

117TH CONGRESS
2^D SESSION

H. R. 7623

To increase the effectiveness and accountability of the Financial Crimes Enforcement Network of the Department of the Treasury and to protect the freedom and privacy of Americans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2022

Mr. DAVIDSON introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To increase the effectiveness and accountability of the Financial Crimes Enforcement Network of the Department of the Treasury and to protect the freedom and privacy of Americans, 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.**

4 This Act may be cited as the “Financial Crimes En-
5 forcement Network Improvements Act”.

6 **SEC. 2. BANK SECRECY ACT DEFINED.**

7 In this Act, the term “Bank Secrecy Act” means—

1 (1) section 21 of the Federal Deposit Insurance
2 Act (12 U.S.C. 1829b);

3 (2) chapter 2 of title I of Public Law 91–508
4 (12 U.S.C. 1951 et seq.); and

5 (3) subchapter II of chapter 53 of title 31,
6 United States Code.

7 **SEC. 3. DIRECTOR OF THE FINANCIAL CRIMES ENFORCE-**
8 **MENT NETWORK.**

9 (a) APPOINTMENT OF DIRECTOR.—Section 310(b)(1)
10 of title 31, United States Code, is amended by striking
11 “who shall be appointed by the Secretary of the Treasury”
12 and inserting “who shall be appointed by the President,
13 by and with the advice and consent of the Senate”.

14 (b) PAY OF DIRECTOR.—Section 310(b)(1) of title
15 31, United States Code, is amended by adding at the end
16 the following: “The Director shall be compensated at the
17 rate provided under level IV of the Executive Schedule
18 under section 5315 of title 5”.

19 **SEC. 4. INSPECTOR GENERAL FUNCTIONS.**

20 (a) ESTABLISHMENT OF OFFICE.—There is estab-
21 lished within the Office of the Inspector General of the
22 Department of the Treasury an Office of Audit and Inves-
23 tigation for the Financial Crimes Enforcement Network.

24 (b) DEPUTY INSPECTOR GENERAL.—The Inspector
25 General of the Department of the Treasury shall designate

1 a member of the Senior Executive Service to head the Of-
2 fice of Audit and Investigations for the Financial Crimes
3 Enforcement Network. Such member shall be known as
4 the Deputy Inspector General for the Financial Crimes
5 Enforcement Network.

6 (c) SUPERVISION, AUTHORITY, AND RESOURCES.—
7 The Inspector General of the Department of the Treasury
8 shall supervise the Deputy Inspector General for the Fi-
9 nancial Crimes Enforcement Network and shall ensure
10 that the Deputy Inspector General has the authority and
11 resources necessary and appropriate to perform inspector
12 general functions with respect to the Financial Crimes En-
13 forcement Network.

14 (d) PRIORITIES.—The Inspector General of the De-
15 partment of the Treasury shall ensure that the Office of
16 Audit and Investigations for the Financial Crimes En-
17 forcement Network gives substantial priority in con-
18 ducting audits and investigations to protection of the civil
19 liberties and privacy of American citizens by the Financial
20 Crimes Enforcement Network, including in the implemen-
21 tation of the Bank Secrecy Act and subsections (b), (c),
22 and (d) of section 310 of title 31, United States Code,
23 by the Financial Crimes Enforcement Network.

24 (e) ANNUAL REPORT.—The Inspector General of the
25 Department of the Treasury shall submit to the Com-

1 mittee on Financial Services of the House of Representa-
2 tives and the Committee on Banking, Housing, and Urban
3 Affairs of the Senate a report on or about October 31 of
4 each calendar year on—

5 (1) the activities of the Office of Audit and In-
6 vestigations for the Financial Crimes Enforcement
7 Network during the preceding fiscal year;

8 (2) the planned activities of that Office for the
9 current fiscal year;

10 (3) an overview of reports submitted to the Fi-
11 nancial Crimes Enforcement Network, including the
12 number of reports that—

13 (A) have been received by the Financial
14 Crimes Enforcement Network;

15 (B) have been reviewed by the Financial
16 Crimes Enforcement Network;

17 (C) have been requested by other govern-
18 mental agencies;

19 (D) led to a secondary investigation by the
20 Financial Crimes Enforcement Network; and

21 (E) resulted in a conviction, settlement, or
22 additional charges in other ongoing investiga-
23 tions; and

1 (4) such other information relating to that Of-
2 fice as the Inspector General determines appro-
3 priate.

