

106TH CONGRESS
1ST SESSION

H. R. 2905

To eliminate money laundering in the private banking system, to require the Secretary of the Treasury to take certain actions with regard to foreign countries in which there is a concentration of money laundering activities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 1999

Ms. WATERS (for herself, Mr. VENTO, Ms. VELAZQUEZ, and Mr. HINCHEY) introduced the following bill; which was referred to the Committee on Banking and Financial Services

A BILL

To eliminate money laundering in the private banking system, to require the Secretary of the Treasury to take certain actions with regard to foreign countries in which there is a concentration of money laundering activities, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Integrity in Banking
5 and Money Laundering Prevention Act of 1999”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds as follows:

1 (1) Money laundering is a serious problem: be-
2 tween \$100,000,000,000 and \$300,000,000,000 in
3 United States currency is “laundered” each year
4 and the total dollar amount involved in international
5 money laundering likely exceeds \$500,000,000,000.

6 (2) Money laundering is critical to the survival
7 of the illicit drug trade, which has annual worldwide
8 revenues of more than \$400,000,000,000, more than
9 8 percent of the total value of international trade.

10 (3) Money laundering affords drug dealers, ter-
11 rorists, arms dealers, and other criminals the oppor-
12 tunity to erode the integrity of our financial institu-
13 tions.

14 (4) Through money laundering, criminals are
15 able to hide profits from narcotics sales, tax fraud,
16 terrorism, and arms smuggling.

17 (5) Money laundering by international criminal
18 enterprises challenges the legitimate authority of na-
19 tional governments, corrupts government institu-
20 tions, endangers the financial and economic stability
21 of nations, and routinely violates legal norms, prop-
22 erty rights, and human rights.

23 (6) United States financial institutions are a
24 critical link in our efforts to combat money laun-
25 dering.

1 (7) The high profitability, intense competition,
2 high level of confidentiality, and close relationships
3 of trust developed between private bankers and their
4 clients make private banking vulnerable to money
5 laundering, and it is estimated that private banking
6 services have banking assets ranging from
7 \$200,000,000,000 to \$300,000,000,000.

8 (8) As private banking grows, and competition
9 for high net worth individuals as customers in-
10 creases, anti-money laundering legislation should be
11 extended to reach all financial institutions, including
12 such entities as securities brokers and dealers.

13 (b) PURPOSES.—The purposes of this Act are as fol-
14 lows:

15 (1) To ensure that United States financial in-
16 stitutions make combating money laundering the
17 highest of priorities.

18 (2) To close the existing gaps in law that allow
19 money laundering to flourish in the private banking
20 system.

21 (3) To designate foreign high-intensity money
22 laundering areas for the purpose of targeting areas
23 of concentrated money laundering activities.

1 (4) To establish a comprehensive report on the
2 extent of private banking by banks and other finan-
3 cial institutions operating within the United States.

4 (5) To prevent the abuse of concentration, om-
5 nibus, or suspense accounts by money launderers
6 and drug traffickers.

7 (6) To enhance the ability of law enforcement
8 officials to reconstruct an audit trail in the course
9 of a criminal investigation by requiring United
10 States financial institutions to maintain documenta-
11 tion of offshore accounts.

12 (7) To subject securities brokers and dealers to
13 the suspicious activities reporting requirements to
14 which depository institutions are subject.

15 **SEC. 3. DEFINITIONS.**

16 For purposes of this Act, the following definitions
17 shall apply:

18 (1) **BENEFICIAL OWNER.**—The term “beneficial
19 owner”, with respect to an account at a financial in-
20 stitution, any person or group which controls the ac-
21 count or for whose benefit the account is main-
22 tained.

23 (2) **CONCENTRATION ACCOUNT.**—The term
24 “concentration account” means a business account

1 maintained by a financial institution in which funds
2 from various sources are commingled.

3 (3) FINANCIAL INSTITUTION.—The term “fi-
4 nancial institution” has the meaning given to such
5 term in section 5312(a)(2) of title 31, United States
6 Code.

