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107TH CONGRESS
1ST SESSION

H. R. 3162

IN THE SENATE OF THE UNITED STATES

OCTOBER 24, 2001

Received

AN ACT

To deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, 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,*

1 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Uniting and Strengthening America by Providing Appro-
 4 priate Tools Required to Intercept and Obstruct Ter-
 5 rorism (USA PATRIOT ACT) Act of 2001”.

6 (b) **TABLE OF CONTENTS.**— The table of contents
 7 for this Act is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Construction; severability.

TITLE I—ENHANCING DOMESTIC SECURITY AGAINST TERRORISM

Sec. 101. Counterterrorism fund.

Sec. 102. Sense of Congress condemning discrimination against Arab and Muslim Americans.

Sec. 103. Increased funding for the technical support center at the Federal Bureau of Investigation.

Sec. 104. Requests for military assistance to enforce prohibition in certain emergencies.

Sec. 105. Expansion of National Electronic Crime Task Force Initiative.

Sec. 106. Presidential authority.

TITLE II—ENHANCED SURVEILLANCE PROCEDURES

Sec. 201. Authority to intercept wire, oral, and electronic communications relating to terrorism.

Sec. 202. Authority to intercept wire, oral, and electronic communications relating to computer fraud and abuse offenses.

Sec. 203. Authority to share criminal investigative information.

Sec. 204. Clarification of intelligence exceptions from limitations on interception and disclosure of wire, oral, and electronic communications.

Sec. 205. Employment of translators by the Federal Bureau of Investigation.

Sec. 206. Roving surveillance authority under the Foreign Intelligence Surveillance Act of 1978.

Sec. 207. Duration of FISA surveillance of non-United States persons who are agents of a foreign power.

Sec. 208. Designation of judges.

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Sec. 210. Scope of subpoenas for records of electronic communications.

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Sec. 212. Emergency disclosure of electronic communications to protect life and limb.

Sec. 213. Authority for delaying notice of the execution of a warrant.

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Sec. 215. Access to records and other items under the Foreign Intelligence Surveillance Act.

- Sec. 216. Modification of authorities relating to use of pen registers and trap and trace devices.
- Sec. 217. Interception of computer trespasser communications.
- Sec. 218. Foreign intelligence information.
- Sec. 219. Single-jurisdiction search warrants for terrorism.
- Sec. 220. Nationwide service of search warrants for electronic evidence.
- Sec. 221. Trade sanctions.
- Sec. 222. Assistance to law enforcement agencies.
- Sec. 223. Civil liability for certain unauthorized disclosures.
- Sec. 224. Sunset.
- Sec. 225. Immunity for compliance with FISA wiretap.

TITLE III—INTERNATIONAL MONEY LAUNDERING ABATEMENT AND ANTI-TERRORIST FINANCING ACT OF 2001

- Sec. 301. Short title.
- Sec. 302. Findings and purposes.
- Sec. 303. 4-year congressional review; expedited consideration.

Subtitle A—International Counter Money Laundering and Related Measures

- Sec. 311. Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern.
- Sec. 312. Special due diligence for correspondent accounts and private banking accounts.
- Sec. 313. Prohibition on United States correspondent accounts with foreign shell banks.
- Sec. 314. Cooperative efforts to deter money laundering.
- Sec. 315. Inclusion of foreign corruption offenses as money laundering crimes.
- Sec. 316. Anti-terrorist forfeiture protection.
- Sec. 317. Long-arm jurisdiction over foreign money launderers.
- Sec. 318. Laundering money through a foreign bank.
- Sec. 319. Forfeiture of funds in United States interbank accounts.
- Sec. 320. Proceeds of foreign crimes.
- Sec. 321. Financial institutions specified in subchapter II of chapter 53 of title 31, United States code.
- Sec. 322. Corporation represented by a fugitive.
- Sec. 323. Enforcement of foreign judgments.
- Sec. 324. Report and recommendation.
- Sec. 325. Concentration accounts at financial institutions.
- Sec. 326. Verification of identification.
- Sec. 327. Consideration of anti-money laundering record.
- Sec. 328. International cooperation on identification of originators of wire transfers.
- Sec. 329. Criminal penalties.
- Sec. 330. International cooperation in investigations of money laundering, financial crimes, and the finances of terrorist groups.

Subtitle B—Bank Secrecy Act Amendments and Related Improvements

- Sec. 351. Amendments relating to reporting of suspicious activities.
- Sec. 352. Anti-money laundering programs.
- Sec. 353. Penalties for violations of geographic targeting orders and certain recordkeeping requirements, and lengthening effective period of geographic targeting orders.
- Sec. 354. Anti-money laundering strategy.

- Sec. 355. Authorization to include suspicions of illegal activity in written employment references.
- Sec. 356. Reporting of suspicious activities by securities brokers and dealers; investment company study.
- Sec. 357. Special report on administration of bank secrecy provisions.
- Sec. 358. Bank secrecy provisions and activities of United States intelligence agencies to fight international terrorism.
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- Sec. 371. Bulk cash smuggling into or out of the United States.
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- Sec. 373. Illegal money transmitting businesses.
- Sec. 374. Counterfeiting domestic currency and obligations.
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TITLE IV—PROTECTING THE BORDER

Subtitle A—Protecting the Northern Border

- Sec. 401. Ensuring adequate personnel on the northern border.
- Sec. 402. Northern border personnel.
- Sec. 403. Access by the Department of State and the INS to certain identifying information in the criminal history records of visa applicants and applicants for admission to the United States.
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- Sec. 405. Report on the integrated automated fingerprint identification system for ports of entry and overseas consular posts.

Subtitle B—Enhanced Immigration Provisions

- Sec. 411. Definitions relating to terrorism.
- Sec. 412. Mandatory detention of suspected terrorists; habeas corpus; judicial review.
- Sec. 413. Multilateral cooperation against terrorists.
- Sec. 414. Visa integrity and security.
- Sec. 415. Participation of Office of Homeland Security on Entry-Exit Task Force.
- Sec. 416. Foreign student monitoring program.
- Sec. 417. Machine readable passports.
- Sec. 418. Prevention of consulate shopping.

Subtitle C—Preservation of Immigration Benefits for Victims of Terrorism

- Sec. 421. Special immigrant status.
- Sec. 422. Extension of filing or reentry deadlines.

- Sec. 423. Humanitarian relief for certain surviving spouses and children.
- Sec. 424. "Age-out" protection for children.
- Sec. 425. Temporary administrative relief.
- Sec. 426. Evidence of death, disability, or loss of employment.
- Sec. 427. No benefits to terrorists or family members of terrorists.
- Sec. 428. Definitions.

TITLE V—REMOVING OBSTACLES TO INVESTIGATING TERRORISM

- Sec. 501. Attorney General's authority to pay rewards to combat terrorism.
- Sec. 502. Secretary of State's authority to pay rewards.
- Sec. 503. DNA identification of terrorists and other violent offenders.
- Sec. 504. Coordination with law enforcement.
- Sec. 505. Miscellaneous national security authorities.
- Sec. 506. Extension of Secret Service jurisdiction.
- Sec. 507. Disclosure of educational records.
- Sec. 508. Disclosure of information from NCES surveys.

TITLE VI—PROVIDING FOR VICTIMS OF TERRORISM, PUBLIC SAFETY OFFICERS, AND THEIR FAMILIES

Subtitle A—Aid to Families of Public Safety Officers

- Sec. 611. Expedited payment for public safety officers involved in the prevention, investigation, rescue, or recovery efforts related to a terrorist attack.
- Sec. 612. Technical correction with respect to expedited payments for heroic public safety officers.
- Sec. 613. Public safety officers benefit program payment increase.
- Sec. 614. Office of Justice programs.

Subtitle B—Amendments to the Victims of Crime Act of 1984

- Sec. 621. Crime victims fund.
- Sec. 622. Crime victim compensation.
- Sec. 623. Crime victim assistance.
- Sec. 624. Victims of terrorism.

TITLE VII—INCREASED INFORMATION SHARING FOR CRITICAL INFRASTRUCTURE PROTECTION

- Sec. 711. Expansion of regional information sharing system to facilitate Federal-State-local law enforcement response related to terrorist attacks.

TITLE VIII—STRENGTHENING THE CRIMINAL LAWS AGAINST TERRORISM

- Sec. 801. Terrorist attacks and other acts of violence against mass transportation systems.
- Sec. 802. Definition of domestic terrorism.
- Sec. 803. Prohibition against harboring terrorists.
- Sec. 804. Jurisdiction over crimes committed at U.S. facilities abroad.
- Sec. 805. Material support for terrorism.
- Sec. 806. Assets of terrorist organizations.
- Sec. 807. Technical clarification relating to provision of material support to terrorism.
- Sec. 808. Definition of Federal crime of terrorism.

- Sec. 809. No statute of limitation for certain terrorism offenses.
- Sec. 810. Alternate maximum penalties for terrorism offenses.
- Sec. 811. Penalties for terrorist conspiracies.
- Sec. 812. Post-release supervision of terrorists.
- Sec. 813. Inclusion of acts of terrorism as racketeering activity.
- Sec. 814. Deterrence and prevention of cyberterrorism.
- Sec. 815. Additional defense to civil actions relating to preserving records in response to Government requests.
- Sec. 816. Development and support of cybersecurity forensic capabilities.
- Sec. 817. Expansion of the biological weapons statute.

TITLE IX—IMPROVED INTELLIGENCE

- Sec. 901. Responsibilities of Director of Central Intelligence regarding foreign intelligence collected under Foreign Intelligence Surveillance Act of 1978.
- Sec. 902. Inclusion of international terrorist activities within scope of foreign intelligence under National Security Act of 1947.
- Sec. 903. Sense of Congress on the establishment and maintenance of intelligence relationships to acquire information on terrorists and terrorist organizations.
- Sec. 904. Temporary authority to defer submittal to Congress of reports on intelligence and intelligence-related matters.
- Sec. 905. Disclosure to Director of Central Intelligence of foreign intelligence-related information with respect to criminal investigations.
- Sec. 906. Foreign terrorist asset tracking center.
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TITLE X—MISCELLANEOUS

- Sec. 1001. Review of the department of justice.
- Sec. 1002. Sense of congress.
- Sec. 1003. Definition of "electronic surveillance".
- Sec. 1004. Venue in money laundering cases.
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- Sec. 1006. Inadmissibility of aliens engaged in money laundering.
- Sec. 1007. Authorization of funds for dea police training in south and central asia.
- Sec. 1008. Feasibility study on use of biometric identifier scanning system with access to the fbi integrated automated fingerprint identification system at overseas consular posts and points of entry to the United States.
- Sec. 1009. Study of access.
- Sec. 1010. Temporary authority to contract with local and State governments for performance of security functions at United States military installations.
- Sec. 1011. Crimes against charitable americans.
- Sec. 1012. Limitation on issuance of hazmat licenses.
- Sec. 1013. Expressing the sense of the senate concerning the provision of funding for bioterrorism preparedness and response.
- Sec. 1014. Grant program for State and local domestic preparedness support.
- Sec. 1015. Expansion and reauthorization of the crime identification technology act for antiterrorism grants to States and localities.
- Sec. 1016. Critical infrastructures protection.

1 **SEC. 2. CONSTRUCTION; SEVERABILITY.**

2 Any provision of this Act held to be invalid or unen-
3 forceable by its terms, or as applied to any person or cir-
4 cumstance, shall be construed so as to give it the max-
5 imum effect permitted by law, unless such holding shall
6 be one of utter invalidity or unenforceability, in which
7 event such provision shall be deemed severable from this
8 Act and shall not affect the remainder thereof or the appli-
9 cation of such provision to other persons not similarly situ-
10 ated or to other, dissimilar circumstances.

11 **TITLE I—ENHANCING DOMESTIC**
12 **SECURITY AGAINST TERRORISM**

13 **SEC. 101. COUNTERTERRORISM FUND.**

14 (a) ESTABLISHMENT; AVAILABILITY.—There is here-
15 by established in the Treasury of the United States a sepa-
16 rate fund to be known as the “Counterterrorism Fund”,
17 amounts in which shall remain available without fiscal
18 year limitation—

19 (1) to reimburse any Department of Justice
20 component for any costs incurred in connection
21 with—

22 (A) reestablishing the operational capa-
23 bility of an office or facility that has been dam-
24 aged or destroyed as the result of any domestic
25 or international terrorism incident;

(B) providing support to counter, investigate, or prosecute domestic or international terrorism, including, without limitation, paying rewards in connection with these activities; and

(C) conducting terrorism threat assessments of Federal agencies and their facilities; and

(2) to reimburse any department or agency of the Federal Government for any costs incurred in connection with detaining in foreign countries individuals accused of acts of terrorism that violate the laws of the United States.

(b) NO EFFECT ON PRIOR APPROPRIATIONS.—Subsection (a) shall not be construed to affect the amount or availability of any appropriation to the Counterterrorism Fund made before the date of the enactment of this Act.

SEC. 102. SENSE OF CONGRESS CONDEMNING DISCRIMINATION AGAINST ARAB AND MUSLIM AMERICANS.

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

(1) Arab Americans, Muslim Americans, and Americans from South Asia play a vital role in our

1 Nation and are entitled to nothing less than the full
2 rights of every American.

3 (2) The acts of violence that have been taken
4 against Arab and Muslim Americans since the Sep-
5 tember 11, 2001, attacks against the United States
6 should be and are condemned by all Americans who
7 value freedom.

8 (3) The concept of individual responsibility for
9 wrongdoing is sacrosanct in American society, and
10 applies equally to all religious, racial, and ethnic
11 groups.