4 **SEC. 5. CIVIL LIBERTIES PROTECTION OFFICER FOR THE**
5 **FINANCIAL CRIMES ENFORCEMENT NET-**
6 **WORK.**

7 Section 301 of title 31, United States Code, is
8 amended by adding at the end the following:

9 “(h) CIVIL LIBERTIES PROTECTION OFFICER FOR
10 THE FINANCIAL CRIMES ENFORCEMENT NETWORK.—

11 “(1) IN GENERAL.—Within the Office of the
12 Secretary of the Treasury, there shall be a Civil Lib-
13 erties Protection Officer for the Financial Crimes
14 Enforcement Network who shall—

15 “(A) be designated by the Secretary of the
16 Treasury from among members of the Senior
17 Executive Service; and

18 “(B) report directly to and be supervised
19 directly by the Secretary of the Treasury or, if
20 so assigned by the Secretary, the Deputy Sec-
21 retary of the Treasury.

22 “(2) DUTIES.—The Civil Liberties Protection
23 Officer for the Financial Crimes Enforcement Net-
24 work shall—

1 “(A) ensure that protection of civil liberties
2 and privacy is appropriately incorporated in the
3 activities conducted by the Financial Crimes
4 Enforcement Network;

5 “(B) oversee compliance by the Financial
6 Crimes Enforcement Network with require-
7 ments under the Constitution and all laws, reg-
8 ulations, and implementing guidelines relating
9 to civil liberties and privacy;

10 “(C) review and assess complaints and
11 other information indicating possible abuses of
12 civil liberties and privacy in the administration
13 of the programs and operations of the Financial
14 Crimes Enforcement Network and, as appro-
15 priate, refer such complaints or information for
16 investigation to the Office of Audit and Inves-
17 tigation for the Financial Crimes Enforcement
18 Network;

19 “(D) ensure that the use by the Financial
20 Crimes Enforcement Network of technologies
21 sustains, and does not erode, privacy protec-
22 tions relating to the use, collection, and disclo-
23 sure of personal information;

24 “(E) ensure that personal information con-
25 tained in a system of records subject to section

1 552a of title 5 (commonly referred to as the
2 ‘Privacy Act’) is handled by the Financial
3 Crimes Enforcement Network in compliance
4 with that section;

5 “(F) conduct privacy impact assessments
6 of the Financial Crimes Enforcement Network
7 when appropriate, directed, or required by law;
8 and

9 “(G) perform such other duties relating di-
10 rectly to protection of civil liberties and privacy
11 by the Financial Crimes Enforcement Network
12 as may be prescribed by the Secretary of the
13 Treasury.

14 “(3) COORDINATION.—The Civil Liberties Pro-
15 tection Officer for the Financial Crimes Enforce-
16 ment Network shall keep the following individuals
17 appropriately informed of the Officer’s activities:

18 “(A) The Department of the Treasury’s
19 Chief Privacy Officer (as described under sec-
20 tion 522 of division H of the Consolidated Ap-
21 propriations Act, 2005 (42 U.S.C. 2000ee–2)).

22 “(B) The Department of the Treasury’s
23 Privacy and Civil Liberties Officer (as des-
24 ignated pursuant to section 1062 of the Na-

1 tional Security Intelligence Reform Act of 2004
2 (42 U.S.C. 2000ee–1)).”.

3 **SEC. 6. TRANSPARENCY IN RULEMAKING AND SECRE-**
4 **TARIAL EXCEPTIONS.**

5 (a) RESERVATION TO THE SECRETARY OF AUTHOR-
6 ITY TO MAKE EXCEPTIONS.—No officer or employee of
7 the Department of the Treasury, except the Secretary of
8 the Treasury or the person performing the duties of the
9 Secretary of the Treasury when that office is vacant or
10 the Secretary is unable to perform the duties of that office,
11 shall, with respect to a proposed or final rule relating to
12 activities of the Financial Crimes Enforcement Network,
13 including implementation of the Bank Secrecy Act—

14 (1) make findings of good cause under sub-
15 section (b) or (d) of section 553 of title 5, United
16 States Code;

17 (2) exercise authority to certify, delay, or waive
18 under section 605 or 608 of title 5, United States
19 Code; or

20 (3) make findings of good cause under section
21 808(2) of title 5, United States Code.

22 (b) COVERED AGENCY STATUS FOR REGULATORY
23 FLEXIBILITY.—Section 310 of title 31, United States
24 Code, is amended by adding at the end thereof the fol-
25 lowing new subsection:

1 “(m) The Financial Crimes Enforcement Network
2 shall be a ‘covered agency’ for purposes of section 609(d)
3 of title 5.”.

