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(Original Signature of Member)

115TH CONGRESS
1ST SESSION

H. R.

To require monetary thresholds with respect to certain monetary instrument reports and suspicious activity reports to be adjusted for inflation, to create an administrative ruling process for the Bank Secrecy Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. ROYCE of California introduced the following bill; which was referred to the Committee on _____

A BILL

To require monetary thresholds with respect to certain monetary instrument reports and suspicious activity reports to be adjusted for inflation, to create an administrative ruling process for the Bank Secrecy Act, 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 “Anti-Money Laun-
5 dering Modernization Act of 2017”.

1 **SEC. 2. MODIFICATION OF CURRENCY TRANSACTION RE-**
2 **PORTING THRESHOLD.**

3 (a) SUBPART C OF SECTION 1010.—

4 (1) IN GENERAL.—Not later than 1 year after
5 the date of enactment of this Act, and every 5 years
6 thereafter, the Secretary of the Treasury shall ad-
7 just the dollar amounts under subpart C of part
8 1010 of title 31, Code of Federal Regulations,
9 rounded to the nearest multiple of \$1,000, to reflect
10 the change in the Consumer Price Index for All
11 Urban Consumers published by the Bureau of Labor
12 Statistics since the date on which such dollar
13 amounts were last established or adjusted, as appli-
14 cable.

15 (2) ALTERNATIVE ADJUSTMENT AUTHORITY.—
16 If, at the time of an adjustment described under
17 paragraph (1) other than the adjustment made with-
18 in the 1-year period following the date of the enact-
19 ment of this Act, the Secretary, after consultation
20 with law enforcement agencies and the Bank Secrecy
21 Act Advisory Group, determines that such adjust-
22 ment would significantly frustrate the ability of law
23 enforcement and financial institutions to detect and
24 prevent money laundering and terrorism financing,
25 the Secretary may make such adjustment using a
26 metric other than the Consumer Price Index for All

1 Urban Consumers published by the Bureau of Labor
2 Statistics or choose to not make such adjustment.

3 (b) REPORTS ON EXPORTING AND IMPORTING MONE-
4 TARY INSTRUMENTS.—Section 5316 of title 31, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 “(e) ADJUSTMENT FOR INFLATION.—

8 “(1) IN GENERAL.—Not later than 1 year after
9 the date of enactment of this subsection, and every
10 5 years thereafter, the Secretary of the Treasury
11 shall adjust the dollar amounts under subsection (a),
12 rounded to the nearest multiple of \$1,000, to reflect
13 the change in the Consumer Price Index for All
14 Urban Consumers published by the Bureau of Labor
15 Statistics since the date on which such dollar
16 amounts were last amended or adjusted, as applica-
17 ble.

18 “(2) ALTERNATIVE ADJUSTMENT AUTHOR-
19 ITY.—If, at the time of an adjustment described
20 under paragraph (1) other than the adjustment
21 made within the 1-year period following the date of
22 the enactment of this Act, the Secretary, after con-
23 sultation with law enforcement agencies and the
24 Bank Secrecy Act Advisory Group, determines that
25 such adjustment would significantly frustrate the

1 ability of law enforcement and financial institutions
2 to detect and prevent money laundering and ter-
3 rorism financing, the Secretary may make such ad-
4 justment using a metric other than the Consumer
5 Price Index for All Urban Consumers published by
6 the Bureau of Labor Statistics or choose to not
7 make such adjustment.”.

8 **SEC. 3. MODIFICATION OF SUSPICIOUS ACTIVITY REPORT-**
9 **ING THRESHOLD.**

10 (a) IN GENERAL.—Each Federal department or
11 agency that issues regulations with respect to reports on
12 suspicious transactions described under section 5318(g) of
13 title 31, United States Code, shall, not later than 1 year
14 after the date of enactment of this Act, and every 5 years
15 thereafter, adjust any dollar amount thresholds contained
16 in such regulations to reflect the change in the Consumer
17 Price Index for All Urban Consumers published by the
18 Bureau of Labor Statistics since the date on which such
19 dollar amounts were last established or adjusted, as appli-
20 cable.

21 (b) ALTERNATIVE ADJUSTMENT AUTHORITY.—If, at
22 the time of an adjustment described under subsection (a)
23 other than the adjustment made within the 1-year period
24 following the date of the enactment of this Act, a Federal
25 department or agency, after consultation with law enforce-

1 ment agencies and the Bank Secrecy Act Advisory Group,
2 determines that such adjustment would significantly frus-
3 trate the ability of law enforcement and financial institu-
4 tions to detect and prevent money laundering and ter-
5 rorism financing, the Federal department or agency may
6 make such adjustment using a metric other than the Con-
7 sumer Price Index for All Urban Consumers published by
8 the Bureau of Labor Statistics or choose to not make such
9 adjustment.

