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31 USC CHAPTER 53 - MONETARY TRANSACTIONS

01/22/02

-EXPCITE-

TITLE 31 - MONEY AND FINANCE  
SUBTITLE IV - MONEY  
CHAPTER 53 - MONETARY TRANSACTIONS  
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CHAPTER 53 - MONETARY TRANSACTIONS

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AMENDMENTS

2001 - Pub. L. 107-56, title III, Sec. 365(c), Oct. 26, 2001, 115 Stat. 335, which directed the amendment of chapter 53 analysis by inserting item 5331 after the item relating to section 5332 (as added by section 112 of this title), was executed by inserting item 5331 after item 5330 to reflect the probable intent of Congress.

Pub. L. 107-56, title III, Sec. 311(b), 371(c), Oct. 26, 2001, 115 Stat. 304, 338, added items 5318A and 5332.

1998 - Pub. L. 105-310, Sec. 2(b), Oct. 30, 1998, 112 Stat. 2948, added subchapter III heading, parts 1 and 2 headings, and items 5340 to 5355.

1996 - Pub. L. 104-208, div. A, title II, Sec. 2223(2), Sept. 30, 1996, 110 Stat. 3009-415, struck out item 5327 'Identification of financial institutions'.

1994 - Pub. L. 103-325, title III, Sec. 311(b), title IV, Sec. 408(d), Sept. 23, 1994, 108 Stat. 2221, 2252, added items 5329 and 5330.

1992 - Pub. L. 102-550, title XV, Sec. 1511(c), 1563(b), Oct. 28, 1992, 106 Stat. 4057, 4073, added items 5327 and 5328.

1988 - Pub. L. 100-690, title VI, Sec. 6185(f), Nov. 18, 1988, 102 Stat. 4357, added items 5325 and 5326.

1986 - Pub. L. 99-570, title I, Sec. 1354(b), 1356(d), Oct. 27, 1986, 100 Stat. 3207-22, 3207-25, substituted 'Compliance, exemptions, and summons authority' for 'Compliance and exemptions' in item 5318 and added item 5324.

1984 - Pub. L. 98-473, title II, Sec. 901(f), Oct. 12, 1984, 98 Stat. 2136, added item 5323.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 9703 of this title; title 18 section 1510; title 19 sections 1431, 1613b.

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31 USC SUBCHAPTER II - RECORDS AND REPORTS ON MONETARY  
INSTRUMENTS TRANSACTIONS

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SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 310 of this title; title 12 sections 1464, 1786, 1817, 1818, 1829b, 3401, 3413; title 15 sections 78q, 6802; title 18 sections 1952, 1956, 1961; title 22 section 2714.

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31 USC Sec. 5311

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TITLE 31 - MONEY AND FINANCE  
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Sec. 5311. Declaration of purpose

-STATUTE-

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.

-SOURCE-

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

-MISC1-

Historical and Revision Notes

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5311	31:1051.	Oct. 26, 1970, Pub. L. 91-508, Sec. 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 AND TERMINATION DATES OF 2001 AMENDMENT

Amendments by title III of Pub. L. 107-56 to terminate effective on and after the first day of fiscal year 2005 if Congress enacts a joint resolution that such amendments no longer have the force of law, see section 303 of Pub. L. 107-56, set out as a Four-Year Congressional Review; Expedited Consideration note under this section.

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 (Sec. 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.

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

Pub. L. 107-56, title III, Sec. 302, Oct. 26, 2001, 115 Stat. 296, 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 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 subchapters II and III 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, Sec. 303, Oct. 26, 2001, 115 Stat. 298, provided that:

''(a) In General. - Effective on and after the first day of fiscal year 2005, the provisions of this title (see Short Title of 2001 Amendment note set out under section 5301 of this title) and the amendments made by this title shall terminate if the Congress enacts a joint resolution, the text after the resolving clause of which is as follows: 'That provisions of the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, and the amendments made thereby, shall no longer have the force of law.'

''(b) Expedited Consideration. - Any joint resolution submitted pursuant to this section should be considered by the Congress expeditiously. In particular, it shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Control Act of 1976 (Pub. L. 94-329, 90 Stat. 765).''

COOPERATIVE EFFORTS TO DETER MONEY LAUNDERING

Pub. L. 107-56, title III, Sec. 314, Oct. 26, 2001, 115 Stat. 307, 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, and 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 to 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 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, Sec. 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 (Sec. 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, Sec. 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, Sec. 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, Sec. 356(c), Oct. 26, 2001, 115 Stat. 324, 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 or business 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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 App. U.S.C.) 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, Sec. 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, Sec. 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, Sec. 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, Sec. 6(e)(1), Nov. 2, 1992, 106 Stat. 4933.

#### RESTRICTIONS ON LAUNDERING OF UNITED STATES CURRENCY

Pub. L. 100-690, title IV, Sec. 4702, Nov. 18, 1988, 102 Stat. 4291, as amended by Pub. L. 103-447, title I, Sec. 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, Sec. 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.

-CITE-

31 USC Sec. 5312

01/22/02

-EXPCITE-

TITLE 31 - MONEY AND FINANCE

SUBTITLE IV - MONEY

CHAPTER 53 - MONETARY TRANSACTIONS

SUBCHAPTER II - RECORDS AND REPORTS ON MONETARY INSTRUMENTS

## TRANSACTIONS

-HEAD-

Sec. 5312. Definitions and application

-STATUTE-

(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 5333 (FOOTNOTE 1) and 5316, 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.

(FOOTNOTE 1) So in original. This title does not contain a section 5333.

(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:

(1) (FOOTNOTE 2) Certain institutions included in definition. - The term 'financial institution' (as defined in subsection (a)) includes the following:

(FOOTNOTE 2) So in original. No par. (2) has been enacted.

(A) (FOOTNOTE 3) Any futures commission merchant, commodity trading advisor, or commodity pool operator registered, or required to register, under the Commodity Exchange Act.

(FOOTNOTE 3) So in original. No subpar. (B) has been enacted.

-SOURCE-

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 995; Pub. L. 99-570, title I, Sec. 1362, Oct. 27, 1986, 100 Stat. 3207-33; Pub. L. 100-690, title VI, Sec. 6185(a), (g)(1), Nov. 18, 1988, 102 Stat. 4354, 4357; Pub. L. 103-325, title IV, Sec. 405, 409, Sept. 23, 1994, 108 Stat. 2247, 2252; Pub. L. 107-56, title III, Sec. 321(a), (b), 359(a), 365(c)(1), (2)(A), Oct. 26, 2001, 115 Stat. 315, 328, 335.)

-MISC1-



Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5312(a)(1)	31:1052(a), (b), (g), (i).	Oct. 26, 1970, Pub. L. 91-508, Sec. 203(a)-(i), (l), 84 Stat. 1118.
5312(a)(2)	31:1052(e).	
5312(a)(3)	31:1052(l).	
5312(a)(4)	31:1052(c).	
5312(a)(5)	31:1052(d).	
5312(b)	31:1052(f), (h).	

In subsection (a)(1), the text of 31:1052(a) is omitted as unnecessary. The text of 31:1052(b) is omitted because of the restatement. The text of 31:1052(i) is omitted as unnecessary because the source provision is restated where necessary in the revised subchapter.

In subsection (a)(2), (3), (4), and (5), the words "the Secretary . . . prescribes" are substituted for "specified by the Secretary by regulation", "as the Secretary may by regulation specify", "specified by the Secretary", and "the Secretary shall by regulation specify" for consistency.

In subsection (a)(2) and (3), the words "for the purposes of the provision of this chapter to which the regulation relates" are omitted as surplus.

In subsection (a)(2), before subclause (A), the words "any person which does business in any one or more of the following capacities" are omitted as surplus. In subclause (F), the words "savings bank, building and loan association, credit union, industrial bank, or other" are omitted as surplus. In subclause (T), the words "agency of the United States Government or of a State or local government" are substituted for "Federal, State, or local government institution" for consistency. In subclause (U), the words "type of" are omitted as surplus. The word "agency" is substituted for "institution" for consistency.

In subsection (a)(3)(B)-(5), the word "prescribe" is substituted for "specify" for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(3)(B), the words "in addition", and "and such types of" are omitted as surplus. The words "similar material" are substituted for "the equivalent thereof" for clarity.

In subsection (a)(4), the words "in addition to its meaning under section 1 of title 1" are substituted for "natural persons, partnerships, . . . associations, corporations, and all entities cognizable as legal personalities" for consistency because 1:1 is applicable to all laws unless otherwise provided. The words "a trustee, a representative of an estate" are substituted for "trusts, estates", and the word "entity" is substituted for "department or agency", for consistency. The words "either for the purpose of this chapter generally or any particular requirement thereunder" are omitted as surplus.

In subsection (a)(5), the words "used in a geographic sense" are omitted because of the restatement. The words "either for the purposes of this chapter generally or any particular requirement thereunder" are omitted as surplus. The words "territory or" are added for consistency.

Subsection (b) is substituted for 31:1052(f) and (h) to eliminate unnecessary words and for consistency.

The Securities Exchange Act of 1934, referred to in subsec. (a)(2)(G), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (Sec. 78a et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

The Indian Gaming Regulatory Act, referred to in subsec. (a)(2)(X)(ii), is Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, as amended, which is classified principally to chapter 29 (Sec. 2701 et seq.) of Title 25, Indians. Section 4(6) of the Act is classified to section 2703(6) of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

The Commodity Exchange Act, referred to in subsec. (c)(1)(A), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, as amended, which is classified generally to chapter 1 (Sec. 1 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1 of Title 7 and Tables.

-COD-

#### CODIFICATION

Another section 365(c) of Pub. L. 107-56 amended the table of sections at the beginning of this chapter.

-MISC3-

#### AMENDMENTS

2001 - Subsec. (a)(2)(E). Pub. L. 107-56, Sec. 321(a), which directed the general amendment of par. (2)(E) of this section, was executed to subsec. (a)(2)(E) of this section to reflect the probable intent of Congress. Prior to amendment, subsec. (a)(2)(E) read as follows: ''an insured institution (as defined in section 401(a) of the National Housing Act (12 U.S.C. 1724(a)));''.

Subsec. (a)(2)(R). Pub. L. 107-56, Sec. 359(a), amended subpar. (R) generally. Prior to amendment, subpar. (R) read as follows: ''a licensed sender of money;''.

Subsec. (a)(3)(C). Pub. L. 107-56, Sec. 365(c)(2)(A), substituted ''sections 5333 and 5316,'' for ''section 5316, ''.

Subsec. (a)(4) to (6). Pub. L. 107-56, Sec. 365(c)(1), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (c). Pub. L. 107-56, Sec. 321(b), added subsec. (c).

1994 - Subsec. (a)(2)(X) to (Z). Pub. L. 103-325, Sec. 409, added subpar. (X) and redesignated former subpars. (X) and (Y) as (Y) and (Z), respectively.

Subsec. (a)(3)(C). Pub. L. 103-325, Sec. 405, added subpar. (C).