12 (4) When American citizens commit acts of vio-
13 lence against those who are, or are perceived to be,
14 of Arab or Muslim descent, they should be punished
15 to the full extent of the law.

16 (5) Muslim Americans have become so fearful
17 of harassment that many Muslim women are chang-
18 ing the way they dress to avoid becoming targets.

19 (6) Many Arab Americans and Muslim Ameri-
20 cans have acted heroically during the attacks on the
21 United States, including Mohammed Salman
22 Hamdani, a 23-year-old New Yorker of Pakistani
23 descent, who is believed to have gone to the World
24 Trade Center to offer rescue assistance and is now
25 missing.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that—

3 (1) the civil rights and civil liberties of all
4 Americans, including Arab Americans, Muslim
5 Americans, and Americans from South Asia, must
6 be protected, and that every effort must be taken to
7 preserve their safety;

8 (2) any acts of violence or discrimination
9 against any Americans be condemned; and

10 (3) the Nation is called upon to recognize the
11 patriotism of fellow citizens from all ethnic, racial,
12 and religious backgrounds.

13 **SEC. 103. INCREASED FUNDING FOR THE TECHNICAL SUP-**
14 **PORT CENTER AT THE FEDERAL BUREAU OF**
15 **INVESTIGATION.**

16 There are authorized to be appropriated for the Tech-
17 nical Support Center established in section 811 of the
18 Antiterrorism and Effective Death Penalty Act of 1996
19 (Public Law 104–132) to help meet the demands for ac-
20 tivities to combat terrorism and support and enhance the
21 technical support and tactical operations of the FBI,
22 \$200,000,000 for each of the fiscal years 2002, 2003, and
23 2004.

1 **SEC. 104. REQUESTS FOR MILITARY ASSISTANCE TO EN-**
2 **FORCE PROHIBITION IN CERTAIN EMER-**
3 **GENCIES.**

4 Section 2332e of title 18, United States Code, is
5 amended—

6 (1) by striking “2332e” and inserting “2332a”;

7 and

8 (2) by striking “chemical”.

9 **SEC. 105. EXPANSION OF NATIONAL ELECTRONIC CRIME**
10 **TASK FORCE INITIATIVE.**

11 The Director of the United States Secret Service
12 shall take appropriate actions to develop a national net-
13 work of electronic crime task forces, based on the New
14 York Electronic Crimes Task Force model, throughout the
15 United States, for the purpose of preventing, detecting,
16 and investigating various forms of electronic crimes, in-
17 cluding potential terrorist attacks against critical infra-
18 structure and financial payment systems.

19 **SEC. 106. PRESIDENTIAL AUTHORITY.**

20 Section 203 of the International Emergency Powers
21 Act (50 U.S.C. 1702) is amended—

22 (1) in subsection (a)(1)—

23 (A) at the end of subparagraph (A) (flush
24 to that subparagraph), by striking “; and” and
25 inserting a comma and the following:

1 “by any person, or with respect to any property,
2 subject to the jurisdiction of the United States;”;

3 (B) in subparagraph (B)—

4 (i) by inserting “, block during the
5 pendency of an investigation” after “inves-
6 tigate”; and

7 (ii) by striking “interest;” and insert-
8 ing “interest by any person, or with re-
9 spect to any property, subject to the juris-
10 diction of the United States; and”;

11 (C) by striking “by any person, or with re-
12 spect to any property, subject to the jurisdiction
13 of the United States;” and

14 (D) by inserting at the end the following:

15 “(C) when the United States is engaged in
16 armed hostilities or has been attacked by a for-
17 eign country or foreign nationals, confiscate any
18 property, subject to the jurisdiction of the
19 United States, of any foreign person, foreign
20 organization, or foreign country that he deter-
21 mines has planned, authorized, aided, or en-
22 gaged in such hostilities or attacks against the
23 United States; and all right, title, and interest
24 in any property so confiscated shall vest, when,
25 as, and upon the terms directed by the Presi-

1 dent, in such agency or person as the President
 2 may designate from time to time, and upon
 3 such terms and conditions as the President may
 4 prescribe, such interest or property shall be
 5 held, used, administered, liquidated, sold, or
 6 otherwise dealt with in the interest of and for
 7 the benefit of the United States, and such des-
 8 ignated agency or person may perform any and
 9 all acts incident to the accomplishment or fur-
 10 therance of these purposes.”; and

11 (2) by inserting at the end the following:

12 “(c) CLASSIFIED INFORMATION.—In any judicial re-
 13 view of a determination made under this section, if the
 14 determination was based on classified information (as de-
 15 fined in section 1(a) of the Classified Information Proce-
 16 dures Act) such information may be submitted to the re-
 17 viewing court ex parte and in camera. This subsection does
 18 not confer or imply any right to judicial review.”.

19 **TITLE II—ENHANCED** 20 **SURVEILLANCE PROCEDURES**

21 **SEC. 201. AUTHORITY TO INTERCEPT WIRE, ORAL, AND** 22 **ELECTRONIC COMMUNICATIONS RELATING** 23 **TO TERRORISM.**

24 Section 2516(1) of title 18, United States Code, is
 25 amended—

(1) by redesignating paragraph (p), as so redesignated by section 434(2) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1274), as paragraph (r); and

(2) by inserting after paragraph (p), as so redesignated by section 201(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–565), the following new paragraph:

“(q) any criminal violation of section 229 (relating to chemical weapons); or sections 2332, 2332a, 2332b, 2332d, 2339A, or 2339B of this title (relating to terrorism); or”.

**SEC. 202. AUTHORITY TO INTERCEPT WIRE, ORAL, AND
ELECTRONIC COMMUNICATIONS RELATING
TO COMPUTER FRAUD AND ABUSE OF
FENSES.**

Section 2516(1)(c) of title 18, United States Code, is amended by striking “and section 1341 (relating to mail fraud),” and inserting “section 1341 (relating to mail fraud), a felony violation of section 1030 (relating to computer fraud and abuse),”.

1 **SEC. 203. AUTHORITY TO SHARE CRIMINAL INVESTIGATIVE**
2 **INFORMATION.**

3 (a) **AUTHORITY TO SHARE GRAND JURY INFORMA-**
4 **TION.—**

5 (1) **IN GENERAL.**—Rule 6(e)(3)(C) of the Fed-
6 eral Rules of Criminal Procedure is amended to read
7 as follows:

8 “(C)(i) Disclosure otherwise prohibited by
9 this rule of matters occurring before the grand
10 jury may also be made—

11 “(I) when so directed by a court pre-
12 liminarily to or in connection with a judi-
13 cial proceeding;

14 “(II) when permitted by a court at
15 the request of the defendant, upon a show-
16 ing that grounds may exist for a motion to
17 dismiss the indictment because of matters
18 occurring before the grand jury;

19 “(III) when the disclosure is made by
20 an attorney for the government to another
21 Federal grand jury;

22 “(IV) when permitted by a court at
23 the request of an attorney for the govern-
24 ment, upon a showing that such matters
25 may disclose a violation of state criminal
26 law, to an appropriate official of a state or

1 subdivision of a state for the purpose of
2 enforcing such law; or

3 “(V) when the matters involve foreign
4 intelligence or counterintelligence (as de-
5 fined in section 3 of the National Security
6 Act of 1947 (50 U.S.C. 401a)), or foreign
7 intelligence information (as defined in
8 clause (iv) of this subparagraph), to any
9 Federal law enforcement, intelligence, pro-
10 tective, immigration, national defense, or
11 national security official in order to assist
12 the official receiving that information in
13 the performance of his official duties.

14 “(ii) If the court orders disclosure of mat-
15 ters occurring before the grand jury, the dis-
16 closure shall be made in such manner, at such
17 time, and under such conditions as the court
18 may direct.

19 “(iii) Any Federal official to whom infor-
20 mation is disclosed pursuant to clause (i)(V) of
21 this subparagraph may use that information
22 only as necessary in the conduct of that per-
23 son’s official duties subject to any limitations
24 on the unauthorized disclosure of such informa-
25 tion. Within a reasonable time after such dis-
clo-

1 sure, an attorney for the government shall file
2 under seal a notice with the court stating the
3 fact that such information was disclosed and
4 the departments, agencies, or entities to which
5 the disclosure was made.

6 “(iv) In clause (i)(V) of this subparagraph,
7 the term ‘foreign intelligence information’
8 means—

9 “(I) information, whether or not con-
10 cerning a United States person, that re-
11 lates to the ability of the United States to
12 protect against—

13 “(aa) actual or potential attack
14 or other grave hostile acts of a foreign
15 power or an agent of a foreign power;

16 “(bb) sabotage or international
17 terrorism by a foreign power or an
18 agent of a foreign power; or

19 “(cc) clandestine intelligence ac-
20 tivities by an intelligence service or
21 network of a foreign power or by an
22 agent of foreign power; or

23 “(II) information, whether or not con-
24 cerning a United States person, with re-

1 spect to a foreign power or foreign terri-
2 tory that relates to—

3 “(aa) the national defense or the
4 security of the United States; or

5 “(bb) the conduct of the foreign
6 affairs of the United States.”.

7 (2) CONFORMING AMENDMENT.—Rule
8 6(e)(3)(D) of the Federal Rules of Criminal Proce-
9 dure is amended by striking “(e)(3)(C)(i)” and in-
10 serting “(e)(3)(C)(i)(I)”.

11 (b) AUTHORITY TO SHARE ELECTRONIC, WIRE, AND
12 ORAL INTERCEPTION INFORMATION.—

13 (1) LAW ENFORCEMENT.—Section 2517 of title
14 18, United States Code, is amended by inserting at
15 the end the following:

16 “(6) Any investigative or law enforcement officer, or
17 attorney for the Government, who by any means author-
18 ized by this chapter, has obtained knowledge of the con-
19 tents of any wire, oral, or electronic communication, or
20 evidence derived therefrom, may disclose such contents to
21 any other Federal law enforcement, intelligence, protec-
22 tive, immigration, national defense, or national security of-
23 ficial to the extent that such contents include foreign intel-
24 ligence or counterintelligence (as defined in section 3 of
25 the National Security Act of 1947 (50 U.S.C. 401a)), or

1 foreign intelligence information (as defined in subsection
2 (19) of section 2510 of this title), to assist the official
3 who is to receive that information in the performance of
4 his official duties. Any Federal official who receives infor-
5 mation pursuant to this provision may use that informa-
6 tion only as necessary in the conduct of that person's offi-
7 cial duties subject to any limitations on the unauthorized
8 disclosure of such information.”.

9 (2) DEFINITION.—Section 2510 of title 18,
10 United States Code, is amended by—

11 (A) in paragraph (17), by striking “and”
12 after the semicolon;

13 (B) in paragraph (18), by striking the pe-
14 riod and inserting “; and”; and

15 (C) by inserting at the end the following:

16 “(19) ‘foreign intelligence information’ means—

17 “(A) information, whether or not con-
18 cerning a United States person, that relates to
19 the ability of the United States to protect
20 against—

21 “(i) actual or potential attack or other
22 grave hostile acts of a foreign power or an
23 agent of a foreign power;

1 “(ii) sabotage or international ter-
2 rorism by a foreign power or an agent of
3 a foreign power; or

4 “(iii) clandestine intelligence activities
5 by an intelligence service or network of a
6 foreign power or by an agent of a foreign
7 power; or

8 “(B) information, whether or not con-
9 cerning a United States person, with respect to
10 a foreign power or foreign territory that relates
11 to—

12 “(i) the national defense or the secu-
13 rity of the United States; or

14 “(ii) the conduct of the foreign affairs
15 of the United States.”.

16 (c) PROCEDURES.—The Attorney General shall es-
17 tablish procedures for the disclosure of information pursu-
18 ant to section 2517(6) and Rule 6(e)(3)(C)(i)(V) of the
19 Federal Rules of Criminal Procedure that identifies a
20 United States person, as defined in section 101 of the For-
21 eign Intelligence Surveillance Act of 1978 (50 U.S.C.
22 1801)).

23 (d) FOREIGN INTELLIGENCE INFORMATION.—

24 (1) IN GENERAL.—Notwithstanding any other
25 provision of law, it shall be lawful for foreign intel-

1 ligence or counterintelligence (as defined in section
2 3 of the National Security Act of 1947 (50 U.S.C.
3 401a)) or foreign intelligence information obtained
4 as part of a criminal investigation to be disclosed to
5 any Federal law enforcement, intelligence, protective,
6 immigration, national defense, or national security
7 official in order to assist the official receiving that
8 information in the performance of his official duties.
9 Any Federal official who receives information pursu-
10 ant to this provision may use that information only
11 as necessary in the conduct of that person's official
12 duties subject to any limitations on the unauthorized
13 disclosure of such information.

14 (2) DEFINITION.—In this subsection, the term
15 “foreign intelligence information” means—

16 (A) information, whether or not concerning
17 a United States person, that relates to the abil-
18 ity of the United States to protect against—

19 (i) actual or potential attack or other
20 grave hostile acts of a foreign power or an
21 agent of a foreign power;

22 (ii) sabotage or international ter-
23 rorism by a foreign power or an agent of
24 a foreign power; or

(iii) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(B) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to—

(i) the national defense or the security of the United States; or

(ii) the conduct of the foreign affairs of the United States.