10 **SEC. 4. DISCLOSURE OF SUSPICIOUS ACTIVITY REPORTS.**

11 (a) IN GENERAL.—Within 180 days after the date
12 of enactment of this Act, the Secretary of the Treasury
13 shall, by regulation, clearly authorize domestic financial
14 institutions to share suspicious activity reports with a for-
15 eign branch or affiliate of the domestic financial institu-
16 tions, if such branch or affiliate is located in a country
17 that—

18 (1) is a member of the Financial Action Task
19 Force (“FATF”) or a FATF-style regional body ;
20 and

21 (2) has adequate privacy protections and data
22 security measures in effect to prevent the unauthor-
23 ized disclosure of such reports.

24 (b) LIABILITY.—A domestic financial institution that
25 transmits, receives, or shares suspicious activity reports

1 with a foreign branch or affiliate of the domestic financial
2 institution in accordance with the regulation promulgated
3 pursuant to subsection (a) shall not be liable to any person
4 under any law or regulation of the United States, any con-
5 stitution, law, or regulation of any State or political sub-
6 division thereof, or under any contract or other legally en-
7 forceable agreement (including any arbitration agree-
8 ment), for sharing such reports, except where such trans-
9 mission, receipt, or sharing violates this section or regula-
10 tions promulgated pursuant to this section.

11 (c) DEFINITIONS.—For purposes of this section:

12 (1) FINANCIAL INSTITUTION.—The term “fi-
13 nancial institution” has the meaning given that term
14 under section 5312 of title 31, United State Code.

15 (2) SUSPICIOUS ACTIVITY REPORT.—The term
16 “suspicious activity report” means a report de-
17 scribed under section 5318(g) of title 31, United
18 States Code.

19 **SEC. 5. ADMINISTRATIVE RULINGS.**

20 (a) IN GENERAL.—Subchapter II of chapter 53 of
21 title 31, United States Code, is amended by adding at the
22 end the following:

23 **“§ 5333 Administrative rulings**

24 **“(a) ESTABLISHMENT OF PROCEDURES.—**

1 “(1) IN GENERAL.—The Secretary of the
2 Treasury, acting through the Financial Crimes En-
3 forcement Network, shall establish a procedure in
4 accordance with the requirements of this section to
5 provide written rulings in response to inquiries con-
6 cerning the conformance of specific conduct with the
7 Bank Secrecy Act.

8 “(2) CONSULTATION WITH OTHER AGENCIES
9 AND THE PUBLIC.—In establishing the procedure
10 under paragraph (1), The Secretary shall consult
11 with other financial regulators and such other Fed-
12 eral departments and agencies as the Secretary de-
13 termines appropriate, and obtain the views of all in-
14 terested persons through a public notice and com-
15 ment period.

16 “(b) REQUESTS.—

17 “(1) IN GENERAL.—A person making a request
18 for a ruling under this section—

19 “(A) shall make such request in writing;

20 “(B) shall include in such request—

21 “(i) a complete description of the situ-
22 ation for which the ruling is requested;

23 “(ii) a complete statement of all mate-
24 rial facts related to the subject transaction;

1 “(iii) a concise and unambiguous
2 question to be answered;

3 “(iv) a statement certifying, to the
4 best of the requestor’s knowledge and be-
5 lief, that the question to be answered is
6 not applicable to any ongoing state or Fed-
7 eral investigation, litigation, grand jury
8 proceeding, or proceeding before any other
9 governmental body involving either the re-
10 questor, any other party to the subject
11 transaction, or any other party with whom
12 the requestor has an agency relationship;

13 “(v) a statement identifying any infor-
14 mation in the request that the requestor
15 considers to be exempt from disclosure
16 under section 552 of title 5, United States
17 Code (commonly referred to as the ‘Free-
18 dom of Information Act’), and the reason
19 therefor;

20 “(vi) if the subject situation is hypo-
21 thetical, a statement justifying why the
22 particular situation described warrants the
23 issuance of a ruling;

24 “(vii) the signature of—

1 “(I) the person making the re-
2 quest;

3 “(II) if an agent makes the re-
4 quest, the agent, accompanied by a
5 statement certifying the authority
6 under which the request is made; or

7 “(III) if the request is being filed
8 by a corporation or a partnership, a
9 corporate officer or a partner, as ap-
10 plicable;

11 “(C) may advocate a particular proposed
12 interpretation and may set forth the legal and
13 factual basis for that interpretation; and

14 “(D) shall advise immediately in writing of
15 any subsequent change in any material fact or
16 statement submitted with a request under this
17 section.