1988 - Subsec. (a)(2)(T) to (Y). Pub. L. 100-690, Sec. 6185(a), added subpars. (T) to (Y) and struck out former subpars. (T) and (U) which read as follows:

''(T) 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 clause (2), including the United States Postal Service; or

''(U) another business or agency carrying out a similar, related, or substitute duty or power the Secretary of the Treasury prescribes. ''

Subsec. (a)(5). Pub. L. 100-690, Sec. 6185(g)(1), inserted a comma after ''Puerto Rico'' and struck out second comma after ''Pacific Islands''.

1986 - Subsec. (a)(2)(T). Pub. L. 99-570, Sec. 1362(a), which directed that the Postal Service be included within United States agencies by amending subsec. (a)(2)(U) of this section by inserting before the semicolon at the end thereof the following '', including the United States Postal Service'', was executed to subsec. (a)(2)(T) of this section as the probable intent of Congress, because subsec. (a)(2)(U) does not contain a semicolon and subsec.

(a)(2)(T) relates to United States agencies.

Subsec. (a)(5). Pub. L. 99-570, Sec. 1362(b), inserted ''the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands,'' after ''Puerto Rico''.

#### TERMINATION DATE OF 2001 AMENDMENT

Amendments by title III of Pub. L. 107-56 to terminate effective on and after the first day of fiscal year 2005 if Congress enacts a joint resolution that such amendments no longer have the force of law, see section 303 of Pub. L. 107-56, set out as a Four-Year Congressional Review; Expedited Consideration note under section 5311 of this title.

-TRANS-

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

-SECFREF-

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5318, 5331, 5340 of this title; title 12 section 1953; title 18 sections 986, 1956, 2339B; title 19 sections 1401, 1607; title 26 section 6050I; title 50 section 438.

-CITE-

31 USC Sec. 5313

01/22/02

-EXPCITE-

TITLE 31 - MONEY AND FINANCE  
SUBTITLE IV - MONEY  
CHAPTER 53 - MONETARY TRANSACTIONS  
SUBCHAPTER II - RECORDS AND REPORTS ON MONETARY INSTRUMENTS  
TRANSACTIONS

-HEAD-

Sec. 5313. Reports on domestic coins and currency transactions

-STATUTE-

(a) When a domestic financial institution is involved in a transaction for the payment, receipt, or transfer of United States coins or currency (or other monetary instruments the Secretary of the Treasury prescribes), in an amount, denomination, or amount and denomination, or under circumstances the Secretary prescribes by regulation, the institution and any other participant in the transaction the Secretary may prescribe shall file a report on the transaction at the time and in the way the Secretary prescribes. A participant acting for another person shall make the report as the agent or bailee of the person and identify the person for whom the transaction is being made.

(b) The Secretary may designate a domestic financial institution as an agent of the United States Government to receive a report under this section. However, the Secretary may designate a domestic financial institution that is not insured, chartered, examined, or registered as a domestic financial institution only if the institution consents. The Secretary may suspend or revoke a designation for a violation of this subchapter or a regulation under this subchapter (except a violation of section 5315 of this title or a regulation prescribed under section 5315), section 411 (FOOTNOTE 1) of the National Housing Act (12 U.S.C. 1730d), or section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b).

(FOOTNOTE 1) See References in Text note below.

(c)(1) A person (except a domestic financial institution

designated under subsection (b) of this section) required to file a report under this section shall file the report -

(A) with the institution involved in the transaction if the institution was designated;

(B) in the way the Secretary prescribes when the institution was not designated; or

(C) with the Secretary.

(2) The Secretary shall prescribe -

(A) the filing procedure for a domestic financial institution designated under subsection (b) of this section; and

(B) the way the institution shall submit reports filed with it.

(d) Mandatory Exemptions From Reporting Requirements. -

(1) In general. - The Secretary of the Treasury shall exempt, pursuant to section 5318(a)(6), a depository institution from the reporting requirements of subsection (a) with respect to transactions between the depository institution and the following categories of entities:

(A) Another depository institution.

(B) A department or agency of the United States, any State, or any political subdivision of any State.

(C) Any entity established under the laws of the United States, any State, or any political subdivision of any State, or under an interstate compact between 2 or more States, which exercises governmental authority on behalf of the United States or any such State or political subdivision.

(D) Any business or category of business the reports on which have little or no value for law enforcement purposes.

(2) Notice of exemption. - The Secretary of the Treasury shall publish in the Federal Register at such times as the Secretary determines to be appropriate (but not less frequently than once each year) a list of all the entities whose transactions with a depository institution are exempt under this subsection from the reporting requirements of subsection (a).

(e) Discretionary Exemptions From Reporting Requirements. -

(1) In general. - The Secretary of the Treasury may exempt, pursuant to section 5318(a)(6), a depository institution from the reporting requirements of subsection (a) with respect to transactions between the depository institution and a qualified business customer of the institution on the basis of information submitted to the Secretary by the institution in accordance with procedures which the Secretary shall establish.

(2) Qualified business customer defined. - For purposes of this subsection, the term "qualified business customer" means a business which -

(A) maintains a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) at the depository institution;

(B) frequently engages in transactions with the depository institution which are subject to the reporting requirements of subsection (a); and

(C) meets criteria which the Secretary determines are sufficient to ensure that the purposes of this subchapter are carried out without requiring a report with respect to such transactions.

(3) Criteria for exemption. - The Secretary of the Treasury shall establish, by regulation, the criteria for granting and maintaining an exemption under paragraph (1).

(4) Guidelines. -

(A) In general. - The Secretary of the Treasury shall establish guidelines for depository institutions to follow in selecting customers for an exemption under this subsection.

(B) Contents. - The guidelines may include a description of the types of businesses or an itemization of specific businesses for which no exemption will be granted under this

subsection to any depository institution.

(5) Annual review. - The Secretary of the Treasury shall prescribe regulations requiring each depository institution to -

(A) review, at least once each year, the qualified business customers of such institution with respect to whom an exemption has been granted under this subsection; and

(B) upon the completion of such review, resubmit information about such customers, with such modifications as the institution determines to be appropriate, to the Secretary for the Secretary's approval.

(6) 2-year phase-in provision. - During the 2-year period beginning on the date of enactment of the Money Laundering Suppression Act of 1994, this subsection shall be applied by the Secretary on the basis of such criteria as the Secretary determines to be appropriate to achieve an orderly implementation of the requirements of this subsection.

(f) Provisions Applicable to Mandatory and Discretionary Exemptions. -

(1) Limitation on liability of depository institutions. - No depository institution shall be subject to any penalty which may be imposed under this subchapter for the failure of the institution to file a report with respect to a transaction with a customer for whom an exemption has been granted under subsection (d) or (e) unless the institution -

(A) knowingly files false or incomplete information to the Secretary with respect to the transaction or the customer engaging in the transaction; or

(B) has reason to believe at the time the exemption is granted or the transaction is entered into that the customer or the transaction does not meet the criteria established for granting such exemption.

(2) Coordination with other provisions. - Any exemption granted by the Secretary of the Treasury under section 5318(a) in accordance with this section, and any transaction which is subject to such exemption, shall be subject to any other provision of law applicable to such exemption, including -

(A) the authority of the Secretary, under section 5318(a)(6), to revoke such exemption at any time; and

(B) any requirement to report, or any authority to require a report on, any possible violation of any law or regulation or any suspected criminal activity.

(g) Depository Institution Defined. - For purposes of this section, the term 'depository institution' -

(1) has the meaning given to such term in section 19(b)(1)(A) of the Federal Reserve Act; and

(2) includes -

(A) any branch, agency, or commercial lending company (as such terms are defined in section 1(b) of the International Banking Act of 1978);

(B) any corporation chartered under section 25A of the Federal Reserve Act; and

(C) any corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act.

-SOURCE-

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 996; Pub. L. 103-325, title IV, Sec. 402(a), Sept. 23, 1994, 108 Stat. 2243.)

-MISC1-

#### Historical and Revision Notes

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Revised Section                      Source (U.S. Code)                      Source (Statutes at

Large)

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5313(a) 31:1081. Oct. 26, 1970, Pub.  
L. 91-508, Sec. 221-  
223, 84 Stat. 1122.  
31:1082.  
5313(b) 31:1083(a).  
5313(c) 31:1083(b).  
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In subsection (a), the words 'coins or' are added, and the words 'prescribe' and 'prescribes' are substituted for 'specify' in 31:1081, and 'require', for consistency. The words 'other parties thereto or' in 31:1082 are omitted as surplus. The words 'to the Secretary' in 31:1081 are omitted as unnecessary and for clarity. The words 'in such detail' are omitted as surplus. The words 'A participant acting for another person shall make the report as the agent or bailee of the person and identify the person for whom the transaction is being made' are substituted for 31:1082(last sentence) for clarity and to eliminate unnecessary words.

In subsection (b), the words 'in his discretion' and 'individually or by class' are omitted as surplus. The word 'Government' is added for consistency. The words 'or a regulation under this subchapter', are added because of the restatement. The words '(except a violation of section 5315 of this title or a regulation prescribed under section 5315)' are added because 31:1141-1143 was not enacted as a part of the Currency and Foreign Transactions Reporting Act that is restated in this subchapter.

In subsection (c)(1), clause (A) is substituted for 'with respect to a domestic financial institution . . . with that institution' for clarity. Clause (C) is substituted for 'any such person may, at his election and in lieu of filing the report in the manner hereinabove prescribed, file the report with the Secretary' to eliminate unnecessary words.

-REFTEXT-

#### REFERENCES IN TEXT

Section 411 of the National Housing Act, referred to in subsec. (b), which was classified to section 1730d of Title 12, Banks and Banking, was repealed by Pub. L. 101-73, title IV, Sec. 407, Aug. 9, 1989, 103 Stat. 363.

Section 19(b)(1)(A) and (C) of the Federal Reserve Act, referred to in subsecs. (e)(2)(A) and (g)(1), is classified to section 461(b)(1)(A) and (C) of Title 12.

The date of enactment of the Money Laundering Suppression Act of 1994, referred to in subsec. (e)(6), is the date of enactment of title IV of Pub. L. 103-325, which was approved Sept. 23, 1994.

Section 1(b) of the International Banking Act of 1978, referred to in subsec. (g)(2)(A), is classified to section 3101 of Title 12.

Sections 25 and 25A of the Federal Reserve Act, referred to in subsec. (g)(2)(B), (C), are classified to subchapters I (Sec. 601 et seq.) and II (Sec. 611 et seq.), respectively, of chapter 6 of Title 12.

-MISC2-

#### AMENDMENTS

1994 - Subsecs. (d) to (g). Pub. L. 103-325 added subsecs. (d) to (g).

#### EFFICIENT USE OF CURRENCY TRANSACTION REPORT SYSTEM

Pub. L. 107-56, title III, Sec. 366, Oct. 26, 2001, 115 Stat. 335, provided that:

''(a) Findings. - The Congress finds the following:

''(1) The Congress established the currency transaction

reporting requirements in 1970 because the Congress found then that such reports have a high degree of usefulness in criminal, tax, and regulatory investigations and proceedings and the usefulness of such reports has only increased in the years since the requirements were established.