**SEC. 204. CLARIFICATION OF INTELLIGENCE EXCEPTIONS
FROM LIMITATIONS ON INTERCEPTION AND
DISCLOSURE OF WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS.**

Section 2511(2)(f) of title 18, United States Code, is amended—

(1) by striking “this chapter or chapter 121” and inserting “this chapter or chapter 121 or 206 of this title”; and

(2) by striking “wire and oral” and inserting “wire, oral, and electronic”.

1 **SEC. 205. EMPLOYMENT OF TRANSLATORS BY THE FED-**
2 **ERAL BUREAU OF INVESTIGATION.**

3 (a) **AUTHORITY.**—The Director of the Federal Bu-
4 reau of Investigation is authorized to expedite the employ-
5 ment of personnel as translators to support
6 counterterrorism investigations and operations without re-
7 gard to applicable Federal personnel requirements and
8 limitations.

9 (b) **SECURITY REQUIREMENTS.**—The Director of the
10 Federal Bureau of Investigation shall establish such secu-
11 rity requirements as are necessary for the personnel em-
12 ployed as translators under subsection (a).

13 (c) **REPORT.**—The Attorney General shall report to
14 the Committees on the Judiciary of the House of Rep-
15 resentatives and the Senate on—

16 (1) the number of translators employed by the
17 FBI and other components of the Department of
18 Justice;

19 (2) any legal or practical impediments to using
20 translators employed by other Federal, State, or
21 local agencies, on a full, part-time, or shared basis;
22 and

23 (3) the needs of the FBI for specific translation
24 services in certain languages, and recommendations
25 for meeting those needs.

1 **SEC. 206. ROVING SURVEILLANCE AUTHORITY UNDER THE**
2 **FOREIGN INTELLIGENCE SURVEILLANCE ACT**
3 **OF 1978.**

4 Section 105(c)(2)(B) of the Foreign Intelligence Sur-
5 veillance Act of 1978 (50 U.S.C. 1805(c)(2)(B)) is amend-
6 ed by inserting “, or in circumstances where the Court
7 finds that the actions of the target of the application may
8 have the effect of thwarting the identification of a speci-
9 fied person, such other persons,” after “specified person”.

10 **SEC. 207. DURATION OF FISA SURVEILLANCE OF NON-**
11 **UNITED STATES PERSONS WHO ARE AGENTS**
12 **OF A FOREIGN POWER.**

13 (a) DURATION .—

14 (1) SURVEILLANCE.—Section 105(e)(1) of the
15 Foreign Intelligence Surveillance Act of 1978 (50
16 U.S.C. 1805(e)(1)) is amended by—

17 (A) inserting “(A)” after “except that”;
18 and

19 (B) inserting before the period the fol-
20 lowing: “, and (B) an order under this Act for
21 a surveillance targeted against an agent of a
22 foreign power, as defined in section
23 101(b)(1)(A) may be for the period specified in
24 the application or for 120 days, whichever is
25 less”.

1 (2) PHYSICAL SEARCH.—Section 304(d)(1) of the
2 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
3 1824(d)(1)) is amended by—

4 (A) striking “forty-five” and inserting “90”;

5 (B) inserting “(A)” after “except that”; and

6 (C) inserting before the period the following: “,
7 and (B) an order under this section for a physical
8 search targeted against an agent of a foreign power
9 as defined in section 101(b)(1)(A) may be for the
10 period specified in the application or for 120 days,
11 whichever is less”.

12 (b) EXTENSION.—

13 (1) IN GENERAL.—Section 105(d)(2) of the
14 Foreign Intelligence Surveillance Act of 1978 (50
15 U.S.C. 1805(d)(2)) is amended by—

16 (A) inserting “(A)” after “except that”;
17 and

18 (B) inserting before the period the fol-
19 lowing: “, and (B) an extension of an order
20 under this Act for a surveillance targeted
21 against an agent of a foreign power as defined
22 in section 101(b)(1)(A) may be for a period not
23 to exceed 1 year”.

24 (2) DEFINED TERM.—Section 304(d)(2) of the
25 Foreign Intelligence Surveillance Act of 1978 (50

1 U.S.C. 1824(d)(2) is amended by inserting after
2 “not a United States person,” the following: “or
3 against an agent of a foreign power as defined in
4 section 101(b)(1)(A),”.

5 **SEC. 208. DESIGNATION OF JUDGES.**

6 Section 103(a) of the Foreign Intelligence Surveil-
7 lance Act of 1978 (50 U.S.C. 1803(a)) is amended by—

8 (1) striking “seven district court judges” and
9 inserting “11 district court judges”; and

10 (2) inserting “of whom no fewer than 3 shall
11 reside within 20 miles of the District of Columbia”
12 after “circuits”.

13 **SEC. 209. SEIZURE OF VOICE-MAIL MESSAGES PURSUANT**
14 **TO WARRANTS.**

15 Title 18, United States Code, is amended—

16 (1) in section 2510—

17 (A) in paragraph (1), by striking beginning
18 with “and such” and all that follows through
19 “communication”; and

20 (B) in paragraph (14), by inserting “wire
21 or” after “transmission of”; and

22 (2) in subsections (a) and (b) of section 2703—

23 (A) by striking “CONTENTS OF ELEC-
24 TRONIC” and inserting “CONTENTS OF WIRE OR
25 ELECTRONIC” each place it appears;

(B) by striking “contents of an electronic”
and inserting “contents of a wire or electronic”
each place it appears; and

(C) by striking “any electronic” and in-
serting “any wire or electronic” each place it
appears.

**SEC. 210. SCOPE OF SUBPOENAS FOR RECORDS OF ELEC-
TRONIC COMMUNICATIONS.**

Section 2703(c)(2) of title 18, United States Code,
as redesignated by section 212, is amended—

(1) by striking “entity the name, address, local
and long distance telephone toll billing records, tele-
phone number or other subscriber number or iden-
tity, and length of service of a subscriber” and in-
serting the following: “entity the—

“(A) name;

“(B) address;

“(C) local and long distance telephone connec-
tion records, or records of session times and dura-
tions;

“(D) length of service (including start date)
and types of service utilized;

“(E) telephone or instrument number or other
subscriber number or identity, including any tempo-
rarily assigned network address; and

1 “(F) means and source of payment for such
2 service (including any credit card or bank account
3 number),
4 of a subscriber”; and

5 (2) by striking “and the types of services the
6 subscriber or customer utilized,”.

7 **SEC. 211. CLARIFICATION OF SCOPE.**

8 Section 631 of the Communications Act of 1934 (47
9 U.S.C. 551) is amended—

10 (1) in subsection (c)(2)—

11 (A) in subparagraph (B), by striking “or”;

12 (B) in subparagraph (C), by striking the
13 period at the end and inserting “; or”; and

14 (C) by inserting at the end the following:

15 “(D) to a government entity as authorized
16 under chapters 119, 121, or 206 of title 18, United
17 States Code, except that such disclosure shall not in-
18 clude records revealing cable subscriber selection of
19 video programming from a cable operator.”; and

20 (2) in subsection (h), by striking “A govern-
21 mental entity” and inserting “Except as provided in
22 subsection (c)(2)(D), a governmental entity”.

23 **SEC. 212. EMERGENCY DISCLOSURE OF ELECTRONIC COM-**
24 **MUNICATIONS TO PROTECT LIFE AND LIMB.**

25 (a) DISCLOSURE OF CONTENTS.—

1 (1) IN GENERAL.—Section 2702 of title 18,
2 United States Code, is amended—

3 (A) by striking the section heading and in-
4 serting the following:

5 **“§ 2702. Voluntary disclosure of customer commu-
6 nications or records”;**

7 (B) in subsection (a)—

8 (i) in paragraph (2)(A), by striking
9 “and” at the end;

10 (ii) in paragraph (2)(B), by striking
11 the period and inserting “; and”; and

12 (iii) by inserting after paragraph (2)
13 the following:

14 “(3) a provider of remote computing service or
15 electronic communication service to the public shall
16 not knowingly divulge a record or other information
17 pertaining to a subscriber to or customer of such
18 service (not including the contents of communica-
19 tions covered by paragraph (1) or (2)) to any gov-
20 ernmental entity.”;

21 (C) in subsection (b), by striking “EXCEP-
22 TIONS.—A person or entity” and inserting “EX-
23 CEPTIONS FOR DISCLOSURE OF COMMUNICA-
24 TIONS.— A provider described in subsection
25 (a)”;

1 (D) in subsection (b)(6)—

2 (i) in subparagraph (A)(ii), by strik-
3 ing “or”;

4 (ii) in subparagraph (B), by striking
5 the period and inserting “; or”; and

6 (iii) by adding after subparagraph (B)
7 the following:

8 “(C) if the provider reasonably believes
9 that an emergency involving immediate danger
10 of death or serious physical injury to any per-
11 son requires disclosure of the information with-
12 out delay.”; and

13 (E) by inserting after subsection (b) the
14 following:

15 “(c) EXCEPTIONS FOR DISCLOSURE OF CUSTOMER
16 RECORDS.—A provider described in subsection (a) may di-
17 vulge a record or other information pertaining to a sub-
18 scriber to or customer of such service (not including the
19 contents of communications covered by subsection (a)(1)
20 or (a)(2))—

21 “(1) as otherwise authorized in section 2703;

22 “(2) with the lawful consent of the customer or
23 subscriber;

1 “(3) as may be necessarily incident to the ren-
 2 dition of the service or to the protection of the rights
 3 or property of the provider of that service;

4 “(4) to a governmental entity, if the provider
 5 reasonably believes that an emergency involving im-
 6 mediate danger of death or serious physical injury to
 7 any person justifies disclosure of the information; or

8 “(5) to any person other than a governmental
 9 entity.”.

10 (2) TECHNICAL AND CONFORMING AMEND-
 11 MENT.—The table of sections for chapter 121 of
 12 title 18, United States Code, is amended by striking
 13 the item relating to section 2702 and inserting the
 14 following:

“2702. Voluntary disclosure of customer communications or records.”.

15 (b) REQUIREMENTS FOR GOVERNMENT ACCESS.—

16 (1) IN GENERAL.—Section 2703 of title 18,
 17 United States Code, is amended—

18 (A) by striking the section heading and in-
 19 serting the following:

20 “§ 2703. Required disclosure of customer communica-
 21 tions or records”;

22 (B) in subsection (c) by redesignating
 23 paragraph (2) as paragraph (3);

24 (C) in subsection (c)(1)—

1 (i) by striking “(A) Except as pro-
2 vided in subparagraph (B), a provider of
3 electronic communication service or remote
4 computing service may” and inserting “A
5 governmental entity may require a provider
6 of electronic communication service or re-
7 mote computing service to”;

8 (ii) by striking “covered by subsection
9 (a) or (b) of this section) to any person
10 other than a governmental entity.

11 “(B) A provider of electronic communica-
12 tion service or remote computing service shall
13 disclose a record or other information per-
14 taining to a subscriber to or customer of such
15 service (not including the contents of commu-
16 nications covered by subsection (a) or (b) of
17 this section) to a governmental entity” and in-
18 serting “)”;

19 (iii) by redesignating subparagraph
20 (C) as paragraph (2);

21 (iv) by redesignating clauses (i), (ii),
22 (iii), and (iv) as subparagraphs (A), (B),
23 (C), and (D), respectively;

1 (v) in subparagraph (D) (as redesignig-
 2 nated) by striking the period and inserting
 3 “; or”; and

4 (vi) by inserting after subparagraph
 5 (D) (as redesignated) the following:

6 “(E) seeks information under paragraph
 7 (2).”; and

8 (D) in paragraph (2) (as redesignated) by
 9 striking “subparagraph (B)” and insert “para-
 10 graph (1)”.

11 (2) TECHNICAL AND CONFORMING AMEND-
 12 MENT.—The table of sections for chapter 121 of
 13 title 18, United States Code, is amended by striking
 14 the item relating to section 2703 and inserting the
 15 following:

“2703. Required disclosure of customer communications or records.”.

16 **SEC. 213. AUTHORITY FOR DELAYING NOTICE OF THE EXE-**
 17 **CUTION OF A WARRANT.**

18 Section 3103a of title 18, United States Code, is
 19 amended—

20 (1) by inserting “(a) IN GENERAL.—” before
 21 “In addition”; and

22 (2) by adding at the end the following:

23 “(b) DELAY.—With respect to the issuance of any
 24 warrant or court order under this section, or any other
 25 rule of law, to search for and seize any property or mate-

1 rial that constitutes evidence of a criminal offense in viola-
 2 tion of the laws of the United States, any notice required,
 3 or that may be required, to be given may be delayed if—

4 “(1) the court finds reasonable cause to believe
 5 that providing immediate notification of the execu-
 6 tion of the warrant may have an adverse result (as
 7 defined in section 2705);

8 “(2) the warrant prohibits the seizure of any
 9 tangible property, any wire or electronic communica-
 10 tion (as defined in section 2510), or, except as ex-
 11 pressly provided in chapter 121, any stored wire or
 12 electronic information, except where the court finds
 13 reasonable necessity for the seizure; and

14 “(3) the warrant provides for the giving of such
 15 notice within a reasonable period of its execution,
 16 which period may thereafter be extended by the
 17 court for good cause shown.”.