18 “(2) WITHDRAWAL OF REQUEST.—A person
19 may withdraw a request made under this section at
20 any time before the ruling has been issued.

21 “(3) NONCONFORMING REQUESTS.—The Sec-
22 retary shall notify a requester if the request does not
23 conform with the requirements of paragraph (1).
24 Such notice shall be in writing and shall describe the
25 requirements that have not been met. A request that

1 is not brought into conformity with such require-
2 ments within 30 days from the date of such notice,
3 unless extended for good cause by the Secretary,
4 shall be treated as though it were withdrawn.

5 “(c) RIGHT TO ORAL DISCUSSIONS.—

6 “(1) IN GENERAL.—A person who has made a
7 request in conformity with subsection (b)(1) may re-
8 quest an opportunity for oral discussion of the issues
9 presented in the request, but—

10 “(A) personal conferences or telephone
11 conferences may be scheduled only for the pur-
12 pose of affording the requester an opportunity
13 to discuss freely and openly the matters set
14 forth in the request; and

15 “(B) the conferees will not be bound by
16 any argument or position advocated or agreed
17 to, expressly or impliedly, during the con-
18 ference.

19 “(2) AT THE DISCRETION OF THE SEC-
20 RETARY.—The request should be made to the Sec-
21 retary, and any decision to grant such a conference
22 is wholly within the discretion of the Secretary.

23 “(3) TREATMENT OF NEW ARGUMENTS OR
24 FACTS.—Any new arguments or facts put forth by
25 the requester at the meeting must be reduced to

1 writing by the requester and submitted in con-
2 formity with subsection (b)(1) before they may be
3 considered in connection with the request.

4 “(d) ISSUING RULINGS.—

5 “(1) IN GENERAL.—The Secretary shall, within
6 90 days of receiving the request for a ruling under
7 this section, issue a written ruling interpreting the
8 relationship between the Bank Secrecy Act and each
9 situation for which such a ruling has been requested
10 under this section.

11 “(2) PUBLIC DISCLOSURE.—A ruling rendered
12 pursuant to this section shall be placed in the public
13 record 90 days after the requesting party has re-
14 ceived the ruling, subject to any limitations on public
15 disclosure arising from statutory restrictions, regula-
16 tions, or the public interest. The Secretary shall re-
17 duct any personal, confidential, or identifying infor-
18 mation about the person or any other persons men-
19 tioned in the administrative ruling, unless the person
20 consents to such disclosure.

21 “(3) PRECEDENTIAL VALUE OF RULINGS.—A
22 ruling issued under this section shall bind the Sec-
23 retary and shall have precedential value, and hence
24 may be relied upon by others similarly situated.

1 “(4) AVAILABILITY OF RULINGS BY MAIL.—The
2 Secretary shall make all such rulings available by
3 mail to any person upon written request specifically
4 identifying the ruling sought.

5 “(e) MODIFYING OR RESCINDING RULINGS.—

6 “(1) IN GENERAL.—The Secretary may modify
7 or rescind any ruling made pursuant to this sec-
8 tion—

9 “(A) when, in light of changes in statute
10 or regulations, the ruling no longer sets forth
11 the interpretation of the Secretary with respect
12 to the described situation;

13 “(B) when any fact or statement submitted
14 in the original request is found to be materially
15 inaccurate or incomplete; or

16 “(C) for other good cause.

17 “(2) REQUEST FOR MODIFICATION OR RESCIS-
18 SION.—Any person may submit to the Secretary a
19 written request that a ruling be modified or re-
20 scinded. Such request—

21 “(A) should conform to the requirements
22 of subsection (b), explain why rescission or
23 modification is warranted, and refer to any rea-
24 sons in paragraph (1) that are relevant; and

1 “(B) may advocate an alternative interpre-
2 tation and may set forth the legal and factual
3 basis for that interpretation.

4 “(3) MANNER IN WHICH MODIFICATIONS OR
5 RESCISSIONS ARE MADE.—The Secretary shall mod-
6 ify or rescind an existing ruling by issuing a new
7 ruling that rescinds the relevant prior ruling.

8 “(4) RESCINDED RULINGS LOSE PRECEDENTIAL
9 VALUE.—Once rescinded, a ruling shall no longer
10 have any precedential value.

11 “(5) APPLICATION TO ORIGINAL PARTIES.—A
12 ruling may be modified or rescinded retroactively
13 with respect to one or more parties to the original
14 ruling request if the Secretary determines that—

15 “(A) a fact or statement in the original re-
16 quest was materially inaccurate or incomplete;

17 “(B) the requestor failed to notify in writ-
18 ing the Secretary of a material change to any
19 fact or statement in the original request; or

20 “(C) a party to the original request acted
21 in bad faith when relying upon the ruling.