''(2) In 1994, in response to reports and testimony that excess amounts of currency transaction reports were interfering with effective law enforcement, the Congress reformed the currency transaction report exemption requirements to provide -

''(A) mandatory exemptions for certain reports that had little usefulness for law enforcement, such as cash transfers between depository institutions and cash deposits from government agencies; and

''(B) discretionary authority for the Secretary of the Treasury to provide exemptions, subject to criteria and guidelines established by the Secretary, for financial institutions with regard to regular business customers that maintain accounts at an institution into which frequent cash deposits are made.

''(3) Today there is evidence that some financial institutions are not utilizing the exemption system, or are filing reports even if there is an exemption in effect, with the result that the volume of currency transaction reports is once again interfering with effective law enforcement.

''(b) Study and Report. -

''(1) Study required. - The Secretary shall conduct a study of

-

''(A) the possible expansion of the statutory exemption system in effect under section 5313 of title 31, United States Code; and

''(B) methods for improving financial institution utilization of the statutory exemption provisions as a way of reducing the submission of currency transaction reports that have little or no value for law enforcement purposes, including improvements in the systems in effect at financial institutions for regular review of the exemption procedures used at the institution and the training of personnel in its effective use.

''(2) Report required. - The Secretary of the Treasury shall submit a report to the Congress before the end of the 1-year period beginning on the date of enactment of this Act (Oct. 26, 2001) containing the findings and conclusions of the Secretary with regard to the study required under subsection (a), and such recommendations for legislative or administrative action as the Secretary determines to be appropriate.'

REPORT REDUCTION GOAL; STREAMLINED CURRENCY TRANSACTION REPORTS  
Section 402(b), (c) of Pub. L. 103-325 provided that:

''(b) Report Reduction Goal; Reports. -

''(1) In general. - In implementing the amendment made by subsection (a) (amending this section), the Secretary of the Treasury shall seek to reduce, within a reasonable period of time, the number of reports required to be filed in the aggregate by depository institutions pursuant to section 5313(a) of title 31, United States Code, by at least 30 percent of the number filed during the year preceding the date of enactment of this Act (Sept. 23, 1994).

''(2) Interim report. - The Secretary of the Treasury shall submit a report to the Congress not later than the end of the 180-day period beginning on the date of enactment of this Act on the progress made by the Secretary in implementing the amendment made by subsection (a).

''(3) Annual report. - The Secretary of the Treasury shall submit an annual report to the Congress after the end of each of the first 5 calendar years which begin after the date of enactment of this Act on the extent to which the Secretary has

reduced the overall number of currency transaction reports filed with the Secretary pursuant to section 5313(a) of title 31, United States Code, consistent with the purposes of such section and effective law enforcement.

''(c) Streamlined Currency Transaction Reports. - The Secretary of the Treasury shall take such action as may be appropriate to -  
''(1) redesign the format of reports required to be filed under section 5313(a) of title 31, United States Code, by any financial institution (as defined in section 5312(a)(2) of such title) to eliminate the need to report information which has little or no value for law enforcement purposes; and  
''(2) reduce the time and effort required to prepare such report for filing by any such financial institution under such section.''

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5312, 5317, 5324, 5330, 5331 of this title; title 12 section 3420; title 26 section 6103; title 28 section 524.

-CITE-

31 USC Sec. 5315

01/22/02

-EXPCITE-

TITLE 31 - MONEY AND FINANCE  
SUBTITLE IV - MONEY  
CHAPTER 53 - MONETARY TRANSACTIONS  
SUBCHAPTER II - RECORDS AND REPORTS ON MONETARY INSTRUMENTS  
TRANSACTIONS

-HEAD-

Sec. 5315. Reports on foreign currency transactions

-STATUTE-

(a) Congress finds that -

(1) moving mobile capital can have a significant impact on the proper functioning of the international monetary system;

(2) it is important to have the most feasible current and complete information on the kind and source of capital flows, including transactions by large United States businesses and their foreign affiliates; and

(3) additional authority should be provided to collect information on capital flows under section 5(b) of the Trading With the Enemy Act (50 App. U.S.C. 5(b)) and section 8 of the Bretton Woods Agreement Act (22 U.S.C. 286f).

(b) In this section, ''United States person'' and ''foreign person controlled by a United States person'' have the same meanings given those terms in section 7(f)(2)(A) and (C), respectively, of the Securities and Exchange Act of 1934 (15 U.S.C. 78g(f)(2)(A), (C)).

(c) The Secretary of the Treasury shall prescribe regulations consistent with subsection (a) of this section requiring reports on foreign currency transactions conducted by a United States person or a foreign person controlled by a United States person. The regulations shall require that a report contain information and be submitted at the time and in the way, with reasonable exceptions and classifications, necessary to carry out this section.

-SOURCE-

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 997.)

-MISC1-



Historical and Revision Notes

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5315(a)	31:1141.	Sept. 21, 1973, Pub. L. 93-110, Sec. 201, 202, 87 Stat. 353.
5315(b), (c)	31:1142.	

In subsection (a)(3), the words 'it is desirable to emphasize this objective . . . existing legal' are omitted as unnecessary. In subsection (c), the words '(hereafter referred to as the 'Secretary')' are omitted because of the restatement. The words 'under the authority of this subchapter and any other authority conferred by law' are omitted as surplus. The word 'prescribe' is substituted for 'supplement' for clarity. The words 'the statement of findings under' and 'the submission of' are omitted as surplus. The words 'Reports required under this subchapter shall cover foreign currency transactions' are omitted because of the restatement. The words 'such terms are' and 'the policy of' are omitted as surplus.

-REFTEXT-

REFERENCES IN TEXT

Section 5(b) of the Trading With the Enemy Act, referred to in subsec. (a)(3), is also classified to section 95a of Title 12, Banks and Banking.

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5311, 5313, 5318, 5321, 5322 of this title.

-CITE-

31 USC Sec. 5318

01/22/02

-EXPCITE-

TITLE 31 - MONEY AND FINANCE  
SUBTITLE IV - MONEY  
CHAPTER 53 - MONETARY TRANSACTIONS  
SUBCHAPTER II - RECORDS AND REPORTS ON MONETARY INSTRUMENTS  
TRANSACTIONS

-HEAD-

Sec. 5318. Compliance, exemptions, and summons authority

-STATUTE-

(a) General Powers of Secretary. - The Secretary of the Treasury may (except under section 5315 of this title and regulations prescribed under section 5315) -

(1) except as provided in subsection (b)(2), delegate duties and powers under this subchapter to an appropriate supervising agency and the United States Postal Service;

(2) require a class of domestic financial institutions or nonfinancial trades or businesses to maintain appropriate procedures to ensure compliance with this subchapter and regulations prescribed under this subchapter or to guard against money laundering;

(3) examine any books, papers, records, or other data of domestic financial institutions or nonfinancial trades or

businesses relevant to the recordkeeping or reporting requirements of this subchapter;

(4) summon a financial institution or nonfinancial trade or business, an officer or employee of a financial institution or nonfinancial trade or business (including a former officer or employee), or any person having possession, custody, or care of the reports and records required under this subchapter, to appear before the Secretary of the Treasury or his delegate at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation described in subsection (b);

(5) exempt from the requirements of this subchapter any class of transactions within any State if the Secretary determines that

-

(A) under the laws of such State, that class of transactions is subject to requirements substantially similar to those imposed under this subchapter; and

(B) there is adequate provision for the enforcement of such requirements; and

(6) prescribe an appropriate exemption from a requirement under this subchapter and regulations prescribed under this subchapter. The Secretary may revoke an exemption under this paragraph or paragraph (5) by actually or constructively notifying the parties affected. A revocation is effective during judicial review.

(b) Limitations on Summons Power. -

(1) Scope of power. - The Secretary of the Treasury may take any action described in paragraph (3) or (4) of subsection (a) only in connection with investigations for the purpose of civil enforcement of violations of this subchapter, section 21 of the Federal Deposit Insurance Act, section 411 (FOOTNOTE 1) of the National Housing Act, or chapter 2 of Public Law 91-508 (12 U.S.C. 1951 et seq.) or any regulation under any such provision. (FOOTNOTE 1) See References in Text note below.

(2) Authority to issue. - A summons may be issued under subsection (a)(4) only by, or with the approval of, the Secretary of the Treasury or a supervisory level delegate of the Secretary of the Treasury.

(c) Administrative Aspects of Summons. -

(1) Production at designated site. - A summons issued pursuant to this section may require that books, papers, records, or other data stored or maintained at any place be produced at any designated location in any State or in any territory or other place subject to the jurisdiction of the United States not more than 500 miles distant from any place where the financial institution or nonfinancial trade or business operates or conducts business in the United States.

(2) Fees and travel expenses. - Persons summoned under this section shall be paid the same fees and mileage for travel in the United States that are paid witnesses in the courts of the United States.

(3) No liability for expenses. - The United States shall not be liable for any expense, other than an expense described in paragraph (2), incurred in connection with the production of books, papers, records, or other data under this section.

(d) Service of Summons. - Service of a summons issued under this section may be by registered mail or in such other manner calculated to give actual notice as the Secretary may prescribe by regulation.

(e) Contumacy or Refusal. -

(1) Referral to attorney general. - In case of contumacy by a person issued a summons under paragraph (3) or (4) of subsection (a) or a refusal by such person to obey such summons, the

Secretary of the Treasury shall refer the matter to the Attorney General.

(2) Jurisdiction of court. - The Attorney General may invoke the aid of any court of the United States within the jurisdiction of which -

(A) the investigation which gave rise to the summons is being or has been carried on;

(B) the person summoned is an inhabitant; or

(C) the person summoned carries on business or may be found, to compel compliance with the summons.

(3) Court order. - The court may issue an order requiring the person summoned to appear before the Secretary or his delegate to produce books, papers, records, and other data, to give testimony as may be necessary to explain how such material was compiled and maintained, and to pay the costs of the proceeding.

(4) Failure to comply with order. - Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(5) Service of process. - All process in any case under this subsection may be served in any judicial district in which such person may be found.

(f) Written and Signed Statement Required. - No person shall qualify for an exemption under subsection (a)(5) (FOOTNOTE 2) unless the relevant financial institution or nonfinancial trade or business prepares and maintains a statement which -

(FOOTNOTE 2) See References in Text note below.

(1) describes in detail the reasons why such person is qualified for such exemption; and

(2) contains the signature of such person.

(g) Reporting of Suspicious Transactions. -

(1) In general. - The Secretary may require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation.

(2) Notification prohibited. -

(A) In general. - If a financial institution or any director, officer, employee, or agent of any financial institution, voluntarily or pursuant to this section or any other authority, reports a suspicious transaction to a government agency -

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

(ii) no officer or employee of the Federal Government or of any State, local, tribal, or territorial government within the United States, who has any knowledge that such report was made may disclose to any person involved in the transaction that the transaction has been reported, other than as necessary to fulfill the official duties of such officer or employee.