18 **SEC. 214. PEN REGISTER AND TRAP AND TRACE AUTHOR-**
 19 **ITY UNDER FISA.**

20 (a) APPLICATIONS AND ORDERS.—Section 402 of the
 21 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
 22 1842) is amended—

23 (1) in subsection (a)(1), by striking “for any in-
 24 vestigation to gather foreign intelligence information
 25 or information concerning international terrorism”

1 and inserting “for any investigation to obtain for-
2 eign intelligence information not concerning a
3 United States person or to protect against inter-
4 national terrorism or clandestine intelligence activi-
5 ties, provided that such investigation of a United
6 States person is not conducted solely upon the basis
7 of activities protected by the first amendment to the
8 Constitution”;

9 (2) by amending subsection (c)(2) to read as
10 follows:

11 “(2) a certification by the applicant that the in-
12 formation likely to be obtained is foreign intelligence
13 information not concerning a United States person
14 or is relevant to an ongoing investigation to protect
15 against international terrorism or clandestine intel-
16 ligence activities, provided that such investigation of
17 a United States person is not conducted solely upon
18 the basis of activities protected by the first amend-
19 ment to the Constitution.”;

20 (3) by striking subsection (c)(3); and

21 (4) by amending subsection (d)(2)(A) to read
22 as follows:

23 “(A) shall specify—

24 “(i) the identity, if known, of the per-
25 son who is the subject of the investigation;

1 “(ii) the identity, if known, of the per-
2 son to whom is leased or in whose name is
3 listed the telephone line or other facility to
4 which the pen register or trap and trace
5 device is to be attached or applied;

6 “(iii) the attributes of the communica-
7 tions to which the order applies, such as
8 the number or other identifier, and, if
9 known, the location of the telephone line or
10 other facility to which the pen register or
11 trap and trace device is to be attached or
12 applied and, in the case of a trap and trace
13 device, the geographic limits of the trap
14 and trace order.”.

15 (b) AUTHORIZATION DURING EMERGENCIES.—Sec-
16 tion 403 of the Foreign Intelligence Surveillance Act of
17 1978 (50 U.S.C. 1843) is amended—

18 (1) in subsection (a), by striking “foreign intel-
19 ligence information or information concerning inter-
20 national terrorism” and inserting “foreign intel-
21 ligence information not concerning a United States
22 person or information to protect against inter-
23 national terrorism or clandestine intelligence activi-
24 ties, provided that such investigation of a United
25 States person is not conducted solely upon the basis

1 of activities protected by the first amendment to the
2 Constitution”; and

3 (2) in subsection (b)(1), by striking “foreign in-
4 telligence information or information concerning
5 international terrorism” and inserting “foreign intel-
6 ligence information not concerning a United States
7 person or information to protect against inter-
8 national terrorism or clandestine intelligence activi-
9 ties, provided that such investigation of a United
10 States person is not conducted solely upon the basis
11 of activities protected by the first amendment to the
12 Constitution”.

13 **SEC. 215. ACCESS TO RECORDS AND OTHER ITEMS UNDER**
14 **THE FOREIGN INTELLIGENCE SURVEIL-**
15 **LANCE ACT.**

16 Title V of the Foreign Intelligence Surveillance Act
17 of 1978 (50 U.S.C. 1861 et seq.) is amended by striking
18 sections 501 through 503 and inserting the following:

19 **“SEC. 501. ACCESS TO CERTAIN BUSINESS RECORDS FOR**
20 **FOREIGN INTELLIGENCE AND INTER-**
21 **NATIONAL TERRORISM INVESTIGATIONS.**

22 “(a)(1) The Director of the Federal Bureau of Inves-
23 tigation or a designee of the Director (whose rank shall
24 be no lower than Assistant Special Agent in Charge) may
25 make an application for an order requiring the production

1 of any tangible things (including books, records, papers,
2 documents, and other items) for an investigation to pro-
3 tect against international terrorism or clandestine intel-
4 ligence activities, provided that such investigation of a
5 United States person is not conducted solely upon the
6 basis of activities protected by the first amendment to the
7 Constitution.

8 “(2) An investigation conducted under this section
9 shall—

10 “(A) be conducted under guidelines approved by
11 the Attorney General under Executive Order 12333
12 (or a successor order); and

13 “(B) not be conducted of a United States per-
14 son solely upon the basis of activities protected by
15 the first amendment to the Constitution of the
16 United States.

17 “(b) Each application under this section—

18 “(1) shall be made to—

19 “(A) a judge of the court established by
20 section 103(a); or

21 “(B) a United States Magistrate Judge
22 under chapter 43 of title 28, United States
23 Code, who is publicly designated by the Chief
24 Justice of the United States to have the power
25 to hear applications and grant orders for the

1 production of tangible things under this section
on behalf of a judge of that court; and

1 **“SEC. 502. CONGRESSIONAL OVERSIGHT.**

2 “(a) On a semiannual basis, the Attorney General
3 shall fully inform the Permanent Select Committee on In-
4 telligence of the House of Representatives and the Select
5 Committee on Intelligence of the Senate concerning all re-
6 quests for the production of tangible things under section
7 402.

8 “(b) On a semiannual basis, the Attorney General
9 shall provide to the Committees on the Judiciary of the
10 House of Representatives and the Senate a report setting
11 forth with respect to the preceding 6-month period—

12 “(1) the total number of applications made for
13 orders approving requests for the production of tan-
14 gible things under section 402; and

15 “(2) the total number of such orders either
16 granted, modified, or denied.”.

17 **SEC. 216. MODIFICATION OF AUTHORITIES RELATING TO**
18 **USE OF PEN REGISTERS AND TRAP AND**
19 **TRACE DEVICES.**

20 (a) GENERAL LIMITATIONS.—Section 3121(c) of title
21 18, United States Code, is amended—

22 (1) by inserting “or trap and trace device”
23 after “pen register”;

24 (2) by inserting “, routing, addressing,” after
25 “dialing”; and

1 (3) by striking “call processing” and inserting
2 “the processing and transmitting of wire or elec-
3 tronic communications so as not to include the con-
4 tents of any wire or electronic communications”.

5 (b) ISSUANCE OF ORDERS.—

6 (1) IN GENERAL.—Section 3123(a) of title 18,
7 United States Code, is amended to read as follows:

8 “(a) IN GENERAL.—

9 “(1) ATTORNEY FOR THE GOVERNMENT.—
10 Upon an application made under section 3122(a)(1),
11 the court shall enter an ex parte order authorizing
12 the installation and use of a pen register or trap and
13 trace device anywhere within the United States, if
14 the court finds that the attorney for the Government
15 has certified to the court that the information likely
16 to be obtained by such installation and use is rel-
17 evant to an ongoing criminal investigation. The
18 order, upon service of that order, shall apply to any
19 person or entity providing wire or electronic commu-
20 nication service in the United States whose assist-
21 ance may facilitate the execution of the order.
22 Whenever such an order is served on any person or
23 entity not specifically named in the order, upon re-
24 quest of such person or entity, the attorney for the
25 Government or law enforcement or investigative offi-

1 cer that is serving the order shall provide written or
2 electronic certification that the order applies to the
3 person or entity being served.

4 “(2) STATE INVESTIGATIVE OR LAW ENFORCE-
5 MENT OFFICER.—Upon an application made under
6 section 3122(a)(2), the court shall enter an ex parte
7 order authorizing the installation and use of a pen
8 register or trap and trace device within the jurisdic-
9 tion of the court, if the court finds that the State
10 law enforcement or investigative officer has certified
11 to the court that the information likely to be ob-
12 tained by such installation and use is relevant to an
13 ongoing criminal investigation.

14 “(3)(A) Where the law enforcement agency im-
15 plementing an ex parte order under this subsection
16 seeks to do so by installing and using its own pen
17 register or trap and trace device on a packet-
18 switched data network of a provider of electronic
19 communication service to the public, the agency shall
20 ensure that a record will be maintained which will
21 identify—

22 “(i) any officer or officers who installed
23 the device and any officer or officers who
24 accessed the device to obtain information from
25 the network;

1 “(ii) the date and time the device was in-
2 stalled, the date and time the device was
3 uninstalled, and the date, time, and duration of
4 each time the device is accessed to obtain infor-
5 mation;

6 “(iii) the configuration of the device at the
7 time of its installation and any subsequent
8 modification thereof; and

9 “(iv) any information which has been col-
10 lected by the device.

11 To the extent that the pen register or trap and trace
12 device can be set automatically to record this infor-
13 mation electronically, the record shall be maintained
14 electronically throughout the installation and use of
15 such device.

16 “(B) The record maintained under subpara-
17 graph (A) shall be provided ex parte and under seal
18 to the court which entered the ex parte order au-
19 thorizing the installation and use of the device with-
20 in 30 days after termination of the order (including
21 any extensions thereof).”.

22 (2) CONTENTS OF ORDER.—Section 3123(b)(1)
23 of title 18, United States Code, is amended—

24 (A) in subparagraph (A)—

1 (i) by inserting “or other facility”
2 after “telephone line”; and

3 (ii) by inserting before the semicolon
4 at the end “or applied”; and

5 (B) by striking subparagraph (C) and in-
6 serting the following:

7 “(C) the attributes of the communications
8 to which the order applies, including the num-
9 ber or other identifier and, if known, the loca-
10 tion of the telephone line or other facility to
11 which the pen register or trap and trace device
12 is to be attached or applied, and, in the case of
13 an order authorizing installation and use of a
14 trap and trace device under subsection (a)(2),
15 the geographic limits of the order; and”.

16 (3) NONDISCLOSURE REQUIREMENTS.—Section
17 3123(d)(2) of title 18, United States Code, is
18 amended—

19 (A) by inserting “or other facility” after
20 “the line”; and

21 (B) by striking “, or who has been ordered
22 by the court” and inserting “or applied, or who
23 is obligated by the order”.

24 (c) DEFINITIONS.—

1 (1) COURT OF COMPETENT JURISDICTION.—
2 Section 3127(2) of title 18, United States Code, is
3 amended by striking subparagraph (A) and inserting
4 the following:

5 “(A) any district court of the United
6 States (including a magistrate judge of such a
7 court) or any United States court of appeals
8 having jurisdiction over the offense being inves-
9 tigated; or”.

10 (2) PEN REGISTER.—Section 3127(3) of title
11 18, United States Code, is amended—

12 (A) by striking “electronic or other im-
13 pulses” and all that follows through “is at-
14 tached” and inserting “dialing, routing, ad-
15 dressing, or signaling information transmitted
16 by an instrument or facility from which a wire
17 or electronic communication is transmitted, pro-
18 vided, however, that such information shall not
19 include the contents of any communication”;
20 and

21 (B) by inserting “or process” after “de-
22 vice” each place it appears.

23 (3) TRAP AND TRACE DEVICE.—Section
24 3127(4) of title 18, United States Code, is
25 amended—

1 (A) by striking “of an instrument” and all
2 that follows through the semicolon and insert-
3 ing “or other dialing, routing, addressing, and
4 signaling information reasonably likely to iden-
5 tify the source of a wire or electronic commu-
6 nication, provided, however, that such informa-
7 tion shall not include the contents of any com-
8 munication;”; and

9 (B) by inserting “or process” after “a de-
10 vice”.

11 (4) CONFORMING AMENDMENT.—Section
12 3127(1) of title 18, United States Code, is
13 amended—

14 (A) by striking “and”; and

15 (B) by inserting “, and ‘contents’” after
16 “electronic communication service”.

17 (5) TECHNICAL AMENDMENT.—Section 3124(d)
18 of title 18, United States Code, is amended by strik-
19 ing “the terms of”.

20 (6) CONFORMING AMENDMENT.—Section
21 3124(b) of title 18, United States Code, is amended
22 by inserting “or other facility” after “the appro-
23 priate line”.

1 **SEC. 217. INTERCEPTION OF COMPUTER TRESPASSER COM-**
2 **MUNICATIONS.**

3 Chapter 119 of title 18, United States Code, is
4 amended—

5 (1) in section 2510—

6 (A) in paragraph (18), by striking “and”
7 at the end;

8 (B) in paragraph (19), by striking the pe-
9 riod and inserting a semicolon; and

10 (C) by inserting after paragraph (19) the
11 following:

12 “(20) ‘protected computer’ has the meaning set
13 forth in section 1030; and

14 “(21) ‘computer trespasser’—

15 “(A) means a person who accesses a pro-
16 tected computer without authorization and thus
17 has no reasonable expectation of privacy in any
18 communication transmitted to, through, or from
19 the protected computer; and

20 “(B) does not include a person known by
21 the owner or operator of the protected computer
22 to have an existing contractual relationship with
23 the owner or operator of the protected computer
24 for access to all or part of the protected com-
25 puter.”; and

1 (2) in section 2511(2), by inserting at the end
2 the following:

3 “(i) It shall not be unlawful under this chapter for
4 a person acting under color of law to intercept the wire
5 or electronic communications of a computer trespasser
6 transmitted to, through, or from the protected computer,
7 if—

8 “(I) the owner or operator of the protected
9 computer authorizes the interception of the com-
10 puter trespasser’s communications on the protected
11 computer;

12 “(II) the person acting under color of law is
13 lawfully engaged in an investigation;

14 “(III) the person acting under color of law has
15 reasonable grounds to believe that the contents of
16 the computer trespasser’s communications will be
17 relevant to the investigation; and

18 “(IV) such interception does not acquire com-
19 munications other than those transmitted to or from
20 the computer trespasser.”.

21 **SEC. 218. FOREIGN INTELLIGENCE INFORMATION.**

22 Sections 104(a)(7)(B) and section 303(a)(7)(B) (50
23 U.S.C. 1804(a)(7)(B) and 1823(a)(7)(B)) of the Foreign
24 Intelligence Surveillance Act of 1978 are each amended

1 by striking “the purpose” and inserting “a significant pur-
2 pose”.