22 “(f) DISCLOSURE OF INFORMATION.—

23 “(1) IN GENERAL.—Any part of any ruling, in-
24 cluding names, addresses, or information related to
25 the business transactions of private parties, may be

1 disclosed pursuant to a request under section 552 of
2 title 5, United States Code (commonly referred to as
3 the ‘Freedom of Information Act’).

4 “(2) REQUEST FOR EXEMPTION.—If the re-
5 quest for a ruling contains information which the re-
6 questor wishes to be considered for exemption from
7 disclosure under such section 552, the requestor
8 should clearly identify such portions of the request
9 and the reasons why such information should be ex-
10 empt from disclosure.

11 “(3) NOTICE TO REQUESTOR.—A requestor
12 claiming an exemption from disclosure shall be noti-
13 fied by the Secretary, at least 10 days before the
14 ruling is issued, of a decision not to exempt any of
15 such information from disclosure so that the under-
16 lying request for a ruling can be withdrawn if the
17 requestor so chooses.

18 “(g) INQUIRY FEE.—

19 “(1) IN GENERAL.—The Secretary may charge
20 a fee for each inquiry made under this section in an
21 amount sufficient, in the aggregate, to pay for the
22 cost of carrying out this section.

23 “(2) NOTICE AND COMMENT.—If the Secretary
24 decides to charge the fee described under paragraph
25 (1)—

1 “(A) the Secretary shall establish a system
2 for charging such fee, publish a description of
3 such system in the in the Federal Register, and
4 solicit comments from the public for a period of
5 60 days after publication; and

6 “(B) publish a final description of the fee
7 system and implement such fee system not later
8 than 30 days after the end of such public com-
9 ment period.

10 “(h) REPORT TO CONGRESS.—The Secretary shall, in
11 a semi-annual report, submit information regarding the
12 number of requests for an administrative ruling received
13 under this section, the subject of each request, the number
14 of nonconforming requests treated as withdrawn pursuant
15 to subsection (b)(3), and the time needed to respond to
16 each request.

17 “(i) BANK SECRECY ACT DEFINED.—For purposes
18 of this section, the term ‘Bank Secrecy Act’ means—

19 “(1) this subchapter;

20 “(2) section 21 of the Federal Deposit Insur-
21 ance Act;

22 “(3) chapter 2 of title I of Public Law 91–508;

23 and

24 “(4) section 314 of the USA PATRIOT Act.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 in chapter 53 of title 31, United States Code, is amended
3 by inserting after the item relating to section 5332 the
4 following:

“5333. Administrative rulings.”.

5 **SEC. 6. QUALITATIVE FEEDBACK MECHANISM.**

6 Within 180 days after the date of enactment of this
7 Act, the Secretary of the Treasury shall, after providing
8 for public notice and comment, establish a mechanism to
9 communicate anti-money laundering and countering ter-
10 rorism financing priorities to financial institutions, other
11 Federal financial regulators, and such other Federal de-
12 partments and agencies as the Secretary determines ap-
13 propriate and provide qualitative feedback on information
14 shared by financial institutions with the Department of
15 Treasury, including Currency Transaction Reports and
16 Suspicious Activity Reports.

17 **SEC. 7. REPORT.**

18 Within 1 year of the date of the enactment of this
19 Act, the Secretary of the Treasury, in consultation with
20 the Federal banking agencies (as such term is defined
21 under Section 3 of the Federal Deposit Insurance Act)
22 and other agencies, as applicable, shall submit a report
23 to the Committee on Financial Services of the House of
24 Representatives and the Committee on Banking, Housing,
25 and Urban Affairs of the Senate on—

1 (1) the potential for artificial intelligence, ma-
2 chine learning, and other technologies to help detect
3 and prevent money laundering and terrorist financ-
4 ing;

5 (2) the costs and benefits associated with the
6 establishment, by the Federal Government or by the
7 Federal Government in partnership with the private
8 sector, of a centralized database to help financial in-
9 stitutions detect and prevent money laundering and
10 terrorist financing, including the impact of such a
11 database on the security and privacy of financial in-
12 formation and the ability of technology or changes in
13 law to ensure the security and privacy of such infor-
14 mation;

15 (3) actions that can be taken, administratively
16 or through the enactment of legislation, to stream-
17 line and improve reporting requirements under the
18 United States anti-money laundering regime;

19 (4) how to further include law enforcement
20 within the United States anti-money laundering re-
21 gime and establish methods for law enforcement to
22 provide feedback to institutions on the information
23 they submit;

- 1 (5) the utility of a single filing threshold for
- 2 suspicious activity reports as an alternative to vary-
- 3 ing thresholds, as currently in effect; and
- 4 (6) the mechanism described in section 6.