(B) Disclosures in certain employment references. -

(i) Rule of construction. - Notwithstanding the application of subparagraph (A) in any other context, subparagraph (A) shall not be construed as prohibiting any financial institution, or any director, officer, employee, or agent of such institution, from including information that was included in a report to which subparagraph (A) applies -

(I) in a written employment reference that is provided in accordance with section 18(w) of the Federal Deposit Insurance Act in response to a request from another financial institution; or

(II) in a written termination notice or employment reference that is provided in accordance with the rules of a self-regulatory organization registered with the Securities and Exchange Commission or the Commodity Futures

Trading Commission,  
except that such written reference or notice may not disclose that such information was also included in any such report, or that such report was made.

(ii) Information not required. - Clause (i) shall not be construed, by itself, to create any affirmative duty to include any information described in clause (i) in any employment reference or termination notice referred to in clause (i).

(3) Liability for disclosures. -

(A) In general. - Any financial institution that makes a voluntary disclosure of any possible violation of law or regulation to a government agency or makes a disclosure pursuant to this subsection or any other authority, and any director, officer, employee, or agent of such institution who makes, or requires another to make any such disclosure, 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 of any State, 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.

(B) Rule of construction. - Subparagraph (A) shall not be construed as creating -

(i) any inference that the term "person", as used in such subparagraph, may be construed more broadly than its ordinary usage so as to include any government or agency of government; or

(ii) any immunity against, or otherwise affecting, any civil or criminal action brought by any government or agency of government to enforce any constitution, law, or regulation of such government or agency.

(4) Single designee for reporting suspicious transactions. -

(A) In general. - In requiring reports under paragraph (1) of suspicious transactions, the Secretary of the Treasury shall designate, to the extent practicable and appropriate, a single officer or agency of the United States to whom such reports shall be made.

(B) Duty of designee. - The officer or agency of the United States designated by the Secretary of the Treasury pursuant to subparagraph (A) shall refer any report of a suspicious transaction to any appropriate law enforcement, supervisory agency, or United States intelligence agency for use in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.

(C) Coordination with other reporting requirements. - Subparagraph (A) shall not be construed as precluding any supervisory agency for any financial institution from requiring the financial institution to submit any information or report to the agency or another agency pursuant to any other applicable provision of law.

(h) Anti-Money Laundering Programs. -

(1) In general. - In order to guard against money laundering through financial institutions, each financial institution shall establish anti-money laundering programs, including, at a minimum

(A) the development of internal policies, procedures, and controls;

(B) the designation of a compliance officer;

(C) an ongoing employee training program; and

(D) an independent audit function to test programs.

(2) Regulations. - The Secretary of the Treasury, after

consultation with the appropriate Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act), may prescribe minimum standards for programs established under paragraph (1), and may exempt from the application of those standards any financial institution that is not subject to the provisions of the rules contained in part 103 of title 31, of the Code of Federal Regulations, or any successor rule thereto, for so long as such financial institution is not subject to the provisions of such rules.

(3) Concentration accounts. - The Secretary may prescribe regulations under this subsection that govern maintenance of concentration accounts by financial institutions, in order to ensure that such accounts are not used to prevent association of the identity of an individual customer with the movement of funds of which the customer is the direct or beneficial owner, which regulations shall, at a minimum -

(A) prohibit financial institutions from allowing clients to direct transactions that move their funds into, out of, or through the concentration accounts of the financial institution;

(B) prohibit financial institutions and their employees from informing customers of the existence of, or the means of identifying, the concentration accounts of the institution; and

(C) require each financial institution to establish written procedures governing the documentation of all transactions involving a concentration account, which procedures shall ensure that, any time a transaction involving a concentration account commingles funds belonging to 1 or more customers, the identity of, and specific amount belonging to, each customer is documented.

(i) Due Diligence for United States Private Banking and Correspondent Bank Accounts Involving Foreign Persons. -

(1) In general. - Each financial institution that establishes, maintains, administers, or manages a private banking account or a correspondent account in the United States for a non-United States person, including a foreign individual visiting the United States, or a representative of a non-United States person shall establish appropriate, specific, and, where necessary, enhanced, due diligence policies, procedures, and controls that are reasonably designed to detect and report instances of money laundering through those accounts.

(2) Additional standards for certain correspondent accounts. -

(A) In general. - Subparagraph (B) shall apply if a correspondent account is requested or maintained by, or on behalf of, a foreign bank operating -

(i) under an offshore banking license; or

(ii) under a banking license issued by a foreign country that has been designated -

(I) as noncooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member, with which designation the United States representative to the group or organization concurs; or

(II) by the Secretary of the Treasury as warranting special measures due to money laundering concerns.

(B) Policies, procedures, and controls. - The enhanced due diligence policies, procedures, and controls required under paragraph (1) shall, at a minimum, ensure that the financial institution in the United States takes reasonable steps -

(i) to ascertain for any such foreign bank, the shares of which are not publicly traded, the identity of each of the owners of the foreign bank, and the nature and extent of the ownership interest of each such owner;

(ii) to conduct enhanced scrutiny of such account to guard

against money laundering and report any suspicious transactions under subsection (g); and

(iii) to ascertain whether such foreign bank provides correspondent accounts to other foreign banks and, if so, the identity of those foreign banks and related due diligence information, as appropriate under paragraph (1).

(3) Minimum standards for private banking accounts. - If a private banking account is requested or maintained by, or on behalf of, a non-United States person, then the due diligence policies, procedures, and controls required under paragraph (1) shall, at a minimum, ensure that the financial institution takes reasonable steps -

(A) to ascertain the identity of the nominal and beneficial owners of, and the source of funds deposited into, such account as needed to guard against money laundering and report any suspicious transactions under subsection (g); and

(B) to conduct enhanced scrutiny of any such account that is requested or maintained by, or on behalf of, a senior foreign political figure, or any immediate family member or close associate of a senior foreign political figure that is reasonably designed to detect and report transactions that may involve the proceeds of foreign corruption.

(4) Definition. - For purposes of this subsection, the following definitions shall apply:

(A) Offshore banking license. - The term 'offshore banking license' means a license to conduct banking activities which, as a condition of the license, prohibits the licensed entity from conducting banking activities with the citizens of, or with the local currency of, the country which issued the license.

(B) Private banking account. - The term 'private banking account' means an account (or any combination of accounts) that -

(i) requires a minimum aggregate deposits of funds or other assets of not less than \$1,000,000;

(ii) is established on behalf of 1 or more individuals who have a direct or beneficial ownership interest in the account; and

(iii) is assigned to, or is administered or managed by, in whole or in part, an officer, employee, or agent of a financial institution acting as a liaison between the financial institution and the direct or beneficial owner of the account.

(j) Prohibition on United States Correspondent Accounts With Foreign Shell Banks. -

(1) In general. - A financial institution described in subparagraphs (A) through (G) of section 5312(a)(2) (in this subsection referred to as a 'covered financial institution') shall not establish, maintain, administer, or manage a correspondent account in the United States for, or on behalf of, a foreign bank that does not have a physical presence in any country.

(2) Prevention of indirect service to foreign shell banks. - A covered financial institution shall take reasonable steps to ensure that any correspondent account established, maintained, administered, or managed by that covered financial institution in the United States for a foreign bank is not being used by that foreign bank to indirectly provide banking services to another foreign bank that does not have a physical presence in any country. The Secretary of the Treasury shall, by regulation, delineate the reasonable steps necessary to comply with this paragraph.

(3) Exception. - Paragraphs (1) and (2) do not prohibit a covered financial institution from providing a correspondent

account to a foreign bank, if the foreign bank -

(A) is an affiliate of a depository institution, credit union, or foreign bank that maintains a physical presence in the United States or a foreign country, as applicable; and

(B) is subject to supervision by a banking authority in the country regulating the affiliated depository institution, credit union, or foreign bank described in subparagraph (A), as applicable.

(4) Definitions. - For purposes of this subsection -

(A) the term ''affiliate'' means a foreign bank that is controlled by or is under common control with a depository institution, credit union, or foreign bank; and

(B) the term ''physical presence'' means a place of business that -

(i) is maintained by a foreign bank;

(ii) is located at a fixed address (other than solely an electronic address) in a country in which the foreign bank is authorized to conduct banking activities, at which location the foreign bank -

(I) employs 1 or more individuals on a full-time basis; and

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

(iii) is subject to inspection by the banking authority which licensed the foreign bank to conduct banking activities.

(k) Bank Records Related to Anti-Money Laundering Programs. -

(1) Definitions. - For purposes of this subsection, the following definitions shall apply:

(A) Appropriate federal banking agency. - The term ''appropriate Federal banking agency'' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(B) Incorporated term. - The term ''correspondent account'' has the same meaning as in section 5318A(f)(1)(B).

(2) 120-hour rule. - Not later than 120 hours after receiving a request by an appropriate Federal banking agency for information related to anti-money laundering compliance by a covered financial institution or a customer of such institution, a covered financial institution shall provide to the appropriate Federal banking agency, or make available at a location specified by the representative of the appropriate Federal banking agency, information and account documentation for any account opened, maintained, administered or managed in the United States by the covered financial institution.

(3) Foreign bank records. -

(A) Summons or subpoena of records. -

(i) In general. - The Secretary of the Treasury or the Attorney General may issue a summons or subpoena to any foreign bank that maintains a correspondent account in the United States and request records related to such correspondent account, including records maintained outside of the United States relating to the deposit of funds into the foreign bank.

(ii) Service of summons or subpoena. - A summons or subpoena referred to in clause (i) may be served on the foreign bank in the United States if the foreign bank has a representative in the United States, or in a foreign country pursuant to any mutual legal assistance treaty, multilateral agreement, or other request for international law enforcement assistance.

(B) Acceptance of service. -

(i) Maintaining records in the United States. - Any covered financial institution which maintains a correspondent account

in the United States for a foreign bank shall maintain records in the United States identifying the owners of such foreign bank and the name and address of a person who resides in the United States and is authorized to accept service of legal process for records regarding the correspondent account.

(ii) Law enforcement request. - Upon receipt of a written request from a Federal law enforcement officer for information required to be maintained under this paragraph, the covered financial institution shall provide the information to the requesting officer not later than 7 days after receipt of the request.

(C) Termination of correspondent relationship. -

(i) Termination upon receipt of notice. - A covered financial institution shall terminate any correspondent relationship with a foreign bank not later than 10 business days after receipt of written notice from the Secretary or the Attorney General (in each case, after consultation with the other) that the foreign bank has failed -

(I) to comply with a summons or subpoena issued under subparagraph (A); or

(II) to initiate proceedings in a United States court contesting such summons or subpoena.

(ii) Limitation on liability. - A covered financial institution shall not be liable to any person in any court or arbitration proceeding for terminating a correspondent relationship in accordance with this subsection.

(iii) Failure to terminate relationship. - Failure to terminate a correspondent relationship in accordance with this subsection shall render the covered financial institution liable for a civil penalty of up to \$10,000 per day until the correspondent relationship is so terminated.

(l) (FOOTNOTE 3) Identification and Verification of Accountholders. -

(FOOTNOTE 3) So in original. Two subsecs. (l) have been enacted.