3 **SEC. 219. SINGLE-JURISDICTION SEARCH WARRANTS FOR**
4 **TERRORISM.**

5 Rule 41(a) of the Federal Rules of Criminal Proce-
6 dure is amended by inserting after “executed” the fol-
7 lowing: “and (3) in an investigation of domestic terrorism
8 or international terrorism (as defined in section 2331 of
9 title 18, United States Code), by a Federal magistrate
10 judge in any district in which activities related to the ter-
11 rorism may have occurred, for a search of property or for
12 a person within or outside the district”.

13 **SEC. 220. NATIONWIDE SERVICE OF SEARCH WARRANTS**
14 **FOR ELECTRONIC EVIDENCE.**

15 (a) IN GENERAL.—Chapter 121 of title 18, United
16 States Code, is amended—

17 (1) in section 2703, by striking “under the
18 Federal Rules of Criminal Procedure” every place it
19 appears and inserting “using the procedures de-
20 scribed in the Federal Rules of Criminal Procedure
21 by a court with jurisdiction over the offense under
22 investigation”; and

23 (2) in section 2711—

24 (A) in paragraph (1), by striking “and”;

(B) in paragraph (2), by striking the period and inserting “; and”; and

(C) by inserting at the end the following:

“(3) the term ‘court of competent jurisdiction’ has the meaning assigned by section 3127, and includes any Federal court within that definition, without geographic limitation.”.

(b) CONFORMING AMENDMENT.—Section 2703(d) of title 18, United States Code, is amended by striking “described in section 3127(2)(A)”.

SEC. 221. TRADE SANCTIONS.

(a) IN GENERAL.—The Trade Sanctions Reform and Export Enhancement Act of 2000 (Public Law 106–387; 114 Stat. 1549A–67) is amended—

(1) by amending section 904(2)(C) to read as follows:

“(C) used to facilitate the design, development, or production of chemical or biological weapons, missiles, or weapons of mass destruction.”;

(2) in section 906(a)(1)—

(A) by inserting “, the Taliban or the territory of Afghanistan controlled by the Taliban,” after “Cuba”; and

1 (B) by inserting “, or in the territory of
2 Afghanistan controlled by the Taliban,” after
3 “within such country”; and

4 (3) in section 906(a)(2), by inserting “, or to
5 any other entity in Syria or North Korea” after
6 “Korea”.

7 (b) APPLICATION OF THE TRADE SANCTIONS RE-
8 FORM AND EXPORT ENHANCEMENT ACT.—Nothing in the
9 Trade Sanctions Reform and Export Enhancement Act of
10 2000 shall limit the application or scope of any law estab-
11 lishing criminal or civil penalties, including any executive
12 order or regulation promulgated pursuant to such laws (or
13 similar or successor laws), for the unlawful export of any
14 agricultural commodity, medicine, or medical device to—

15 (1) a foreign organization, group, or person
16 designated pursuant to Executive Order 12947 of
17 January 23, 1995, as amended;

18 (2) a Foreign Terrorist Organization pursuant
19 to the Antiterrorism and Effective Death Penalty
20 Act of 1996 (Public Law 104–132);

21 (3) a foreign organization, group, or person
22 designated pursuant to Executive Order 13224 (Sep-
23 tember 23, 2001);

24 (4) any narcotics trafficking entity designated
25 pursuant to Executive Order 12978 (October 21,

1 1995) or the Foreign Narcotics Kingpin Designation
2 Act (Public Law 106-120); or

3 (5) any foreign organization, group, or persons
4 subject to any restriction for its involvement in
5 weapons of mass destruction or missile proliferation.

6 **SEC. 222. ASSISTANCE TO LAW ENFORCEMENT AGENCIES.**

7 Nothing in this Act shall impose any additional tech-
8 nical obligation or requirement on a provider of a wire or
9 electronic communication service or other person to fur-
10 nish facilities or technical assistance. A provider of a wire
11 or electronic communication service, landlord, custodian,
12 or other person who furnishes facilities or technical assist-
13 ance pursuant to section 216 shall be reasonably com-
14 pensated for such reasonable expenditures incurred in pro-
15 viding such facilities or assistance.

16 **SEC. 223. CIVIL LIABILITY FOR CERTAIN UNAUTHORIZED**
17 **DISCLOSURES.**

18 (a) Section 2520 of title 18, United States Code, is
19 amended—

20 (1) in subsection (a), after “entity”, by insert-
21 ing “, other than the United States,”;

22 (2) by adding at the end the following:

23 “(f) ADMINISTRATIVE DISCIPLINE.—If a court or ap-
24 propriate department or agency determines that the
25 United States or any of its departments or agencies has

1 violated any provision of this chapter, and the court or
2 appropriate department or agency finds that the cir-
3 cumstances surrounding the violation raise serious ques-
4 tions about whether or not an officer or employee of the
5 United States acted willfully or intentionally with respect
6 to the violation, the department or agency shall, upon re-
7 ceipt of a true and correct copy of the decision and find-
8 ings of the court or appropriate department or agency
9 promptly initiate a proceeding to determine whether dis-
10 ciplinary action against the officer or employee is war-
11 ranted. If the head of the department or agency involved
12 determines that disciplinary action is not warranted, he
13 or she shall notify the Inspector General with jurisdiction
14 over the department or agency concerned and shall provide
15 the Inspector General with the reasons for such deter-
16 mination.”; and

17 (3) by adding a new subsection (g), as follows:

18 “(g) IMPROPER DISCLOSURE IS VIOLATION.—Any
19 willful disclosure or use by an investigative or law enforce-
20 ment officer or governmental entity of information beyond
21 the extent permitted by section 2517 is a violation of this
22 chapter for purposes of section 2520(a).

23 (b) Section 2707 of title 18, United States Code, is
24 amended—

1 (1) in subsection (a), after “entity”, by insert-
2 ing “, other than the United States,”;

3 (2) by striking subsection (d) and inserting the
4 following:

5 “(d) ADMINISTRATIVE DISCIPLINE.—If a court or
6 appropriate department or agency determines that the
7 United States or any of its departments or agencies has
8 violated any provision of this chapter, and the court or
9 appropriate department or agency finds that the cir-
10 cumstances surrounding the violation raise serious ques-
11 tions about whether or not an officer or employee of the
12 United States acted willfully or intentionally with respect
13 to the violation, the department or agency shall, upon re-
14 ceipt of a true and correct copy of the decision and find-
15 ings of the court or appropriate department or agency
16 promptly initiate a proceeding to determine whether dis-
17 ciplinary action against the officer or employee is war-
18 ranted. If the head of the department or agency involved
19 determines that disciplinary action is not warranted, he
20 or she shall notify the Inspector General with jurisdiction
21 over the department or agency concerned and shall provide
22 the Inspector General with the reasons for such deter-
23 mination.”; and

24 (3) by adding a new subsection (g), as follows:

1 “(g) IMPROPER DISCLOSURE.—Any willful disclosure
2 of a ‘record’, as that term is defined in section 552a(a)
3 of title 5, United States Code, obtained by an investigative
4 or law enforcement officer, or a governmental entity, pur-
5 suant to section 2703 of this title, or from a device in-
6 stalled pursuant to section 3123 or 3125 of this title, that
7 is not a disclosure made in the proper performance of the
8 official functions of the officer or governmental entity
9 making the disclosure, is a violation of this chapter. This
10 provision shall not apply to information previously lawfully
11 disclosed (prior to the commencement of any civil or ad-
12 ministrative proceeding under this chapter) to the public
13 by a Federal, State, or local governmental entity or by
14 the plaintiff in a civil action under this chapter.”.

15 (c)(1) Chapter 121 of title 18, United States Code,
16 is amended by adding at the end the following:

17 **“§ 2712. Civil actions against the United States**

18 “(a) IN GENERAL.—Any person who is aggrieved by
19 any willful violation of this chapter or of chapter 119 of
20 this title or of sections 106(a), 305(a), or 405(a) of the
21 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
22 1801 et seq.) may commence an action in United States
23 District Court against the United States to recover money
24 damages. In any such action, if a person who is aggrieved
25 successfully establishes such a violation of this chapter or

1 of chapter 119 of this title or of the above specific provi-
2 sions of title 50, the Court may assess as damages—

3 “(1) actual damages, but not less than
4 \$10,000, whichever amount is greater; and

5 “(2) litigation costs, reasonably incurred.

6 “(b) PROCEDURES.—(1) Any action against the
7 United States under this section may be commenced only
8 after a claim is presented to the appropriate department
9 or agency under the procedures of the Federal Tort
10 Claims Act, as set forth in title 28, United States Code.

11 “(2) Any action against the United States
12 under this section shall be forever barred unless it
13 is presented in writing to the appropriate Federal
14 agency within 2 years after such claim accrues or
15 unless action is begun within 6 months after the
16 date of mailing, by certified or registered mail, of
17 notice of final denial of the claim by the agency to
18 which it was presented. The claim shall accrue on
19 the date upon which the claimant first has a reason-
20 able opportunity to discover the violation.”.

21 “(3) Any action under this section shall be tried to
22 the court without a jury.

23 “(4) Notwithstanding any other provision of law, the
24 procedures set forth in section 106(f), 305(g), or 405(f)
25 of the Foreign Intelligence Surveillance Act of 1978 (50

1 U.S.C. 1801 et seq.) shall be the exclusive means by which
2 materials governed by those sections may be reviewed.

3 “(5) An amount equal to any award against the
4 United States under this section shall be reimbursed by
5 the department or agency concerned to the fund described
6 in section 1304 of title 31, United States Code, out of
7 any appropriation, fund, or other account (excluding any
8 part of such appropriation, fund, or account that is avail-
9 able for the enforcement of any Federal law) that is avail-
10 able for the operating expenses of the department or agen-
11 cy concerned.

12 “(c) ADMINISTRATIVE DISCIPLINE.—If a court or ap-
13 propriate department or agency determines that the
14 United States or any of its departments or agencies has
15 violated any provision of this chapter, and the court or
16 appropriate department or agency finds that the cir-
17 cumstances surrounding the violation raise serious ques-
18 tions about whether or not an officer or employee of the
19 United States acted willfully or intentionally with respect
20 to the possible violation, the department or agency shall,
21 upon receipt of a true and correct copy of the decision
22 and findings of the court or appropriate department or
23 agency promptly initiate a proceeding to determine wheth-
24 er disciplinary action against the officer or employee is
25 warranted. If the head of the department or agency in-

1 involved determines that disciplinary action is not war-
2 ranted, he or she shall notify the Inspector General with
3 jurisdiction over the department or agency concerned and
4 shall provide the Inspector General with the reasons for
5 such determination.

6 “(d) EXCLUSIVE REMEDY.—Any action against the
7 United States under this subsection shall be the exclusive
8 remedy against the United States for any claims within
9 the purview of this section.

10 “(e) STAY OF PROCEEDINGS.—(1) Upon the motion
11 of the United States, the court shall stay any action com-
12 menced under this section if the court determines that civil
13 discovery will adversely affect the ability of the Govern-
14 ment to conduct a related investigation or the prosecution
15 of a related criminal case. Such a stay shall toll the limita-
16 tions periods of paragraph (2) of subsection (b).

17 “(2) In this subsection, the terms ‘related criminal
18 case’ and ‘related investigation’ mean an actual prosecu-
19 tion or investigation in progress at the time at which the
20 request for the stay or any subsequent motion to lift the
21 stay is made. In determining whether an investigation or
22 a criminal case is related to an action commenced under
23 this section, the court shall consider the degree of simi-
24 larity between the parties, witnesses, facts, and cir-

1 cumstances involved in the 2 proceedings, without requir-
2 ing that any one or more factors be identical.

3 “(3) In requesting a stay under paragraph (1), the
4 Government may, in appropriate cases, submit evidence ex
5 parte in order to avoid disclosing any matter that may
6 adversely affect a related investigation or a related crimi-
7 nal case. If the Government makes such an ex parte sub-
8 mission, the plaintiff shall be given an opportunity to
9 make a submission to the court, not ex parte, and the
10 court may, in its discretion, request further information
11 from either party.”.

12 (2) The table of sections at the beginning of chapter
13 121 is amended to read as follows:

“2712. Civil action against the United States.”.

14 **SEC. 224. SUNSET.**

15 (a) **IN GENERAL.**—Except as provided in subsection
16 (b), this title and the amendments made by this title
17 (other than sections 203(a), 203(c), 205, 208, 210, 211,
18 213, 216, 219, 221, and 222, and the amendments made
19 by those sections) shall cease to have effect on December
20 31, 2005.

21 (b) **EXCEPTION.**—With respect to any particular for-
22 eign intelligence investigation that began before the date
23 on which the provisions referred to in subsection (a) cease
24 to have effect, or with respect to any particular offense
25 or potential offense that began or occurred before the date

1 on which such provisions cease to have effect, such provi-
2 sions shall continue in effect.

3 **SEC. 225. IMMUNITY FOR COMPLIANCE WITH FISA WIRE-**
4 **TAP.**

5 Section 105 of the Foreign Intelligence Surveillance
6 Act of 1978 (50 U.S.C. 1805) is amended by inserting
7 after subsection (g) the following:

8 “(h) No cause of action shall lie in any court against
9 any provider of a wire or electronic communication service,
10 landlord, custodian, or other person (including any officer,
11 employee, agent, or other specified person thereof) that
12 furnishes any information, facilities, or technical assist-
13 ance in accordance with a court order or request for emer-
14 gency assistance under this Act.”.

