secretary of the Treasury to negotiate with finance ministers of foreign countries to establish an international currency control agency to serve as central source of information and database for international drug enforcement agencies to collect and analyze currency transaction reports filed by member countries, and encouraged adoption, by member countries, of uniform cash transaction and money laundering statutes, prior to repeal by Pub. L. 102–583, §6(e)(1), Nov. 2, 1992, 106 Stat. 4933.

RESTRICTIONS ON LAUNDERING OF UNITED STATES CURRENCY

Pub. L. 100–690, title IV, §4702, Nov. 18, 1988, 102 Stat. 4291, as amended by Pub. L. 103–447, title I, §103(b), Nov. 2, 1994, 108 Stat. 4693, provided that:

''(a) FINDINGS.—The Congress finds that international currency transactions, especially in United States currency, that involve the proceeds of narcotics trafficking fuel trade in narcotics in the United States and worldwide and consequently are a threat to the national security of the United States.

''(b) PURPOSE.—The purpose of this section is to provide for international negotiations that would expand access to information on transactions involving large amounts of United States currency wherever those transactions occur worldwide.

''(c) NEGOTIATIONS.—(1) The Secretary of the Treasury (hereinafter in this section referred to as the 'Secretary') shall enter into negotiations with the appropriate financial supervisory agencies and other officials of any foreign country the financial institutions of which do business in United States currency. Highest priority shall be attached to countries whose financial institutions the Secretary determines, in consultation with the Attorney General and the Director of National Drug Control Policy, may be engaging in currency transactions involving the proceeds of international narcotics trafficking, particularly United States currency derived from drug sales in the United States.

''(2) The purposes of negotiations under this subsection are—

''(A) to reach one or more international agreements to ensure that foreign banks and other financial institutions maintain adequate records of large United States currency transactions, and

''(B) to establish a mechanism whereby such records may be made available to United States law enforcement officials.

In carrying out such negotiations, the Secretary should seek to enter into and further cooperative efforts, voluntary information exchanges, the use of letters rogatory, and mutual legal assistance treaties.

''(d) REPORTS.—Not later than 1 year after the date of enactment of this Act [Nov. 18, 1988], the Secretary shall submit an interim report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on progress in the negotiations under subsection (c). Not later than 2 years after such enactment, the Secretary shall submit a final report to such Committees and the President on the outcome of those negotiations and shall identify, in consultation with the Attorney General and the Director of National Drug Control Policy, countries—

''(1) with respect to which the Secretary determines there is evidence that the financial institutions in such countries are engaging in currency transactions involving the proceeds of international narcotics trafficking; and

''(2) which have not reached agreement with United States authorities on a mechanism for exchanging adequate records on international currency transactions in connection with narcotics investigations and proceedings.

''(e) AUTHORITY.—If after receiving the advice of the Secretary and in any case at the time of receipt of the Secretary's report, the Secretary determines that a foreign country—

''(1) has jurisdiction over financial institutions that are substantially engaging in currency transactions that effect [affect] the United States involving the proceeds of international narcotics trafficking;

''(2) such country has not reached agreement on a mechanism for exchanging adequate records on international currency transactions in connection with narcotics investigations and proceedings; and

''(3) such country is not negotiating in good faith to reach such an agreement,

the President shall impose appropriate penalties and sanctions, including temporarily or permanently—

''(1) prohibiting such persons, institutions or other entities in such countries from participating in any United States dollar clearing or wire transfer system; and

''(2) prohibiting such persons, institutions or entities in such countries from maintaining an account with any bank or other financial institution chartered under the laws of the United States or any State.

Any penalties or sanctions so imposed may be delayed or waived upon certification of the President to the Congress that it is in the national interest to do so. Financial institutions in such countries that maintain adequate records shall be exempt from such penalties and sanctions.

''(f) DEFINITIONS.—For the purposes of this section—

''(1) The term 'United States currency' means Federal Reserve Notes and United States coins.

''(2) The term 'adequate records' means records of United States' currency transactions in excess of $10,000 including the identification of the person initiating the transaction, the person's business or occupation, and the account or accounts affected by the transaction, or other records of comparable effect.''