7 (4) HIGH NET WORTH INDIVIDUAL.—The term
8 “high net worth individual” means any individual—

9 (A) whose individual net worth, or, in the
10 case of a married individual, whose joint net
11 worth (with such individual’s spouse), exceeds
12 \$1,000,000; or

13 (B) who had—

14 (i) individual gross income in excess
15 \$400,000 in each of the 2 preceding cal-
16 endar years; or

17 (ii) who had joint gross income (with
18 such individuals spouse) in excess of
19 \$600,000 in each of the 2 preceding cal-
20 endar years,

21 and who has a reasonable expectation of achiev-
22 ing gross income in the current calendar year in
23 excess of the amount described in clause (i) or
24 (ii), as the case may be.

1 (5) MONEY LAUNDERING.—The term “money
2 laundering” means any action or process whereby
3 the existence, illegal source, or illegal application or
4 expenditure of income is concealed or disguised so as
5 to give income the appearance of legitimacy.

6 (6) PRIVATE BANKING.—The term “private
7 banking” means, with respect to a financial institu-
8 tion, the personal delivery of financial products and
9 services to high net worth individuals, which may in-
10 clude the acceptance of deposits, lending, investing
11 in investment companies, personal trust and estate
12 administration, fund transfer services, establishing
13 payable through accounts, the establishment of ac-
14 counts in foreign banks, and other services which
15 are not provided generally to all clients of the finan-
16 cial institution.

17 **SEC. 4. REPORT ON PRIVATE BANKING ACTIVITIES.**

18 (a) IN GENERAL.—Before the end of the 18-month
19 period beginning on the date of the enactment of this Act,
20 the Secretary of the Treasury, in consultation with the Se-
21 curities and Exchange Commission and the Federal bank-
22 ing agencies (as defined in section 3(z) of the Federal De-
23 posit Insurance Act) shall submit a report on private
24 banking activities in the United States to the Committee
25 on Banking and Financial Services of the House of Rep-

1 representatives and the Committee on Banking, Housing, and
2 Urban Affairs of the Senate.

3 (b) CONTENTS OF REPORT.—The report required
4 under subsection (a) shall include information on the fol-
5 lowing:

6 (1) The nature and extent of private banking in
7 the United States.

8 (2) Regulatory efforts to monitor private bank-
9 ing and ensure that such private banking operations
10 are conducted in compliance with subchapter II of
11 chapter 53 of title 31, United States Code, and sec-
12 tion 21 of the Federal Deposit Insurance Act.

13 (3) The policies and procedures of financial in-
14 stitutions that are designed to ensure compliance by
15 such institutions with the requirements of sub-
16 chapter II of chapter 53 of title 31, United States
17 Code, and section 21 of the Federal Deposit Insur-
18 ance Act.

1 **SEC. 5. REQUIRE THAT ANTI-MONEY LAUNDERING PRO-**
2 **GRAMS PROHIBIT MONEY LAUNDERING**
3 **THROUGH CONCENTRATION ACCOUNTS AT**
4 **FINANCIAL INSTITUTIONS BY REQUIRING**
5 **PROPER MAINTENANCE OF SUCH ACCOUNTS.**

6 Section 5318(h) of title 31, United States Code, is
7 amended by adding at the end the following new para-
8 graph:

9 “(3) AVAILABILITY OF CERTAIN ACCOUNT IN-
10 FORMATION.—The Secretary of the Treasury shall
11 prescribe regulations under this subsection which re-
12 quire financial institutions to maintain all accounts
13 in such a way as to ensure that the name of the ac-
14 count holder and the number of the account are as-
15 sociated with all account activity of the account
16 holder.”

17 **SEC. 6. DESIGNATION OF FOREIGN HIGH-INTENSITY**
18 **MONEY LAUNDERING AREAS.**

19 (a) IN GENERAL.—Subchapter III of chapter 53 of
20 title 31, United States Code (as added by the Money
21 Laundering and Financial Crimes Strategy Act of 1998)
22 is amended by adding at the end the following new part:

1 “PART 3—INTERNATIONAL MONEY LAUNDERING AND
2 RELATED FINANCIAL CRIMES
3 **“§ 5361. Designation of foreign high-intensity money
4 laundering areas**

5 “(a) IN GENERAL.—The Secretary, in consultation
6 with the Attorney General and the Federal banking agen-
7 cies, shall develop criteria for identifying areas outside the
8 United States in which money laundering activities are
9 concentrated.

10 “(b) DESIGNATION.—The Secretary shall designate
11 as a high-intensity money laundering area any foreign
12 country in which there is an area identified, in accordance
13 with the criteria developed pursuant to subsection (a), as
14 an area in which money laundering activities are con-
15 centrated.