4 **SEC. 7. TRANSPARENCY WITH CONTROLLING DOCUMENTS.**

5 (a) DEFINITION OF CONTROLLING DOCUMENT.—As
6 used in this section, the term “controlling document” re-
7 fers to any record (as defined in section 3301 of title 44,
8 United States Code) issued by or under the authority of
9 the Secretary, Deputy Secretary, Under Secretary for En-
10 forcement, or any other officer or employee of the Depart-
11 ment of the Treasury, that delegates authority to the Fi-
12 nancial Crimes Enforcement Network or its Director, or
13 contains direction binding upon the Financial Crimes En-
14 forcement Network or its Director, in the implementation
15 of section 310 of title 31, United States Code, or the Bank
16 Secrecy Act, including delegations, prescriptions, regula-
17 tions, protocols, priorities, policies, standards, guidelines,
18 and requirements issued in accordance with subsections
19 (b)(2)(C), (b)(2)(E), (b)(2)(I), (b)(2)(J), (b)(2)(O), (c),
20 and (i)(2)(C)(ii) of section 310 of such title 31 and sub-
21 sections (b)(1), (b)(2), (b)(4), (c)(2)(A), (c)(2)(C), (c)(3),
22 (c)(5), (d)(3), and (h)(3)(C)(i)(I)(bb) of section 5336 of
23 such title 31.

24 (b) DISCLOSURE TO CONGRESS.—The Secretary of
25 the Treasury shall promptly provide to the Committee on

1 Financial Services of the House of Representatives and
2 the Committee on Banking, Housing, and Urban Affairs
3 of the Senate—

4 (1) controlling documents in force as of the en-
5 actment of this Act;

6 (2) any controlling documents issued thereafter;
7 and

8 (3) any changes to controlling documents de-
9 scribed in paragraphs (1) and (2) made thereafter,
10 including any revocations thereof.

11 (c) DISCLOSURE TO THE PUBLIC.—The Secretary of
12 the Treasury shall make available promptly to the public
13 the controlling documents and changes that the Secretary
14 is required to provide to the committees listed in sub-
15 section (b), excluding such reasonably segregable portions
16 of controlling documents or changes as would fall within
17 an exemption in section 552(b) of title 5, United States
18 Code.

19 **SEC. 8. INFORMATION FOR CONSTITUTIONAL FUNCTIONS**
20 **OF CONGRESS.**

21 (a) KEEPING CONGRESS INFORMED.—The Secretary
22 of the Treasury shall keep the Committee on Financial
23 Services of the House of Representatives and the Com-
24 mittee on Banking, Housing, and Urban Affairs of the
25 Senate fully and currently informed of the activities of the

1 Financial Crimes Enforcement Network, including any
2 significant anticipated activity of such Network.

3 (b) REPORT OF UNLAWFUL ACTIVITY AND CORREC-
4 TIVE ACTION.—The Secretary of the Treasury shall report
5 promptly to the Committee on Financial Services of the
6 House of Representatives and the Committee on Banking,
7 Housing, and Urban Affairs any unlawful activity of the
8 Financial Crimes Enforcement Network and any correc-
9 tive action taken or planned to address that activity and
10 prevent such activity in the future.

11 (c) APPEARANCES BEFORE CONGRESS.—

12 (1) IN GENERAL.—The Director of the Finan-
13 cial Crimes Enforcement Network shall appear be-
14 fore the Committee on Financial Services of the
15 House of Representatives and the Committee on
16 Banking, Housing, and Urban Affairs at semiannual
17 hearings, as specified in paragraph (2), regarding
18 the activities of the Financial Crimes Enforcement
19 Network, including protection of the civil liberties
20 and privacy of, and minimization of burdens on,
21 American citizens.

22 (2) TIMING OF APPEARANCES.—The Director
23 shall appear—

24 (A) before the Committee on Financial
25 Services of the House of Representatives on or

1 about February 20 of even numbered calendar
2 years and on or about July 20 of odd numbered
3 calendar years;

4 (B) before the Committee on Banking,
5 Housing, and Urban Affairs of the Senate on or
6 about July 20 of even numbered calendar years
7 and on or about February 20 of odd numbered
8 calendar years; and

9 (C) before either Committee referred to in
10 subparagraph (A) or (B), upon request, fol-
11 lowing the scheduled appearance of the Director
12 before the other Committee under subpara-
13 graph (A) or (B).

14 (d) REQUIREMENTS IN ADDITION.—The require-
15 ments of this section are in addition to the requirements
16 of section 5336(e)(11) of title 31, United States Code.

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