(1) In general. - Subject to the requirements of this subsection, the Secretary of the Treasury shall prescribe regulations setting forth the minimum standards for financial institutions and their customers regarding the identity of the customer that shall apply in connection with the opening of an account at a financial institution.

(2) Minimum requirements. - The regulations shall, at a minimum, require financial institutions to implement, and customers (after being given adequate notice) to comply with, reasonable procedures for -

(A) verifying the identity of any person seeking to open an account to the extent reasonable and practicable;

(B) maintaining records of the information used to verify a person's identity, including name, address, and other identifying information; and

(C) consulting lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency to determine whether a person seeking to open an account appears on any such list.

(3) Factors to be considered. - In prescribing regulations under this subsection, the Secretary shall take into consideration the various types of accounts maintained by various types of financial institutions, the various methods of opening accounts, and the various types of identifying information available.

(4) Certain financial institutions. - In the case of any financial institution the business of which is engaging in financial activities described in section 4(k) of the Bank



Holding Company Act of 1956 (including financial activities subject to the jurisdiction of the Commodity Futures Trading Commission), the regulations prescribed by the Secretary under paragraph (1) shall be prescribed jointly with each Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act, including the Commodity Futures Trading Commission) appropriate for such financial institution.

(5) Exemptions. - The Secretary (and, in the case of any financial institution described in paragraph (4), any Federal agency described in such paragraph) may, by regulation or order, exempt any financial institution or type of account from the requirements of any regulation prescribed under this subsection in accordance with such standards and procedures as the Secretary may prescribe.

(6) Effective date. - Final regulations prescribed under this subsection shall take effect before the end of the 1-year period beginning on the date of enactment of the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001.

(1) (FOOTNOTE 3) Applicability of Rules. - Any rules promulgated pursuant to the authority contained in section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) shall apply, in addition to any other financial institution to which such rules apply, to any person that 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.

-SOURCE-

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 999; Pub. L. 99-570, title I, Sec. 1356(a), (b), (c)(2), Oct. 27, 1986, 100 Stat. 3207-23, 3207-24; Pub. L. 100-690, title VI, Sec. 6185(e), 6469(c), Nov. 18, 1988, 102 Stat. 4357, 4377; Pub. L. 102-550, title XV, Sec. 1504(d)(1), 1513, 1517(b), Oct. 28, 1992, 106 Stat. 4055, 4058, 4059; Pub. L. 103-322, title XXXIII, Sec. 330017(b)(1), Sept. 13, 1994, 108 Stat. 2149; Pub. L. 103-325, title IV, Sec. 403(a), 410, 413(b)(1), Sept. 23, 1994, 108 Stat. 2245, 2252, 2254; Pub. L. 107-56, title III, Sec. 312(a), 313(a), 319(b), 325, 326(a), 351, 352(a), 358(b), 359(c), 365(c)(2)(B), Oct. 26, 2001, 115 Stat. 304, 306, 312, 317, 320, 322, 326, 328, 335.)

-MISC1-

Historical and Revision Notes

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5318	31:1054(a), (b)(1st sentence).  31:1055.	Oct. 26, 1970, Pub. L. 91-508, Sec. 205(a), (b)(1st sentence), 206, 84 Stat. 1120.

In the section, before clause (1), the words "have the responsibility to assure compliance with the requirements of this chapter" in 31:1054(a) are omitted as unnecessary because of section 321 of the revised title. The words "(except under section 5315 of this title and regulations prescribed under section 5315)" are added because 31:1141-1143 was not enacted as a part of the Currency and Foreign Transactions Reporting Act that is restated in this subchapter. In clause (1), the words "duties and powers" are substituted for "responsibilities" for consistency

in the revised title and with other titles of the United States Code. The words 'bank supervisory agency, or other' are omitted as surplus. In clause (2), the words 'by regulation' and 'as he may deem' are omitted as surplus. The words 'and regulations prescribed under this subchapter' are added because of the restatement. In clause (3), the word 'prescribe' is substituted for 'make' in 31:1055 for consistency in the revised title and with other titles of the Code. The words 'otherwise imposed', 31:1055(1st sentence), and the words 'in his discretion' are omitted as surplus.

-REFTEXT-

#### REFERENCES IN TEXT

Section 21 of the Federal Deposit Insurance Act, referred to in subsecs. (b)(1) and (l), is classified to section 1829b of Title 12, Banks and Banking.

Section 411 of the National Housing Act, referred to in subsec. (b)(1), which was classified to section 1730d of Title 12, was repealed by Pub. L. 101-73, title IV, Sec. 407, Aug. 9, 1989, 103 Stat. 363.

Chapter 2 of Public Law 91-508 (12 U.S.C. 1951 et seq.), referred to in subsec. (b)(1), probably means chapter 2 (Sec. 121 to 129) of title I of Pub. L. 91-508, Oct. 26, 1970, 84 Stat. 1116, which is classified generally to chapter 21 (Sec. 1951 et seq.) of Title 12. For complete classification of chapter 2 to the Code, see Tables.

Subsection (a)(5), referred to in subsec. (f), was redesignated subsection (a)(6) by section 410(a)(2) of Pub. L. 103-325.

Section 18(w) of the Federal Deposit Insurance Act, referred to in subsec. (g)(2)(B)(i)(I), is classified to section 1828(w) of Title 12, Banks and Banking.

Section 509 of the Gramm-Leach-Bliley Act, referred to in subsecs. (h)(2) and (l)(4), is classified to section 6809 of Title 15, Commerce and Trade.

Section 4(k) of the Bank Holding Company Act of 1956, referred to in subsec. (l)(4), is classified to section 1843(k) of Title 12, Banks and Banking.

The date of enactment of the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001, referred to in subsec. (l)(6), is the date of enactment of title III of Pub. L. 107-56, which was approved Oct. 26, 2001.

-COD-

#### CODIFICATION

Another section 365(c) of Pub. L. 107-56 amended the table of sections at the beginning of this chapter.

-MISC3-

#### AMENDMENTS

2001 - Subsec. (a)(2), (3). Pub. L. 107-56, Sec. 365(c)(2)(B)(ii), inserted 'or nonfinancial trades or businesses' after 'financial institutions'.

Subsec. (a)(4). Pub. L. 107-56, Sec. 365(c)(2)(B)(i), inserted 'or nonfinancial trade or business' after 'financial institution' in two places.

Subsec. (c)(1). Pub. L. 107-56, Sec. 365(c)(2)(B)(i), inserted 'or nonfinancial trade or business' after 'financial institution'.

Subsec. (f). Pub. L. 107-56, Sec. 365(c)(2)(B)(i), inserted 'or nonfinancial trade or business' after 'financial institution' in introductory provisions.

Subsec. (g)(2). Pub. L. 107-56, Sec. 351(b), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: 'A financial institution, and a director, officer, employee, or agent of any financial institution, who

voluntarily reports a suspicious transaction, or that reports a suspicious transaction pursuant to this section or any other authority, may not notify any person involved in the transaction that the transaction has been reported.'

Subsec. (g)(3). Pub. L. 107-56, Sec. 351(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: 'Any financial institution that makes a disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority, and any director, officer, employee, or agent of such institution, shall not be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure.'

Subsec. (g)(4)(B). Pub. L. 107-56, Sec. 358(b), substituted ', supervisory agency, or United States intelligence agency for use in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism'' for 'or supervisory agency'.

Subsec. (h). Pub. L. 107-56, Sec. 352(a), reenacted heading without change and amended text of subsec. (h) generally. Prior to amendment, text read as follows:

'(1) In general. - In order to guard against money laundering through financial institutions, the Secretary may require financial institutions to carry out anti-money laundering programs, including at a minimum

'(A) the development of internal policies, procedures, and controls,

'(B) the designation of a compliance officer,

'(C) an ongoing employee training program, and

'(D) an independent audit function to test programs.

'(2) Regulations. - The Secretary may prescribe minimum standards for programs established under paragraph (1).'

Subsec. (h)(3). Pub. L. 107-56, Sec. 325, which directed amendment of subsec. (h) of this section, 'as amended by section 202 of this title', by adding par. (3), was executed by adding par. (3) to subsec. (h) of this section, as amended by section 352 of title III of Pub. L. 107-56, to reflect the probable intent of Congress.

Subsec. (i). Pub. L. 107-56, Sec. 312(a), added subsec. (i).

Subsec. (j). Pub. L. 107-56, Sec. 313(a), added subsec. (j).

Subsec. (k). Pub. L. 107-56, Sec. 319(b), added subsec. (k).

Subsec. (l). Pub. L. 107-56, Sec. 359(c), added subsec. (l) relating to applicability of rules.

Pub. L. 107-56, Sec. 326(a), added subsec. (l) relating to identification and verification of accountholders.

1994 - Subsec. (a)(5). Pub. L. 103-325, Sec. 410(a), added par. (5). Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 103-325, Sec. 410(b), inserted 'under this paragraph or paragraph (5)'' after 'revoke an exemption'' in penultimate sentence.

Pub. L. 103-325, Sec. 410(a)(2), redesignated par. (5) as (6).

Subsec. (g). Pub. L. 103-322, Sec. 330017(b)(1), and Pub. L. 103-325, Sec. 413(b)(1), amended directory language of Pub. L. 102-550, Sec. 1517(b), identically. See 1992 Amendment note below.

Subsec. (g)(4). Pub. L. 103-325, Sec. 403(a), added par. (4).

Subsec. (h). Pub. L. 103-322, Sec. 330017(b)(1), and Pub. L. 103-325, Sec. 413(b)(1), amended directory language of Pub. L. 102-550, Sec. 1517(b), identically. See 1992 Amendment note below.

1992 - Subsec. (a)(1). Pub. L. 102-550, Sec. 1504(d)(1), substituted 'supervising agency and the United States Postal Service' for 'supervising agency or the Postal Inspection Service and the Postal Service'.

Subsec. (a)(2). Pub. L. 102-550, Sec. 1513, inserted before semicolon ''or to guard against money laundering''.

Subsecs. (g), (h). Pub. L. 102-550, Sec. 1517(b), as amended by Pub. L. 103-322, Sec. 330017(b)(1), and Pub. L. 103-325, Sec. 413(b)(1), added subsecs. (g) and (h).

1988 - Subsec. (a)(1). Pub. L. 100-690, Sec. 6469(c), inserted ''or the Postal Inspection Service'' after ''appropriate supervising agency''.

Pub. L. 100-690, Sec. 6185(e), inserted ''and the Postal Service'' after ''appropriate supervising agency''.

1986 - Pub. L. 99-570, Sec. 1356(c)(2), substituted ''Compliance, exemptions, and summons authority'' for ''Compliance and exemptions'' in section catchline.

Subsec. (a). Pub. L. 99-570, Sec. 1356(a)(1)-(5), designated existing provisions as subsec. (a), added subsec. heading, inserted ''except as provided in subsection (b)(2),'' in par. (1), added pars. (3) and (4), and redesignated former par. (3) as (5).

Subsecs. (b) to (e). Pub. L. 99-570, Sec. 1356(a)(6), added subsecs. (b) to (e).