16 “(c) NOTICE AND WARNING.—Upon the designation,
17 under subsection (b), of a country as a high-intensity
18 money laundering area, the Secretary shall provide—

19 “(1) a written notice to each financial institu-
20 tion of the identity of the country designated; and

21 “(2) a written warning that there is a con-
22 centration of money laundering activity in such
23 country.”.

1 (b) CLERICAL AMENDMENT.—The table of sub-
 2 chapters for chapter 53 of title 31, United States Code,
 3 is amended by adding at the end the following item:

“PART 3—INTERNATIONAL MONEY LAUNDERING AND RELATED FINANCIAL
 CRIMES

“5361. Designation of foreign high-intensity money laundering areas.”.

4 **SEC. 7. DOUBLE THE CRIMINAL PENALTIES FOR VIOLA-**
 5 **TIONS INVOLVING HIGH-INTENSITY MONEY**
 6 **LAUNDERING AREAS.**

7 (a) IN GENERAL.—Section 5322 of title 31, United
 8 States Code, is amended by adding at the end the fol-
 9 lowing new subsection:

10 “(d) DOUBLED PENALTY.—The court may double
 11 the sentence of fine or imprisonment, or both, that could
 12 otherwise be imposed on any person for a violation de-
 13 scribed in subsection (a) or (b) if the person commits the
 14 violation with respect to a transaction involving a person
 15 in, a relationship maintained for a person in, or a trans-
 16 port of a monetary instrument involving a foreign country,
 17 knowing that a designation of the foreign country as a
 18 high-intensity money laundering area under section 5361
 19 was in effect at the time of the violation.”.

20 (b) EFFECTIVE DATE.—The amendment made by
 21 subsection (a) shall apply with respect to any violation
 22 committed on or after the date of the enactment of this
 23 Act.

1 **SEC. 8. ENHANCED ABILITY TO IDENTIFY PROPERLY THE**
2 **BENEFICIAL OWNER OF OFFSHORE AC-**
3 **COUNT.**

4 Section 5318 of title 31, United States Code, is
5 amended by adding at the end the following new sub-
6 section:

7 “(i) REQUIREMENTS RELATING TO EFFECTIVE EN-
8 FORCEMENT OF SUBCHAPTER.—

9 “(1) IN GENERAL.—In an effort to assist law
10 enforcement in tracing funds identifying beneficial
11 owners of accounts set up by financial institutions in
12 the United States, the Secretary of the Treasury
13 shall require any domestic financial institution mak-
14 ing a transaction for any person or maintaining a
15 relation for any person with a foreign financial insti-
16 tution or a foreign financial agency, including a for-
17 eign branch or subsidiary of the domestic financial
18 institution, to keep and maintain records within the
19 United States of the beneficial owner of any ac-
20 counts outside the United States to which funds of
21 that person are transferred by the domestic financial
22 institution or at a place—

23 “(A) where a summons under this section
24 to produce such records is legally effective; and

25 “(B) from which the records are capable of
26 being delivered to the place designated in ac-

1 cordance with subsection (c)(1) within 48 hours
2 of the receipt of the summons.

3 “(2) INFORMATION IN RECORDS.—The records
4 required under paragraph (1) shall contain the fol-
5 lowing information in the manner and to the extent
6 that the Secretary prescribes in regulations, and
7 subject to such exemptions as the Secretary deter-
8 mines to be appropriate:

9 “(A) The identity and address of partici-
10 pants in a transaction or relationship.

11 “(B) The legal capacity in which a partici-
12 pant is acting.

13 “(C) The identity of the real parties in in-
14 terest.”.

15 **SEC. 9. REGULATIONS RELATING TO SUSPICIOUS ACTIVITY**

16 **REPORTS BY BROKERS AND DEALERS.**

17 Before the end of the 1-year period beginning on the
18 date of the enactment of this Act, the Secretary of the
19 Treasury, in consultation with the Securities and Ex-
20 change Commission, shall prescribe regulations in final
21 form under section 5318(g) of title 31, United States
22 Code, requiring brokers and dealers registered with the
23 Securities and Exchange Commission under the Securities
24 Exchange Act of 1934 to report, in accordance with such

- 1 section 5318(g), any suspicious transaction relevant to a
- 2 possible violation of law or regulation.

○