15 **TITLE III—INTERNATIONAL**
16 **MONEY LAUNDERING ABATE-**
17 **MENT AND ANTI-TERRORIST**
18 **FINANCING ACT OF 2001**

19 **SEC. 301. SHORT TITLE.**

20 This title may be cited as the “International Money
21 Laundering Abatement and Financial Anti-Terrorism Act
22 of 2001”.

23 **SEC. 302. FINDINGS AND PURPOSES.**

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

1 (1) money laundering, estimated by the Inter-
2 national Monetary Fund to amount to between 2
3 and 5 percent of global gross domestic product,
4 which is at least \$600,000,000,000 annually, pro-
5 vides the financial fuel that permits transnational
6 criminal enterprises to conduct and expand their op-
7 erations to the detriment of the safety and security
8 of American citizens;

9 (2) money laundering, and the defects in finan-
10 cial transparency on which money launderers rely,
11 are critical to the financing of global terrorism and
12 the provision of funds for terrorist attacks;

13 (3) money launderers subvert legitimate finan-
14 cial mechanisms and banking relationships by using
15 them as protective covering for the movement of
16 criminal proceeds and the financing of crime and
17 terrorism, and, by so doing, can threaten the safety
18 of United States citizens and undermine the integ-
19 rity of United States financial institutions and of the
20 global financial and trading systems upon which
21 prosperity and growth depend;

22 (4) certain jurisdictions outside of the United
23 States that offer “offshore” banking and related fa-
24 cilities designed to provide anonymity, coupled with
25 weak financial supervisory and enforcement regimes,

1 provide essential tools to disguise ownership and
2 movement of criminal funds, derived from, or used
3 to commit, offenses ranging from narcotics traf-
4 ficking, terrorism, arms smuggling, and trafficking
5 in human beings, to financial frauds that prey on
6 law-abiding citizens;

7 (5) transactions involving such offshore juris-
8 dictions make it difficult for law enforcement offi-
9 cials and regulators to follow the trail of money
10 earned by criminals, organized international criminal
11 enterprises, and global terrorist organizations;

12 (6) correspondent banking facilities are one of
13 the banking mechanisms susceptible in some cir-
14 cumstances to manipulation by foreign banks to per-
15 mit the laundering of funds by hiding the identity of
16 real parties in interest to financial transactions;

17 (7) private banking services can be susceptible
18 to manipulation by money launderers, for example
19 corrupt foreign government officials, particularly if
20 those services include the creation of offshore ac-
21 counts and facilities for large personal funds trans-
22 fers to channel funds into accounts around the
23 globe;

24 (8) United States anti-money laundering efforts
25 are impeded by outmoded and inadequate statutory

1 provisions that make investigations, prosecutions,
2 and forfeitures more difficult, particularly in cases
3 in which money laundering involves foreign persons,
4 foreign banks, or foreign countries;

5 (9) the ability to mount effective counter-meas-
6 ures to international money launderers requires na-
7 tional, as well as bilateral and multilateral action,
8 using tools specially designed for that effort; and

9 (10) the Basle Committee on Banking Regula-
10 tion and Supervisory Practices and the Financial
11 Action Task Force on Money Laundering, of both of
12 which the United States is a member, have each
13 adopted international anti-money laundering prin-
14 ciples and recommendations.

15 (b) PURPOSES.—The purposes of this title are—

16 (1) to increase the strength of United States
17 measures to prevent, detect, and prosecute inter-
18 national money laundering and the financing of ter-
19 rorism;

20 (2) to ensure that—

21 (A) banking transactions and financial re-
22 lationships and the conduct of such transactions
23 and relationships, do not contravene the pur-
24 poses of subchapter II of chapter 53 of title 31,
25 United States Code, section 21 of the Federal

1 Deposit Insurance Act, or chapter 2 of title I
2 of Public Law 91-508 (84 Stat. 1116), or fa-
3 cilitate the evasion of any such provision; and

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

7 (3) to strengthen the provisions put into place
8 by the Money Laundering Control Act of 1986 (18
9 U.S.C. 981 note), especially with respect to crimes
10 by non-United States nationals and foreign financial
11 institutions;

12 (4) to provide a clear national mandate for sub-
13 jecting to special scrutiny those foreign jurisdictions,
14 financial institutions operating outside of the United
15 States, and classes of international transactions or
16 types of accounts that pose particular, identifiable
17 opportunities for criminal abuse;

18 (5) to provide the Secretary of the Treasury (in
19 this title referred to as the "Secretary") with broad
20 discretion, subject to the safeguards provided by the
21 Administrative Procedure Act under title 5, United
22 States Code, to take measures tailored to the par-
23 ticular money laundering problems presented by spe-
24 cific foreign jurisdictions, financial institutions oper-

1 ating outside of the United States, and classes of
2 international transactions or types of accounts;

3 (6) to ensure that the employment of such
4 measures by the Secretary permits appropriate op-
5 portunity for comment by affected financial institu-
6 tions;

7 (7) to provide guidance to domestic financial in-
8 stitutions on particular foreign jurisdictions, finan-
9 cial institutions operating outside of the United
10 States, and classes of international transactions that
11 are of primary money laundering concern to the
12 United States Government;

13 (8) to ensure that the forfeiture of any assets
14 in connection with the anti-terrorist efforts of the
15 United States permits for adequate challenge con-
16 sistent with providing due process rights;

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

19 (10) to strengthen the authority of the Sec-
20 retary to issue and administer geographic targeting
21 orders, and to clarify that violations of such orders
22 or any other requirement imposed under the author-
23 ity contained in chapter 2 of title I of Public Law
24 91-508 and subchapters II and III of chapter 53 of

1 title 31, United States Code, may result in criminal
2 and civil penalties;

3 (11) to ensure that all appropriate elements of
4 the financial services industry are subject to appro-
5 priate requirements to report potential money laun-
6 dering transactions to proper authorities, and that
7 jurisdictional disputes do not hinder examination of
8 compliance by financial institutions with relevant re-
9 porting requirements;

10 (12) to strengthen the ability of financial insti-
11 tutions to maintain the integrity of their employee
12 population; and

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

18 **SEC. 303. 4-YEAR CONGRESSIONAL REVIEW; EXPEDITED**
19 **CONSIDERATION.**

20 (a) IN GENERAL.—Effective on and after the first
21 day of fiscal year 2005, the provisions of this title and
22 the amendments made by this title shall terminate if the
23 Congress enacts a joint resolution, the text after the re-
24 solving clause of which is as follows: “That provisions of
25 the International Money Laundering Abatement and Anti-

1 Terrorist Financing Act of 2001, and the amendments
2 made thereby, shall no longer have the force of law.”.

3 (b) EXPEDITED CONSIDERATION.—Any joint resolu-
4 tion submitted pursuant to this section should be consid-
5 ered by the Congress expeditiously. In particular, it shall
6 be considered in the Senate in accordance with the provi-
7 sions of section 601(b) of the International Security As-
8 sistance and Arms Control Act of 1976.

9 **Subtitle A—International Counter** 10 **Money Laundering and Related** 11 **Measures**

12 **SEC. 311. SPECIAL MEASURES FOR JURISDICTIONS, FINAN-** 13 **CIAL INSTITUTIONS, OR INTERNATIONAL** 14 **TRANSACTIONS OF PRIMARY MONEY LAUN-** 15 **DERING CONCERN.**

16 (a) IN GENERAL.—Subchapter II of chapter 53 of
17 title 31, United States Code, is amended by inserting after
18 section 5318 the following new section:

19 **“§ 5318A. Special measures for jurisdictions, financial** 20 **institutions, or international transactions** 21 **of primary money laundering concern**

22 “(a) INTERNATIONAL COUNTER-MONEY LAUN-
23 DERING REQUIREMENTS.—

24 “(1) IN GENERAL.—The Secretary of the
25 Treasury may require domestic financial institutions

1 and domestic financial agencies to take 1 or more of
2 the special measures described in subsection (b) if
3 the Secretary finds that reasonable grounds exist for
4 concluding that a jurisdiction outside of the United
5 States, 1 or more financial institutions operating
6 outside of the United States, 1 or more classes of
7 transactions within, or involving, a jurisdiction out-
8 side of the United States, or 1 or more types of ac-
9 counts is of primary money laundering concern, in
10 accordance with subsection (c).

11 “(2) FORM OF REQUIREMENT.—The special
12 measures described in—

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

16 “(B) paragraphs (1) through (4) of sub-
17 section (b) may be imposed by regulation,
18 order, or otherwise as permitted by law; and

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

21 “(3) DURATION OF ORDERS; RULEMAKING.—
22 Any order by which a special measure described in
23 paragraphs (1) through (4) of subsection (b) is im-
24 posed (other than an order described in section
25 5326)—

1 “(A) shall be issued together with a notice
2 of proposed rulemaking relating to the imposi-
3 tion of such special measure; and

4 “(B) may not remain in effect for more
5 than 120 days, except pursuant to a rule pro-
6 mulgated on or before the end of the 120-day
7 period beginning on the date of issuance of
8 such order.

9 “(4) PROCESS FOR SELECTING SPECIAL MEAS-
10 URES.—In selecting which special measure or meas-
11 ures to take under this subsection, the Secretary of
12 the Treasury—

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

24 “(B) shall consider—

1 “(i) whether similar action has been
2 or is being taken by other nations or multi-
3 lateral groups;

4 “(ii) whether the imposition of any
5 particular special measure would create a
6 significant competitive disadvantage, in-
7 cluding any undue cost or burden associ-
8 ated with compliance, for financial institu-
9 tions organized or licensed in the United
10 States;

11 “(iii) the extent to which the action or
12 the timing of the action would have a sig-
13 nificant adverse systemic impact on the
14 international payment, clearance, and set-
15 tlement system, or on legitimate business
16 activities involving the particular jurisdic-
17 tion, institution, or class of transactions;
18 and

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

22 “(5) NO LIMITATION ON OTHER AUTHORITY.—

23 This section shall not be construed as superseding or
24 otherwise restricting any other authority granted to

1 the Secretary, or to any other agency, by this sub-
2 chapter or otherwise.

3 “(b) SPECIAL MEASURES.—The special measures re-
4 ferred to in subsection (a), with respect to a jurisdiction
5 outside of the United States, financial institution oper-
6 ating outside of the United States, class of transaction
7 within, or involving, a jurisdiction outside of the United
8 States, or 1 or more types of accounts are as follows:

9 “(1) RECORDKEEPING AND REPORTING OF
10 CERTAIN FINANCIAL TRANSACTIONS.—

11 “(A) IN GENERAL.—The Secretary of the
12 Treasury may require any domestic financial in-
13 stitution or domestic financial agency to main-
14 tain records, file reports, or both, concerning
15 the aggregate amount of transactions, or con-
16 cerning each transaction, with respect to a ju-
17 risdiction outside of the United States, 1 or
18 more financial institutions operating outside of
19 the United States, 1 or more classes of trans-
20 actions within, or involving, a jurisdiction out-
21 side of the United States, or 1 or more types
22 of accounts if the Secretary finds any such ju-
23 risdiction, institution, or class of transactions to
24 be of primary money laundering concern.

1 “(B) FORM OF RECORDS AND REPORTS.—

2 Such records and reports shall be made and re-
3 tained at such time, in such manner, and for
4 such period of time, as the Secretary shall de-
5 termine, and shall include such information as
6 the Secretary may determine, including—

7 “(i) the identity and address of the
8 participants in a transaction or relation-
9 ship, including the identity of the origi-
10 nator of any funds transfer;

11 “(ii) the legal capacity in which a par-
12 ticipant in any transaction is acting;

13 “(iii) the identity of the beneficial
14 owner of the funds involved in any trans-
15 action, in accordance with such procedures
16 as the Secretary determines to be reason-
17 able and practicable to obtain and retain
18 the information; and

19 “(iv) a description of any transaction.

20 “(2) INFORMATION RELATING TO BENEFICIAL
21 OWNERSHIP.—In addition to any other requirement
22 under any other provision of law, the Secretary may
23 require any domestic financial institution or domes-
24 tic financial agency to take such steps as the Sec-
25 retary may determine to be reasonable and prac-

1 ticable to obtain and retain information concerning
2 the beneficial ownership of any account opened or
3 maintained in the United States by a foreign person
4 (other than a foreign entity whose shares are subject
5 to public reporting requirements or are listed and
6 traded on a regulated exchange or trading market),
7 or a representative of such a foreign person, that in-
8 volves a jurisdiction outside of the United States, 1
9 or more financial institutions operating outside of
10 the United States, 1 or more classes of transactions
11 within, or involving, a jurisdiction outside of the
12 United States, or 1 or more types of accounts if the
13 Secretary finds any such jurisdiction, institution, or
14 transaction or type of account to be of primary
15 money laundering concern.

16 “(3) INFORMATION RELATING TO CERTAIN PAY-
17 ABLE-THROUGH ACCOUNTS.—If the Secretary finds
18 a jurisdiction outside of the United States, 1 or
19 more financial institutions operating outside of the
20 United States, or 1 or more classes of transactions
21 within, or involving, a jurisdiction outside of the
22 United States to be of primary money laundering
23 concern, the Secretary may require any domestic fi-
24 nancial institution or domestic financial agency that
25 opens or maintains a payable-through account in the

1 United States for a foreign financial institution in-
2 volving any such jurisdiction or any such financial
3 institution operating outside of the United States, or
4 a payable through account through which any such
5 transaction may be conducted, as a condition of
6 opening or maintaining such account—

7 “(A) to identify each customer (and rep-
8 resentative of such customer) of such financial
9 institution who is permitted to use, or whose
10 transactions are routed through, such payable-
11 through account; and

12 “(B) to obtain, with respect to each such
13 customer (and each such representative), infor-
14 mation that is substantially comparable to that
15 which the depository institution obtains in the
16 ordinary course of business with respect to its
17 customers residing in the United States.