Subsec. (f). Pub. L. 99-570, Sec. 1356(b), added subsec. (f).

#### EFFECTIVE AND TERMINATION DATES OF 2001 AMENDMENT

Amendments by title III of Pub. L. 107-56 to terminate effective on and after the first day of fiscal year 2005 if Congress enacts a joint resolution that such amendments no longer have the force of law, see section 303 of Pub. L. 107-56, set out as a Four-Year Congressional Review; Expedited Consideration note under section 5311 of this title.

Pub. L. 107-56, title III, Sec. 312(b)(2), Oct. 26, 2001, 115 Stat. 306, provided that: ''Section 5318(i) of title 31, United States Code, as added by this section, shall take effect 270 days after the date of enactment of this Act (Oct. 26, 2001), whether or not final regulations are issued under paragraph (1) (set out below), and the failure to issue such regulations shall in no way affect the enforceability of this section (amending this section and enacting provisions set out as a note below) or the amendments made by this section. Section 5318(i) of title 31, United States Code, as added by this section, shall apply with respect to accounts covered by that section 5318(i), that are opened before, on, or after the date of enactment of this Act.''

Pub. L. 107-56, title III, Sec. 313(b), Oct. 26, 2001, 115 Stat. 307, provided that: ''The amendment made by subsection (a) (amending this section) shall take effect at the end of the 60-day period beginning on the date of enactment of this Act (Oct. 26, 2001).''

Pub. L. 107-56, title III, Sec. 352(b), Oct. 26, 2001, 115 Stat. 322, provided that: ''The amendment made by subsection (a) (amending this section) shall take effect at the end of the 180-day period beginning on the date of enactment of this Act (Oct. 26, 2001).''

Amendment by section 358(b) of 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.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Section 330017(b)(1) of Pub. L. 103-322 and section 413(b)(1) of Pub. L. 103-325 provided that the identical amendments made by those sections are effective Oct. 28, 1992.

#### REGULATIONS

Pub. L. 107-56, title III, Sec. 312(b)(1), Oct. 26, 2001, 115 Stat. 305, provided that: ''Not later than 180 days after the date of enactment of this Act (Oct. 26, 2001), the Secretary (of the Treasury), in consultation with the appropriate Federal functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)) of the affected financial institutions, shall

further delineate, by regulation, the due diligence policies, procedures, and controls required under section 5318(i)(1) of title 31, United States Code, as added by this section.'

Pub. L. 107-56, title III, Sec. 352(c), Oct. 26, 2001, 115 Stat. 322, provided that: 'Before the end of the 180-day period beginning on the date of enactment of this Act (Oct. 26, 2001), the Secretary (of the Treasury) shall prescribe regulations that consider the extent to which the requirements imposed under this section (amending this section and enacting provisions set out as a note above) are commensurate with the size, location, and activities of the financial institutions to which such regulations apply.'

#### GRACE PERIOD

Pub. L. 107-56, title III, Sec. 319(c), Oct. 26, 2001, 115 Stat. 314, provided that: 'Financial institutions shall have 60 days from the date of enactment of this Act (Oct. 26, 2001) to comply with the provisions of section 5318(k) of title 31, United States Code, as added by this section.'

#### 'FEDERAL FUNCTIONAL REGULATOR' INCLUDES COMMODITY FUTURES TRADING COMMISSION

Pub. L. 107-56, title III, Sec. 321(c), Oct. 26, 2001, 115 Stat. 315, provided that: 'For purposes of this Act (probably should be 'title', see Short Title of 2001 Amendment note set out under section 5301 of this title) and any amendment made by this Act to any other provision of law, the term 'Federal functional regulator' includes the Commodity Futures Trading Commission.'

#### REPORTING OF SUSPICIOUS ACTIVITIES BY SECURITIES BROKERS AND DEALERS; INVESTMENT COMPANY STUDY

Pub. L. 107-56, title III, Sec. 356(a), (b), Oct. 26, 2001, 115 Stat. 324, provided that:

'(a) Deadline for Suspicious Activity Reporting Requirements for Registered Brokers and Dealers. - The Secretary (of the Treasury), after consultation with the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System, shall publish proposed regulations in the Federal Register before January 1, 2002, requiring brokers and dealers registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) to submit suspicious activity reports under section 5318(g) of title 31, United States Code. Such regulations shall be published in final form not later than July 1, 2002.

'(b) Suspicious Activity Reporting Requirements For Futures Commission Merchants, Commodity Trading Advisors, and Commodity Pool Operators. - The Secretary, in consultation with the Commodity Futures Trading Commission, may prescribe regulations requiring futures commission merchants, commodity trading advisors, and commodity pool operators registered under the Commodity Exchange Act (7 U.S.C. 1 et seq.) to submit suspicious activity reports under section 5318(g) of title 31, United States Code.'

#### REPORTS

Section 403(b) of Pub. L. 103-325 provided that:

'(1) Reports required. - The Secretary of the Treasury shall submit an annual report to the Congress at the times required under paragraph (2) on the number of suspicious transactions reported to the officer or agency designated under section 5318(g)(4)(A) of title 31, United States Code, during the period covered by the report and the disposition of such reports.

'(2) Time for submitting reports. - The 1st report required under paragraph (1) shall be filed before the end of the 1-year period beginning on the date of enactment of the Money Laundering Suppression Act of 1994 (Sept. 23, 1994) and each subsequent report shall be filed within 90 days after the end of each of the 5 calendar years which begin after such date of enactment.'

#### DESIGNATION REQUIRED TO BE MADE EXPEDITIOUSLY

Section 403(c) of Pub. L. 103-325 provided that: 'The initial

designation of an officer or agency of the United States pursuant to the amendment made by subsection (a) (amending this section) shall be made before the end of the 180-day period beginning on the date of enactment of this Act (Sept. 23, 1994).'

#### IMPROVEMENT OF IDENTIFICATION OF MONEY LAUNDERING SCHEMES

Section 404 of Pub. L. 103-325 provided that:

''(a) Enhanced Training, Examinations, and Referrals by Banking Agencies. - Before the end of the 6-month period beginning on the date of enactment of this Act (Sept. 23, 1994), each appropriate Federal banking agency shall, in consultation with the Secretary of the Treasury and other appropriate law enforcement agencies -

''(1) review and enhance training and examination procedures to improve the identification of money laundering schemes involving depository institutions; and

''(2) review and enhance procedures for referring cases to any appropriate law enforcement agency.

''(b) Improved Reporting of Criminal Schemes by Law Enforcement Agencies. - The Secretary of the Treasury and each appropriate law enforcement agency shall provide, on a regular basis, information regarding money laundering schemes and activities involving depository institutions to each appropriate Federal banking agency in order to enhance each agency's ability to examine for and identify money laundering activity.

''(c) Report to Congress. - The Financial Institutions Examination Council shall submit a report on the progress made in carrying out subsection (a) and the usefulness of information received pursuant to subsection (b) to the Congress by the end of the 1-year period beginning on the date of enactment of this Act.

''(d) Definition. - For purposes of this section, the term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).'

-SECRET-

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5313, 5318A, 5321, 5322 of this title; title 18 section 981.

-CITE-

31 USC Sec. 5318A

01/22/02

-EXPCITE-

TITLE 31 - MONEY AND FINANCE

SUBTITLE IV - MONEY

CHAPTER 53 - MONETARY TRANSACTIONS

SUBCHAPTER II - RECORDS AND REPORTS ON MONETARY INSTRUMENTS  
TRANSACTIONS

-HEAD-

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

-STATUTE-

(a) International Counter-Money Laundering Requirements. -

(1) In general. - The Secretary of the Treasury may require domestic financial institutions and domestic financial agencies to take 1 or more of the special measures described in subsection (b) if the Secretary finds that reasonable grounds exist for concluding that a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts is of primary money laundering concern, in accordance with subsection (c).

(2) Form of requirement. - The special measures described in -

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

(B) paragraphs (1) through (4) of subsection (b) may be imposed by regulation, order, or otherwise as permitted by law; and

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

(3) Duration of orders; rulemaking. - Any order by which a special measure described in paragraphs (1) through (4) of subsection (b) is imposed (other than an order described in section 5326) -

(A) shall be issued together with a notice of proposed rulemaking relating to the imposition of such special measure; and

(B) may not remain in effect for more than 120 days, except pursuant to a rule promulgated on or before the end of the 120-day period beginning on the date of issuance of such order.

(4) Process for selecting special measures. - In selecting which special measure or measures to take under this subsection, the Secretary of the Treasury -

(A) shall consult with the Chairman of the Board of Governors of the Federal Reserve System, any other appropriate Federal banking agency, as defined in section 3 of the Federal Deposit Insurance Act, the Secretary of State, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the National Credit Union Administration Board, and in the sole discretion of the Secretary, such other agencies and interested parties as the Secretary may find to be appropriate; and

(B) shall consider -

(i) whether similar action has been or is being taken by other nations or multilateral groups;

(ii) whether the imposition of any particular special measure would create a significant competitive disadvantage, including any undue cost or burden associated with compliance, for financial institutions organized or licensed in the United States;

(iii) the extent to which the action or the timing of the action would have a significant adverse systemic impact on the international payment, clearance, and settlement system, or on legitimate business activities involving the particular jurisdiction, institution, or class of transactions; and

(iv) the effect of the action on United States national security and foreign policy.

(5) No limitation on other authority. - This section shall not be construed as superseding or otherwise restricting any other authority granted to the Secretary, or to any other agency, by this subchapter or otherwise.

(b) Special Measures. - The special measures referred to in subsection (a), with respect to a jurisdiction outside of the United States, financial institution operating outside of the United States, class of transaction within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts are as follows:

(1) Recordkeeping and reporting of certain financial transactions. -

(A) In general. - The Secretary of the Treasury may require any domestic financial institution or domestic financial agency to maintain records, file reports, or both, concerning the aggregate amount of transactions, or concerning each transaction, with respect to a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts if the Secretary finds

any such jurisdiction, institution, or class of transactions to be of primary money laundering concern.

(B) Form of records and reports. - Such records and reports shall be made and retained at such time, in such manner, and for such period of time, as the Secretary shall determine, and shall include such information as the Secretary may determine, including -

(i) the identity and address of the participants in a transaction or relationship, including the identity of the originator of any funds transfer;

(ii) the legal capacity in which a participant in any transaction is acting;

(iii) the identity of the beneficial owner of the funds involved in any transaction, in accordance with such procedures as the Secretary determines to be reasonable and practicable to obtain and retain the information; and

(iv) a description of any transaction.

(2) Information relating to beneficial ownership. - In addition to any other requirement under any other provision of law, the Secretary may require any domestic financial institution or domestic financial agency to take such steps as the Secretary may determine to be reasonable and practicable to obtain and retain information concerning the beneficial ownership of any account opened or maintained in the United States by a foreign person (other than a foreign entity whose shares are subject to public reporting requirements or are listed and traded on a regulated exchange or trading market), or a representative of such a foreign person, that involves a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts if the Secretary finds any such jurisdiction, institution, or transaction or type of account to be of primary money laundering concern.