INTERNATIONAL INFORMATION EXCHANGE SYSTEM; STUDY OF FOREIGN BRANCHES OF DOMESTIC INSTITUTIONS

Pub. L. 99–570, title I, §1363, Oct. 27, 1986, 100 Stat. 3207–33, required the Secretary of the Treasury to initiate discussions with the central banks or other appropriate governmental authorities of other countries and propose that an information exchange system be established to reduce international flow of money derived from illicit drug operations and other criminal activities and to report to Congress before the end of the 9-month period beginning Oct. 27, 1986. The Secretary of the Treasury was also required to conduct a study of (1)

the extent to which foreign branches of domestic institutions are used to facilitate illicit transfers of or to evade reporting requirements on transfers of coins, currency, and other monetary instruments into and out of the United States; (2) the extent to which the law of the United States is applicable to the activities of such foreign branches; and (3) methods for obtaining the cooperation of the country in which any such foreign branch is located for purposes of enforcing the law of the United States with respect to transfers, and reports on transfers, of such monetary instruments into and out of the United States and to report to Congress before the end of the 9-month period beginning Oct. 27, 1986.

§ 5312. Definitions and application

(a) In this subchapter—

(1) ''financial agency'' means a person acting for a person (except for a country, a monetary or financial authority acting as a monetary or financial authority, or an international financial institution of which the United States Government is a member) as a financial institution, bailee, depository trustee, or agent, or acting in a similar way related to money, credit, securities, gold, or a transaction in money, credit, securities, or gold.

(2) ''financial institution'' means—

(A) an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)));

(B) a commercial bank or trust company;

(C) a private banker;

(D) an agency or branch of a foreign bank in the United States;

(E) any credit union;

(F) a thrift institution;

(G) a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);

(H) a broker or dealer in securities or commodities;

(I) an investment banker or investment company;

(J) a currency exchange;

(K) an issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments;

(L) an operator of a credit card system;

(M) an insurance company;

(N) a dealer in precious metals, stones, or jewels;

(O) a pawnbroker;

(P) a loan or finance company;

(Q) a travel agency;

(R) a licensed sender of money or any other person who engages as a business in the transmission of funds, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system;

(S) a telegraph company;

(T) a business engaged in vehicle sales, including automobile, airplane, and boat sales;

(U) persons involved in real estate closings and settlements;

(V) the United States Postal Service;

(W) an agency of the United States Government or of a State or local government carrying out a duty or power of a business described in this paragraph;

(X) a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than $1,000,000 which—

(i) is licensed as a casino, gambling casino, or gaming establishment under the laws of any State or any political subdivision of any State; or

(ii) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class I gaming (as defined in section 4(6) of such Act);

(Y) any business or agency which engages in any activity which the Secretary of the Treasury determines, by regulation, to be an activity which is similar to, related to, or a substitute for any activity in which any business described in this paragraph is authorized to engage; or

(Z) any other business designated by the Secretary whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters.

(3) ''monetary instruments'' means—

(A) United States coins and currency;

(B) as the Secretary may prescribe by regulation, coins and currency of a foreign country, travelers' checks, bearer negotiable instruments, bearer investment securities, bearer securities, stock on which title is passed on delivery, and similar material; and

(C) as the Secretary of the Treasury shall provide by regulation for purposes of sections 5316 and 5331, checks, drafts, notes, money orders, and other similar instruments which are drawn on or by a foreign financial institution and are not in bearer form.

(4) NONFINANCIAL TRADE OR BUSINESS.—The term ''nonfinancial trade or business'' means any trade or business other than a financial institution that is subject to the reporting requirements of section 5313 and regulations prescribed under such section.

(5) ''person'', in addition to its meaning under section 1 of title 1, includes a trustee, a representative of an estate and, when the Secretary prescribes, a governmental entity.

(6) ''United States'' means the States of the United States, the District of Columbia, and, when the Secretary prescribes by regulation, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands, a territory or possession of the United States, or a military or diplomatic establishment.

(b) In this subchapter—

(1) ''domestic financial agency'' and ''domestic financial institution'' apply to an action in the United States of a financial agency or institution.

(2) ''foreign financial agency'' and ''foreign financial institution'' apply to an action outside the United States of a financial agency or institution.

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