18 “(4) INFORMATION RELATING TO CERTAIN COR-
19 RESPONDENT ACCOUNTS.—If the Secretary finds a
20 jurisdiction outside of the United States, 1 or more
21 financial institutions operating outside of the United
22 States, or 1 or more classes of transactions within,
23 or involving, a jurisdiction outside of the United
24 States to be of primary money laundering concern,
25 the Secretary may require any domestic financial in-

1 stitution or domestic financial agency that opens or
2 maintains a correspondent account in the United
3 States for a foreign financial institution involving
4 any such jurisdiction or any such financial institu-
5 tion operating outside of the United States, or a cor-
6 respondent account through which any such trans-
7 action may be conducted, as a condition of opening
8 or maintaining such account—

9 “(A) to identify each customer (and rep-
10 resentative of such customer) of any such finan-
11 cial institution who is permitted to use, or
12 whose transactions are routed through, such
13 correspondent account; and

14 “(B) to obtain, with respect to each such
15 customer (and each such representative), infor-
16 mation that is substantially comparable to that
17 which the depository institution obtains in the
18 ordinary course of business with respect to its
19 customers residing in the United States.

20 “(5) PROHIBITIONS OR CONDITIONS ON OPEN-
21 ING OR MAINTAINING CERTAIN CORRESPONDENT OR
22 PAYABLE-THROUGH ACCOUNTS.—If the Secretary
23 finds a jurisdiction outside of the United States, 1
24 or more financial institutions operating outside of
25 the United States, or 1 or more classes of trans-

1 actions within, or involving, a jurisdiction outside of
2 the United States to be of primary money laun-
3 dering concern, the Secretary, in consultation with
4 the Secretary of State, the Attorney General, and
5 the Chairman of the Board of Governors of the Fed-
6 eral Reserve System, may prohibit, or impose condi-
7 tions upon, the opening or maintaining in the United
8 States of a correspondent account or payable-
9 through account by any domestic financial institu-
10 tion or domestic financial agency for or on behalf of
11 a foreign banking institution, if such correspondent
12 account or payable-through account involves any
13 such jurisdiction or institution, or if any such trans-
14 action may be conducted through such cor-
15 respondent account or payable-through account.

16 “(c) CONSULTATIONS AND INFORMATION TO BE
17 CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS,
18 TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRI-
19 MARY MONEY LAUNDERING CONCERN.—

20 “(1) IN GENERAL.—In making a finding that
21 reasonable grounds exist for concluding that a juris-
22 diction outside of the United States, 1 or more fi-
23 nancial institutions operating outside of the United
24 States, 1 or more classes of transactions within, or
25 involving, a jurisdiction outside of the United States,

1 or 1 or more types of accounts is of primary money
2 laundering concern so as to authorize the Secretary
3 of the Treasury to take 1 or more of the special
4 measures described in subsection (b), the Secretary
5 shall consult with the Secretary of State and the At-
6 torney General.

7 “(2) ADDITIONAL CONSIDERATIONS.—In mak-
8 ing a finding described in paragraph (1), the Sec-
9 retary shall consider in addition such information as
10 the Secretary determines to be relevant, including
11 the following potentially relevant factors:

12 “(A) JURISDICTIONAL FACTORS.—In the
13 case of a particular jurisdiction—

14 “(i) evidence that organized criminal
15 groups, international terrorists, or both,
16 have transacted business in that jurisdic-
17 tion;

18 “(ii) the extent to which that jurisdic-
19 tion or financial institutions operating in
20 that jurisdiction offer bank secrecy or spe-
21 cial regulatory advantages to nonresidents
22 or nondomiciliaries of that jurisdiction;

23 “(iii) the substance and quality of ad-
24 ministration of the bank supervisory and

1 counter-money laundering laws of that ju-
2 risdiction;

3 “(iv) the relationship between the vol-
4 ume of financial transactions occurring in
5 that jurisdiction and the size of the econ-
6 omy of the jurisdiction;

7 “(v) the extent to which that jurisdic-
8 tion is characterized as an offshore bank-
9 ing or secrecy haven by credible inter-
10 national organizations or multilateral ex-
11 pert groups;

12 “(vi) whether the United States has a
13 mutual legal assistance treaty with that ju-
14 risdiction, and the experience of United
15 States law enforcement officials and regu-
16 latory officials in obtaining information
17 about transactions originating in or routed
18 through or to such jurisdiction; and

19 “(vii) the extent to which that juris-
20 diction is characterized by high levels of of-
21 ficial or institutional corruption.

22 “(B) INSTITUTIONAL FACTORS.—In the
23 case of a decision to apply 1 or more of the spe-
24 cial measures described in subsection (b) only
25 to a financial institution or institutions, or to a

1 transaction or class of transactions, or to a type
2 of account, or to all 3, within or involving a
3 particular jurisdiction—

4 “(i) the extent to which such financial
5 institutions, transactions, or types of ac-
6 counts are used to facilitate or promote
7 money laundering in or through the juris-
8 diction;

9 “(ii) the extent to which such institu-
10 tions, transactions, or types of accounts
11 are used for legitimate business purposes
12 in the jurisdiction; and

13 “(iii) the extent to which such action
14 is sufficient to ensure, with respect to
15 transactions involving the jurisdiction and
16 institutions operating in the jurisdiction,
17 that the purposes of this subchapter con-
18 tinue to be fulfilled, and to guard against
19 international money laundering and other
20 financial crimes.

21 “(d) NOTIFICATION OF SPECIAL MEASURES IN-
22 VOKED BY THE SECRETARY.—Not later than 10 days
23 after the date of any action taken by the Secretary of the
24 Treasury under subsection (a)(1), the Secretary shall no-
25 tify, in writing, the Committee on Financial Services of

1 the House of Representatives and the Committee on
2 Banking, Housing, and Urban Affairs of the Senate of any
3 such action.

4 “(e) DEFINITIONS.—Notwithstanding any other pro-
5 vision of this subchapter, for purposes of this section and
6 subsections (i) and (j) of section 5318, the following defi-
7 nitions shall apply:

8 “(1) BANK DEFINITIONS.—The following defini-
9 tions shall apply with respect to a bank:

10 “(A) ACCOUNT.—The term ‘account’—

11 “(i) means a formal banking or busi-
12 ness relationship established to provide
13 regular services, dealings, and other finan-
14 cial transactions; and

15 “(ii) includes a demand deposit, sav-
16 ings deposit, or other transaction or asset
17 account and a credit account or other ex-
18 tension of credit.

19 “(B) CORRESPONDENT ACCOUNT.—The
20 term ‘correspondent account’ means an account
21 established to receive deposits from, make pay-
22 ments on behalf of a foreign financial institu-
23 tion, or handle other financial transactions re-
24 lated to such institution.

1 “(C) PAYABLE-THROUGH ACCOUNT.—The
2 term ‘payable-through account’ means an ac-
3 count, including a transaction account (as de-
4 fined in section 19(b)(1)(C) of the Federal Re-
5 serve Act), opened at a depository institution by
6 a foreign financial institution by means of
7 which the foreign financial institution permits
8 its customers to engage, either directly or
9 through a subaccount, in banking activities
10 usual in connection with the business of bank-
11 ing in the United States.

12 “(2) DEFINITIONS APPLICABLE TO INSTITU-
13 TIONS OTHER THAN BANKS.—With respect to any fi-
14 nancial institution other than a bank, the Secretary
15 shall, after consultation with the appropriate Fed-
16 eral functional regulators (as defined in section 509
17 of the Gramm-Leach-Bliley Act), define by regula-
18 tion the term ‘account’, and shall include within the
19 meaning of that term, to the extent, if any, that the
20 Secretary deems appropriate, arrangements similar
21 to payable-through and correspondent accounts.

22 “(3) REGULATORY DEFINITION OF BENEFICIAL
23 OWNERSHIP.—The Secretary shall promulgate regu-
24 lations defining beneficial ownership of an account
25 for purposes of this section and subsections (i) and

1 (j) of section 5318. Such regulations shall address
2 issues related to an individual's authority to fund,
3 direct, or manage the account (including, without
4 limitation, the power to direct payments into or out
5 of the account), and an individual's material interest
6 in the income or corpus of the account, and shall en-
7 sure that the identification of individuals under this
8 section does not extend to any individual whose ben-
9 efiticial interest in the income or corpus of the ac-
10 count is immaterial.”.

11 “(4) OTHER TERMS.—The Secretary may, by
12 regulation, further define the terms in paragraphs
13 (1), (2), and (3), and define other terms for the pur-
14 poses of this section, as the Secretary deems appro-
15 priate.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for subchapter II of chapter 53 of title 31, United States
18 Code, is amended by inserting after the item relating to
19 section 5318 the following new item:

“5318A. Special measures for jurisdictions, financial institutions, or inter-
national transactions of primary money laundering concern.”.

1 **SEC. 312. SPECIAL DUE DILIGENCE FOR CORRESPONDENT**
2 **ACCOUNTS AND PRIVATE BANKING AC-**
3 **COUNTS.**

4 (a) IN GENERAL.—Section 5318 of title 31, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 “(i) DUE DILIGENCE FOR UNITED STATES PRIVATE
8 BANKING AND CORRESPONDENT BANK ACCOUNTS IN-
9 VOLVING FOREIGN PERSONS.—

10 “(1) IN GENERAL.—Each financial institution
11 that establishes, maintains, administers, or manages
12 a private banking account or a correspondent ac-
13 count in the United States for a non-United States
14 person, including a foreign individual visiting the
15 United States, or a representative of a non-United
16 States person shall establish appropriate, specific,
17 and, where necessary, enhanced, due diligence poli-
18 cies, procedures, and controls that are reasonably
19 designed to detect and report instances of money
20 laundering through those accounts.

21 “(2) ADDITIONAL STANDARDS FOR CERTAIN
22 CORRESPONDENT ACCOUNTS.—

23 “(A) IN GENERAL.—Subparagraph (B)
24 shall apply if a correspondent account is re-
25 quested or maintained by, or on behalf of, a
26 foreign bank operating—

1 “(i) under an offshore banking li-
2 cense; or

3 “(ii) under a banking license issued
4 by a foreign country that has been
5 designated—

6 “(I) as noncooperative with inter-
7 national anti-money laundering prin-
8 ciples or procedures by an intergov-
9 ernmental group or organization of
10 which the United States is a member,
11 with which designation the United
12 States representative to the group or
13 organization concurs; or

14 “(II) by the Secretary of the
15 Treasury as warranting special meas-
16 ures due to money laundering con-
17 cerns.

18 “(B) POLICIES, PROCEDURES, AND CON-
19 TROLS.—The enhanced due diligence policies,
20 procedures, and controls required under para-
21 graph (1) shall, at a minimum, ensure that the
22 financial institution in the United States takes
23 reasonable steps—

24 “(i) to ascertain for any such foreign
25 bank, the shares of which are not publicly

1 traded, the identity of each of the owners
2 of the foreign bank, and the nature and
3 extent of the ownership interest of each
4 such owner;

5 “(ii) to conduct enhanced scrutiny of
6 such account to guard against money laun-
7 dering and report any suspicious trans-
8 actions under subsection (g); and

9 “(iii) to ascertain whether such for-
10 eign bank provides correspondent accounts
11 to other foreign banks and, if so, the iden-
12 tity of those foreign banks and related due
13 diligence information, as appropriate under
14 paragraph (1).

15 “(3) MINIMUM STANDARDS FOR PRIVATE BANK-
16 ING ACCOUNTS.—If a private banking account is re-
17 quested or maintained by, or on behalf of, a non-
18 United States person, then the due diligence policies,
19 procedures, and controls required under paragraph
20 (1) shall, at a minimum, ensure that the financial
21 institution takes reasonable steps—

22 “(A) to ascertain the identity of the nomi-
23 nal and beneficial owners of, and the source of
24 funds deposited into, such account as needed to
25 guard against money laundering and report any

1 suspicious transactions under subsection (g);
2 and

3 “(B) to conduct enhanced scrutiny of any
4 such account that is requested or maintained
5 by, or on behalf of, a senior foreign political fig-
6 ure, or any immediate family member or close
7 associate of a senior foreign political figure that
8 is reasonably designed to detect and report
9 transactions that may involve the proceeds of
10 foreign corruption.

11 “(4) DEFINITION.—For purposes of this sub-
12 section, the following definitions shall apply:

13 “(A) OFFSHORE BANKING LICENSE.—The
14 term ‘offshore banking license’ means a license
15 to conduct banking activities which, as a condi-
16 tion of the license, prohibits the licensed entity
17 from conducting banking activities with the citi-
18 zens of, or with the local currency of, the coun-
19 try which issued the license.”.

20 “(B) PRIVATE BANKING ACCOUNT.—The
21 term ‘private banking account’ means an ac-
22 count (or any combination of accounts) that—

23 “(i) requires a minimum aggregate
24 deposits of funds or other assets of not less
25 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.”.

(b) REGULATORY AUTHORITY AND EFFECTIVE DATE.—

(1) REGULATORY AUTHORITY.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the appropriate Federal functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act) 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.

(2) EFFECTIVE DATE.—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, whether or not final regulations

1 are issued under paragraph (1), and the failure to
2 issue such regulations shall in no way affect the en-
3 forceability of this section or the amendments made
4 by this section. Section 5318(i) of title 31, United
5 States Code, as added by this section, shall apply
6 with respect to accounts covered by that section
7 5318(i), that are opened before, on, or after the date
8 of enactment of this Act.