(3) Information relating to certain payable-through accounts. - If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary may require any domestic financial institution or domestic financial agency that opens or maintains a payable-through account in the United States for a foreign financial institution involving any such jurisdiction or any such financial institution operating outside of the United States, or a payable through account through which any such transaction may be conducted, as a condition of opening or maintaining such account -

(A) to identify each customer (and representative of such customer) of such financial institution who is permitted to use, or whose transactions are routed through, such payable-through account; and

(B) to obtain, with respect to each such customer (and each such representative), information that is substantially comparable to that which the depository institution obtains in the ordinary course of business with respect to its customers residing in the United States.

(4) Information relating to certain correspondent accounts. - If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary may require any domestic financial institution or domestic financial agency that opens or maintains a correspondent account in the United States



for a foreign financial institution involving any such jurisdiction or any such financial institution operating outside of the United States, or a correspondent account through which any such transaction may be conducted, as a condition of opening or maintaining such account -

(A) to identify each customer (and representative of such customer) of any such financial institution who is permitted to use, or whose transactions are routed through, such correspondent account; and

(B) to obtain, with respect to each such customer (and each such representative), information that is substantially comparable to that which the depository institution obtains in the ordinary course of business with respect to its customers residing in the United States.

(5) Prohibitions or conditions on opening or maintaining certain correspondent or payable-through accounts. - If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary, in consultation with the Secretary of State, the Attorney General, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon, the opening or maintaining in the United States of a correspondent account or payable-through account by any domestic financial institution or domestic financial agency for or on behalf of a foreign banking institution, if such correspondent account or payable-through account involves any such jurisdiction or institution, or if any such transaction may be conducted through such correspondent account or payable-through account.

(c) Consultations and Information To Be Considered in Finding Jurisdictions, Institutions, Types of Accounts, or Transactions To Be of Primary Money Laundering Concern. -

(1) In general. - In making a finding that reasonable grounds exist for concluding that a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts is of primary money laundering concern so as to authorize the Secretary of the Treasury to take 1 or more of the special measures described in subsection (b), the Secretary shall consult with the Secretary of State and the Attorney General.

(2) Additional considerations. - In making a finding described in paragraph (1), the Secretary shall consider in addition such information as the Secretary determines to be relevant, including the following potentially relevant factors:

(A) Jurisdictional factors. - In the case of a particular jurisdiction -

(i) evidence that organized criminal groups, international terrorists, or both, have transacted business in that jurisdiction;

(ii) the extent to which that jurisdiction or financial institutions operating in that jurisdiction offer bank secrecy or special regulatory advantages to nonresidents or nondomiciliaries of that jurisdiction;

(iii) the substance and quality of administration of the bank supervisory and counter-money laundering laws of that jurisdiction;

(iv) the relationship between the volume of financial transactions occurring in that jurisdiction and the size of the economy of the jurisdiction;

(v) the extent to which that jurisdiction is characterized

as an offshore banking or secrecy haven by credible international organizations or multilateral expert groups;

(vi) whether the United States has a mutual legal assistance treaty with that jurisdiction, and the experience of United States law enforcement officials and regulatory officials in obtaining information about transactions originating in or routed through or to such jurisdiction; and

(vii) the extent to which that jurisdiction is characterized by high levels of official or institutional corruption.

(B) Institutional factors. - In the case of a decision to apply 1 or more of the special measures described in subsection (b) only to a financial institution or institutions, or to a transaction or class of transactions, or to a type of account, or to all 3, within or involving a particular jurisdiction -

(i) the extent to which such financial institutions, transactions, or types of accounts are used to facilitate or promote money laundering in or through the jurisdiction;

(ii) the extent to which such institutions, transactions, or types of accounts are used for legitimate business purposes in the jurisdiction; and

(iii) the extent to which such action is sufficient to ensure, with respect to transactions involving the jurisdiction and institutions operating in the jurisdiction, that the purposes of this subchapter continue to be fulfilled, and to guard against international money laundering and other financial crimes.

(d) Notification of Special Measures Invoked by the Secretary. - Not later than 10 days after the date of any action taken by the Secretary of the Treasury under subsection (a)(1), the Secretary shall notify, in writing, the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of any such action.

(e) Definitions. - Notwithstanding any other provision of this subchapter, for purposes of this section and subsections (i) and (j) of section 5318, the following definitions shall apply:

(1) Bank definitions. - The following definitions shall apply with respect to a bank:

(A) Account. - The term "account" -

(i) means a formal banking or business relationship established to provide regular services, dealings, and other financial transactions; and

(ii) includes a demand deposit, savings deposit, or other transaction or asset account and a credit account or other extension of credit.

(B) Correspondent account. - The term "correspondent account" means an account established to receive deposits from, make payments on behalf of a foreign financial institution, or handle other financial transactions related to such institution.

(C) Payable-through account. - The term "payable-through account" means an account, including a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act), opened at a depository institution by a foreign financial institution by means of which the foreign financial institution permits its customers to engage, either directly or through a subaccount, in banking activities usual in connection with the business of banking in the United States.

(2) Definitions applicable to institutions other than banks. - With respect to any financial institution other than a bank, the Secretary shall, after consultation with the appropriate Federal functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act), define by regulation the term "account", and shall include within the meaning of that term,

to the extent, if any, that the Secretary deems appropriate, arrangements similar to payable-through and correspondent accounts.

(3) Regulatory definition of beneficial ownership. - The Secretary shall promulgate regulations defining beneficial ownership of an account for purposes of this section and subsections (i) and (j) of section 5318. Such regulations shall address issues related to an individual's authority to fund, direct, or manage the account (including, without limitation, the power to direct payments into or out of the account), and an individual's material interest in the income or corpus of the account, and shall ensure that the identification of individuals under this section does not extend to any individual whose beneficial interest in the income or corpus of the account is immaterial.

(4) Other terms. - The Secretary may, by regulation, further define the terms in paragraphs (1), (2), and (3), and define other terms for the purposes of this section, as the Secretary deems appropriate.

-SOURCE-

(Added Pub. L. 107-56, title III, Sec. 311(a), Oct. 26, 2001, 115 Stat. 298.)

-REFTEXT-

REFERENCES IN TEXT

Section 3 of the Federal Deposit Insurance Act, referred to in subsec. (a)(4)(A), is classified to section 1813 of Title 12, Banks and Banking.

Section 19(b)(1)(C) of the Federal Reserve Act, referred to in subsec. (e)(1)(C), is classified to section 461(b)(1)(C) of Title 12, Banks and Banking.

Section 509 of the Gramm-Leach-Bliley Act, referred to in subsec. (e)(2), is classified to section 6809 of Title 15, Commerce and Trade.

-MISC2-

TERMINATION DATE

Amendments by title III of Pub. L. 107-56 to terminate effective on and after the first day of fiscal year 2005 if Congress enacts a joint resolution that such amendments no longer have the force of law, see section 303 of Pub. L. 107-56, set out as a Four-Year Congressional Review; Expedited Consideration note under section 5311 of this title.

'FEDERAL FUNCTIONAL REGULATOR' INCLUDES COMMODITY FUTURES TRADING COMMISSION

For purposes of Pub. L. 107-56 and any amendment by Pub. L. 107-56, the term 'Federal functional regulator' includes the Commodity Futures Trading Commission, see section 321(c) of Pub. L. 107-56, set out as a note under section 5318 of this title.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5318, 5321, 5322 of this title.

-CITE-

31 USC Sec. 5321

01/22/02

-EXPCITE-

TITLE 31 - MONEY AND FINANCE  
SUBTITLE IV - MONEY  
CHAPTER 53 - MONETARY TRANSACTIONS

SUBCHAPTER II - RECORDS AND REPORTS ON MONETARY INSTRUMENTS  
TRANSACTIONS

-HEAD-

Sec. 5321. Civil penalties

-STATUTE-

(a)(1) A domestic financial institution or nonfinancial trade or business, and a partner, director, officer, or employee of a domestic financial institution or nonfinancial trade or business, willfully violating this subchapter or a regulation prescribed or order issued under this subchapter (except sections 5314 and 5315 of this title or a regulation prescribed under sections 5314 and 5315), or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508, is liable to the United States Government for a civil penalty of not more than the greater of the amount (not to exceed \$100,000) involved in the transaction (if any) or \$25,000. For a violation of section 5318(a)(2) of this title or a regulation prescribed under section 5318(a)(2), a separate violation occurs for each day the violation continues and at each office, branch, or place of business at which a violation occurs or continues.

(2) The Secretary of the Treasury may impose an additional civil penalty on a person not filing a report, or filing a report containing a material omission or misstatement, under section 5316 of this title or a regulation prescribed under section 5316. A civil penalty under this paragraph may not be more than the amount of the monetary instrument for which the report was required. A civil penalty under this paragraph is reduced by an amount forfeited under section 5317(b) of this title.

(3) A person not filing a report under a regulation prescribed under section 5315 of this title or not complying with an injunction under section 5320 of this title enjoining a violation of, or enforcing compliance with, section 5315 or a regulation prescribed under section 5315, is liable to the Government for a civil penalty of not more than \$10,000.

(4) Structured Transaction Violation. -

(A) Penalty authorized. - The Secretary of the Treasury may impose a civil money penalty on any person who violates any provision of section 5324.

(B) Maximum amount limitation. - The amount of any civil money penalty imposed under subparagraph (A) shall not exceed the amount of the coins and currency (or such other monetary instruments as the Secretary may prescribe) involved in the transaction with respect to which such penalty is imposed.

(C) Coordination with forfeiture provision. - The amount of any civil money penalty imposed by the Secretary under subparagraph (A) shall be reduced by the amount of any forfeiture to the United States in connection with the transaction with respect to which such penalty is imposed.

(5) Foreign Financial Agency Transaction Violation. -

(A) Penalty authorized. - The Secretary of the Treasury may impose a civil money penalty on any person who willfully violates or any person willfully causing any violation of any provision of section 5314.

(B) Maximum amount limitation. - The amount of any civil money penalty imposed under subparagraph (A) shall not exceed -

(i) in the case of violation of such section involving a transaction, the greater of -

(I) the amount (not to exceed \$100,000) of the transaction;  
or

(II) \$25,000; and

(ii) in the case of violation of such section involving a failure to report the existence of an account or any

identifying information required to be provided with respect to such account, the greater of -

- (I) an amount (not to exceed \$100,000) equal to the balance in the account at the time of the violation; or
- (II) \$25,000.

(6) Negligence. -

(A) In general. - The Secretary of the Treasury may impose a civil money penalty of not more than \$500 on any financial institution or nonfinancial trade or business which negligently violates any provision of this subchapter or any regulation prescribed under this subchapter.

(B) Pattern of negligent activity. - If any financial institution or nonfinancial trade or business engages in a pattern of negligent violations of any provision of this subchapter or any regulation prescribed under this subchapter, the Secretary of the Treasury may, in addition to any penalty imposed under subparagraph (A) with respect to any such violation, impose a civil money penalty of not more than \$50,000 on the financial institution or nonfinancial trade or business.

(7) Penalties for international counter money laundering violations. - The Secretary may impose a civil money penalty in an amount equal to not less than 2 times the amount of the transaction, but not more than \$1,000,000, on any financial institution or agency that violates any provision of subsection (i) or (j) of section 5318 or any special measures imposed under section 5318A.

(b) Time Limitations for Assessments and Commencement of Civil Actions. -

(1) Assessments. - The Secretary of the Treasury may assess a civil penalty under subsection (a) at any time before the end of the 6-year period beginning on the date of the transaction with respect to which the penalty is assessed.

(2) Civil actions. - The Secretary may commence a civil action to recover a civil penalty assessed under subsection (a) at any time before the end of the 2-year period beginning on the later of -

(A) the date the penalty was assessed; or

(B) the date any judgment becomes final in any criminal action under section 5322 in connection with the same transaction with respect to which the penalty is assessed.

(c) The Secretary may remit any part of a forfeiture under subsection (c) or (d) (FOOTNOTE 1) of section 5317 of this title or civil penalty under subsection (a)(2) of this section.

(FOOTNOTE 1) So in original. Section 5317 does not contain a subsec. (d).

(d) Criminal Penalty Not Exclusive of Civil Penalty. - A civil money penalty may be imposed under subsection (a) with respect to any violation of this subchapter notwithstanding the fact that a criminal penalty is imposed with respect to the same violation.

(e) Delegation of Assessment Authority to Banking Agencies. -

(1) In general. - The Secretary of the Treasury shall delegate, in accordance with section 5318(a)(1) and subject to such terms and conditions as the Secretary may impose in accordance with paragraph (3), any authority of the Secretary to assess a civil money penalty under this section on depository institutions (as defined in section 3 of the Federal Deposit Insurance Act) to the appropriate Federal banking agencies (as defined in such section 3).

(2) Authority of agencies. - Subject to any term or condition imposed by the Secretary of the Treasury under paragraph (3), the provisions of this section shall apply to an appropriate Federal banking agency to which is delegated any authority of the Secretary under this section in the same manner such provisions apply to the Secretary.

(3) Terms and conditions. -

(A) In general. - The Secretary of the Treasury shall prescribe by regulation the terms and conditions which shall apply to any delegation under paragraph (1).

(B) Maximum dollar amount. - The terms and conditions authorized under subparagraph (A) may include, in the Secretary's sole discretion, a limitation on the amount of any civil penalty which may be assessed by an appropriate Federal banking agency pursuant to a delegation under paragraph (1).

-SOURCE-

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 999; Pub. L. 98-473, title II, Sec. 901(a), Oct. 12, 1984, 98 Stat. 2135; Pub. L. 99-570, title I, Sec. 1356(c)(1), 1357(a)-(f), (h), Oct. 27, 1986, 100 Stat. 3207-24 - 3207-26; Pub. L. 100-690, title VI, Sec. 6185(g)(2), Nov. 18, 1988, 102 Stat. 4357; Pub. L. 102-550, title XV, Sec. 1511(b), 1525(b), 1535(a)(2), 1561(a), Oct. 28, 1992, 106 Stat. 4057, 4065, 4066, 4071; Pub. L. 103-322, title XXXIII, Sec. 330017(a)(1), Sept. 13, 1994, 108 Stat. 2149; Pub. L. 103-325, title IV, Sec. 406, 411(b), 413(a)(1), Sept. 23, 1994, 108 Stat. 2247, 2253, 2254; Pub. L. 104-208, div. A, title II, Sec. 2223(3), Sept. 30, 1996, 110 Stat. 3009-415; Pub. L. 107-56, title III, Sec. 353(a), 363(a), 365(c)(2)(B)(i), Oct. 26, 2001, 115 Stat. 322, 332, 335.)

-MISC1-

Historical and Revision Notes

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5321(a)(1)	31:1054(b)(last sentence related to civil penalties).	Oct. 26, 1970, Pub. L. 91-508, Sec. 205(b)(last sentence related to civil penalties), 207, 233, 234, 84 Stat. 1120, 1123.
	31:1056(a).	
5321(a)(2)	31:1103.	
5321(a)(3)	31:1143(a), (b)(words after last comma).	Sept. 21, 1973, Pub. L. 93-110, Sec. 203(a), (b)(words after last comma), 87 Stat. 353.
5321(b)	31:1056(b).	
5321(c)	31:1104.	

In subsection (a)(1), the words "or a regulation prescribed under this subchapter" are added because of the restatement. The words "(except section 5315 of this title or a regulation prescribed under section 5315)" are added because 31:1141-1143 was not enacted as a part of the Currency and Foreign Transactions Reporting Act that is restated in this subchapter. The words "is liable to the United States Government for" are substituted for "the Secretary may assess upon" in 31:1056(a) for consistency in the revised title and with other titles of the United States Code. The words "the purposes of both civil and criminal penalties for" in 31:1054(b)(last sentence)(related to civil penalties) are omitted, and the words "or a regulation prescribed under section 5318(2)" are added, because of the restatement. The words "the violation continues" are added for consistency in the revised title and with other titles of the Code. The word "separate"

before 'office' is omitted as surplus.

In subsection (a)(2), the word 'impose' is substituted for 'assess' for consistency in the revised title and with other titles of the Code. The word 'additional' is substituted for 31:1103(last sentence words before last comma) to eliminate unnecessary words. The words 'or a regulation prescribed under section 5316' are added because of the restatement. The words 'amount of this', 'to be filed', and 'actually' are omitted as surplus.

Subsection (a)(3) is substituted for 31:1143(a) and (b)(words after last comma) for clarity and consistency and because of the restatement.

In subsection (b), the words 'in the discretion of', 'in the name of the United States', and 'of any person' are omitted as surplus.

In subsection (c), the words 'in his discretion' and 'upon such terms and conditions as he deems reasonable and just' are omitted as surplus. The word 'civil' is added for clarity.

-REFTEXT-

REFERENCES IN TEXT

Sections 3 and 21 of the Federal Deposit Insurance Act, referred to in subsecs. (a)(1) and (e)(1), are classified to sections 1813 and 1829b, respectively, of Title 12, Banks and Banking.

Section 123 of Public Law 91-508, referred to in subsec. (a)(1), is classified to section 1953 of Title 12, Banks and Banking.

-COD-

CODIFICATION

Another section 365(c) of Pub. L. 107-56 amended the table of sections at the beginning of this chapter.

-MISC3-

AMENDMENTS

2001 - Subsec. (a)(1). Pub. L. 107-56, Sec. 353(a), 365(c)(2)(B)(i), inserted 'or nonfinancial trade or business' after 'financial institution' in two places, 'or order issued' after 'subchapter or a regulation prescribed', and ', or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508,' after 'sections 5314 and 5315'.

Subsec. (a)(6). Pub. L. 107-56, Sec. 365(c)(2)(B)(i), inserted 'or nonfinancial trade or business' after 'financial institution' wherever appearing.

Subsec. (a)(7). Pub. L. 107-56, Sec. 363(a), added par. (7).

1996 - Subsec. (a)(7). Pub. L. 104-208 struck out par. (7) which read as follows:

''(7) Financial institution identification violations. -

''(A) Penalty authorized. - The Secretary may impose a civil money penalty on any person who willfully violates any provision of section 5327 or any regulation prescribed under such section.

''(B) Maximum amount limitation. - The amount of any civil money penalty imposed under subparagraph (A) shall not exceed \$10,000 per day for each day during which a report remains unfiled or a report containing a material omission or misstatement of fact remains uncorrected.''

1994 - Subsec. (a)(4)(A). Pub. L. 103-325, Sec. 411(b), struck out 'willfully' before 'violates'.

Subsec. (a)(5)(A). Pub. L. 103-322, Sec. 330017(a)(1) and Pub. L. 103-325, Sec. 413(a)(1), amended subpar. (A) identically, inserting 'any violation of' after 'causing'.

Subsec. (e). Pub. L. 103-325, Sec. 406, added subsec. (e).

1992 - Subsec. (a)(4)(C). Pub. L. 102-550, Sec. 1525(b), struck out 'under section 5317(d)' after 'forfeiture to the United

States''.

Subsec. (a)(5)(A). Pub. L. 102-550, Sec. 1535(a)(2), inserted ''or any person willfully causing'' after ''willfully violates''.

Subsec. (a)(6). Pub. L. 102-550, Sec. 1561(a), amended par. (6) generally. Prior to amendment, par. (6) read as follows:

''Negligence. - The Secretary of the Treasury may impose a civil money penalty of not more than \$500 on any financial institution which negligently violates any provision of this subchapter or any regulation prescribed under this subchapter.''

Subsec. (a)(7). Pub. L. 102-550, Sec. 1511(b), added par. (7).

1988 - Subsec. (a)(1). Pub. L. 100-690 inserted ''(if any)'' after ''transaction''.

1986 - Subsec. (a)(1). Pub. L. 99-570, Sec. 1356(c)(1), 1357(b), substituted ''sections 5314 and 5315'' for ''section 5315'' in two places, substituted ''5318(a)(2)'' for ''5318(2)'' in two places, and substituted ''the greater of the amount (not to exceed \$100,000) involved in the transaction or \$25,000'' for ''\$10,000''.

Subsec. (a)(4). Pub. L. 99-570, Sec. 1357(a), added par. (4).

Subsec. (a)(5). Pub. L. 99-570, Sec. 1357(c), added par. (5).

Subsec. (a)(6). Pub. L. 99-570, Sec. 1357(d), added par. (6).

Subsec. (b). Pub. L. 99-570, Sec. 1357(e), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The Secretary may bring a civil action to recover a civil penalty under subsection (a)(1) or (2) of this section that has not been paid.''

Subsec. (c). Pub. L. 99-570, Sec. 1357(h), substituted ''subsection (c) or (d) of section 5317'' for ''section 5317(b)''.

Subsec. (d). Pub. L. 99-570, Sec. 1357(f), added subsec. (d).

1984 - Subsec. (a)(1). Pub. L. 98-473 substituted ''\$10,000'' for ''\$1,000''.

#### TERMINATION DATE OF 2001 AMENDMENT

Amendments by title III of Pub. L. 107-56 to terminate effective on and after the first day of fiscal year 2005 if Congress enacts a joint resolution that such amendments no longer have the force of law, see section 303 of Pub. L. 107-56, set out as a Four-Year Congressional Review; Expedited Consideration note under section 5311 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Section 1561(b) of Pub. L. 102-550 provided that: ''The amendment made by subsection (a) (amending this section) shall apply with respect to violations committed after the date of the enactment of this Act (Oct. 28, 1992).''

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1357(a) of Pub. L. 99-570, applicable with respect to violations committed after the end of the 3-month period beginning Oct. 27, 1986, see section 1364(b) of Pub. L. 99-570, set out as a note under section 5317 of this title.

Section 1364(c) of Pub. L. 99-570 provided that: ''The amendments made by section 1357 (other than subsection (a) of such section) (amending sections 5321 and 5322 of this title) shall apply with respect to violations committed after the date of the enactment of this Act (Oct. 27, 1986).''

-SECRET-

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5330 of this title; title 12 section 1829b.