9 **SEC. 313. PROHIBITION ON UNITED STATES COR-**
10 **RESPONDENT ACCOUNTS WITH FOREIGN**
11 **SHELL BANKS.**

12 (a) IN GENERAL.—Section 5318 of title 31, United
13 States Code, as amended by this title, is amended by add-
14 ing at the end the following:

15 “(j) PROHIBITION ON UNITED STATES COR-
16 RESPONDENT ACCOUNTS WITH FOREIGN SHELL
17 BANKS.—

18 “(1) IN GENERAL.—A financial institution de-
19 scribed in subparagraphs (A) through (G) of section
20 5312(a)(2) (in this subsection referred to as a ‘cov-
21 ered financial institution’) shall not establish, main-
22 tain, administer, or manage a correspondent account
23 in the United States for, or on behalf of, a foreign
24 bank that does not have a physical presence in any
25 country.

1 “(2) PREVENTION OF INDIRECT SERVICE TO
2 FOREIGN SHELL BANKS.—A covered financial insti-
3 tution shall take reasonable steps to ensure that any
4 correspondent account established, maintained, ad-
5 ministered, or managed by that covered financial in-
6 stitution in the United States for a foreign bank is
7 not being used by that foreign bank to indirectly
8 provide banking services to another foreign bank
9 that does not have a physical presence in any coun-
10 try. The Secretary of the Treasury shall, by regula-
11 tion, delineate the reasonable steps necessary to
12 comply with this paragraph.

13 “(3) EXCEPTION.—Paragraphs (1) and (2) do
14 not prohibit a covered financial institution from pro-
15 viding a correspondent account to a foreign bank, if
16 the foreign bank—

17 “(A) is an affiliate of a depository institu-
18 tion, credit union, or foreign bank that main-
19 tains a physical presence in the United States
20 or a foreign country, as applicable; and

21 “(B) is subject to supervision by a banking
22 authority in the country regulating the affili-
23 ated depository institution, credit union, or for-
24 eign bank described in subparagraph (A), as
25 applicable.

1 “(4) DEFINITIONS.—For purposes of this
2 subsection—

3 “(A) the term ‘affiliate’ means a foreign
4 bank that is controlled by or is under common
5 control with a depository institution, credit
6 union, or foreign bank; and

7 “(B) the term ‘physical presence’ means a
8 place of business that—

9 “(i) is maintained by a foreign bank;

10 “(ii) is located at a fixed address
11 (other than solely an electronic address) in
12 a country in which the foreign bank is au-
13 thorized to conduct banking activities, at
14 which location the foreign bank—

15 “(I) employs 1 or more individ-
16 uals on a full-time basis; and

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

19 “(iii) is subject to inspection by the
20 banking authority which licensed the for-
21 eign bank to conduct banking activities.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall take effect at the end of the 60-day
24 period beginning on the date of enactment of this Act.

1 **SEC. 314. COOPERATIVE EFFORTS TO DETER MONEY LAUN-**
2 **DERING.**

3 (a) COOPERATION AMONG FINANCIAL INSTITUTIONS,
4 REGULATORY AUTHORITIES, AND LAW ENFORCEMENT
5 AUTHORITIES.—

6 (1) REGULATIONS.—The Secretary shall, within
7 120 days after the date of enactment of this Act,
8 adopt regulations to encourage further cooperation
9 among financial institutions, their regulatory au-
10 thorities, and law enforcement authorities, with the
11 specific purpose of encouraging regulatory authori-
12 ties and law enforcement authorities to share with
13 financial institutions information regarding individ-
14 uals, entities, and organizations engaged in or rea-
15 sonably suspected based on credible evidence of en-
16 gaging in terrorist acts or money laundering activi-
17 ties.

18 (2) COOPERATION AND INFORMATION SHARING
19 PROCEDURES.—The regulations adopted under para-
20 graph (1) may include or create procedures for co-
21 operation and information sharing focusing on—

22 (A) matters specifically related to the fi-
23 nances of terrorist groups, the means by which
24 terrorist groups transfer funds around the
25 world and within the United States, including
26 through the use of charitable organizations,

1 nonprofit organizations, and nongovernmental
2 organizations, and the extent to which financial
3 institutions in the United States are unwittingly
4 involved in such finances and the extent to
5 which such institutions are at risk as a result;

6 (B) the relationship, particularly the finan-
7 cial relationship, between international narcotics
8 traffickers and foreign terrorist organizations,
9 the extent to which their memberships overlap
10 and engage in joint activities, and the extent to
11 which they cooperate with each other in raising
12 and transferring funds for their respective pur-
13 poses; and

14 (C) means of facilitating the identification
15 of accounts and transactions involving terrorist
16 groups and facilitating the exchange of informa-
17 tion concerning such accounts and transactions
18 between financial institutions and law enforce-
19 ment organizations.

20 (3) CONTENTS.—The regulations adopted pur-
21 suant to paragraph (1) may—

22 (A) require that each financial institution
23 designate 1 or more persons to receive informa-
24 tion concerning, and to monitor accounts of in-

1 individuals, entities, and organizations identified,
2 pursuant to paragraph (1); and

3 (B) further establish procedures for the
4 protection of the shared information, consistent
5 with the capacity, size, and nature of the insti-
6 tution to which the particular procedures apply.

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

12 (5) USE OF INFORMATION.—Information re-
13 ceived by a financial institution pursuant to this sec-
14 tion shall not be used for any purpose other than
15 identifying and reporting on activities that may in-
16 volve terrorist acts or money laundering activities.

17 (b) COOPERATION AMONG FINANCIAL INSTITU-
18 TIONS.—Upon notice provided to the Secretary, 2 or more
19 financial institutions and any association of financial insti-
20 tutions may share information with one another regarding
21 individuals, entities, organizations, and countries sus-
22 pected of possible terrorist or money laundering activities.
23 A financial institution or association that transmits, re-
24 ceives, or shares such information for the purposes of
25 identifying and reporting activities that may involve ter-

1 rorist acts or money laundering activities shall not be lia-
2 ble to any person under any law or regulation of the
3 United States, any constitution, law, or regulation of any
4 State or political subdivision thereof, or under any con-
5 tract or other legally enforceable agreement (including any
6 arbitration agreement), for such disclosure or for any fail-
7 ure to provide notice of such disclosure to the person who
8 is the subject of such disclosure, or any other person iden-
9 tified in the disclosure, except where such transmission,
10 receipt, or sharing violates this section or regulations pro-
11 mulgated pursuant to this section.

12 (c) RULE OF CONSTRUCTION.—Compliance with the
13 provisions of this title requiring or allowing financial insti-
14 tutions and any association of financial institutions to dis-
15 close or share information regarding individuals, entities,
16 and organizations engaged in or suspected of engaging in
17 terrorist acts or money laundering activities shall not con-
18 stitute a violation of the provisions of title V of the
19 Gramm-Leach-Bliley Act (Public Law 106–102).

20 (d) REPORTS TO THE FINANCIAL SERVICES INDUS-
21 TRY ON SUSPICIOUS FINANCIAL ACTIVITIES.—At least
22 semiannually, the Secretary shall—

23 (1) publish a report containing a detailed anal-
24 ysis identifying patterns of suspicious activity and
25 other investigative insights derived from suspicious

1 activity reports and investigations conducted by Fed-
2 eral, State, and local law enforcement agencies to
3 the extent appropriate; and

4 (2) distribute such report to financial institu-
5 tions (as defined in section 5312 of title 31, United
6 States Code).

7 **SEC. 315. INCLUSION OF FOREIGN CORRUPTION OFFENSES**
8 **AS MONEY LAUNDERING CRIMES.**

9 Section 1956(c)(7) of title 18, United States Code,
10 is amended—

11 (1) in subparagraph (B)—

12 (A) in clause (ii), by striking “or destruc-
13 tion of property by means of explosive or fire”
14 and inserting “destruction of property by means
15 of explosive or fire, or a crime of violence (as
16 defined in section 16)”;

17 (B) in clause (iii), by striking “1978” and
18 inserting “1978”); and

19 (C) by adding at the end the following:

20 “(iv) bribery of a public official, or
21 the misappropriation, theft, or embezzle-
22 ment of public funds by or for the benefit
23 of a public official;

24 “(v) smuggling or export control viola-
25 tions involving—

1 “(I) an item controlled on the
2 United States Munitions List estab-
3 lished under section 38 of the Arms
4 Export Control Act (22 U.S.C. 2778);
5 or

6 “(II) an item controlled under
7 regulations under the Export Admin-
8 istration Regulations (15 C.F.R.
9 Parts 730–774); or

10 “(vi) an offense with respect to which
11 the United States would be obligated by a
12 multilateral treaty, either to extradite the
13 alleged offender or to submit the case for
14 prosecution, if the offender were found
15 within the territory of the United States;”
16 and

17 (2) in subparagraph (D)—

18 (A) by inserting “section 541 (relating to
19 goods falsely classified),” before “section 542”;

20 (B) by inserting “section 922(1) (relating
21 to the unlawful importation of firearms), sec-
22 tion 924(n) (relating to firearms trafficking),”
23 before “section 956”;

1 (C) by inserting “section 1030 (relating to
2 computer fraud and abuse),” before “1032”;
3 and

4 (D) by inserting “any felony violation of
5 the Foreign Agents Registration Act of 1938,”
6 before “or any felony violation of the Foreign
7 Corrupt Practices Act”.

8 **SEC. 316. ANTI-TERRORIST FORFEITURE PROTECTION.**

9 (a) RIGHT TO CONTEST.—An owner of property that
10 is confiscated under any provision of law relating to the
11 confiscation of assets of suspected international terrorists,
12 may contest that confiscation by filing a claim in the man-
13 ner set forth in the Federal Rules of Civil Procedure (Sup-
14 plemental Rules for Certain Admiralty and Maritime
15 Claims), and asserting as an affirmative defense that—

16 (1) the property is not subject to confiscation
17 under such provision of law; or

18 (2) the innocent owner provisions of section
19 983(d) of title 18, United States Code, apply to the
20 case.

21 (b) EVIDENCE.—In considering a claim filed under
22 this section, a court may admit evidence that is otherwise
23 inadmissible under the Federal Rules of Evidence, if the
24 court determines that the evidence is reliable, and that

1 compliance with the Federal Rules of Evidence may jeop-
2 ardize the national security interests of the United States.

3 (c) CLARIFICATIONS.—

4 (1) PROTECTION OF RIGHTS.—The exclusion of
5 certain provisions of Federal law from the definition
6 of the term “civil forfeiture statute” in section
7 983(i) of title 18, United States Code, shall not be
8 construed to deny an owner of property the right to
9 contest the confiscation of assets of suspected inter-
10 national terrorists under—

11 (A) subsection (a) of this section;

12 (B) the Constitution; or

13 (C) subchapter II of chapter 5 of title 5,
14 United States Code (commonly known as the
15 “Administrative Procedure Act”).

16 (2) SAVINGS CLAUSE.—Nothing in this section
17 shall limit or otherwise affect any other remedies
18 that may be available to an owner of property under
19 section 983 of title 18, United States Code, or any
20 other provision of law.

21 (d) TECHNICAL CORRECTION.—Section 983(i)(2)(D)
22 of title 18, United States Code, is amended by inserting
23 “or the International Emergency Economic Powers Act
24 (IEEPA) (50 U.S.C. 1701 et seq.)” before the semicolon.

1 **SEC. 317. LONG-ARM JURISDICTION OVER FOREIGN MONEY**
2 **LAUNDERERS.**

3 Section 1956(b) of title 18, United States Code, is
4 amended—

5 (1) by redesignating paragraphs (1) and (2) as
6 subparagraphs (A) and (B), respectively, and mov-
7 ing the margins 2 ems to the right;

8 (2) by inserting after “(b)” the following:
9 “PENALTIES.—

10 “(1) IN GENERAL.—”;

11 (3) by inserting “, or section 1957” after “or
12 (a)(3)”; and

13 (4) by adding at the end the following:

14 “(2) JURISDICTION OVER FOREIGN PERSONS.—

15 For purposes of adjudicating an action filed or en-
16 forcing a penalty ordered under this section, the dis-
17 trict courts shall have jurisdiction over any foreign
18 person, including any financial institution authorized
19 under the laws of a foreign country, against whom
20 the action is brought, if service of process upon the
21 foreign person is made under the Federal Rules of
22 Civil Procedure or the laws of the country in which
23 the foreign person is found, and—

24 “(A) the foreign person commits an offense
25 under subsection (a) involving a financial trans-

1 action that occurs in whole or in part in the
2 United States;

3 “(B) the foreign person converts, to his or
4 her own use, property in which the United
5 States has an ownership interest by virtue of
6 the entry of an order of forfeiture by a court
7 of the United States; or

8 “(C) the foreign person is a financial insti-
9 tution that maintains a bank account at a fi-
10 nancial institution in the United States.

11 “(3) COURT AUTHORITY OVER ASSETS.—A
12 court described in paragraph (2) may issue a pre-
13 trial restraining order or take any other action nec-
14 essary to ensure that any bank account or other
15 property held by the defendant in the United States
16 is available to satisfy a judgment under this section.

17 “(4) FEDERAL RECEIVER.—

18 “(A) IN GENERAL.—A court described in
19 paragraph (2) may appoint a Federal Receiver,
20 in accordance with subparagraph (B) of this
21 paragraph, to collect, marshal, and take cus-
22 tody, control, and possession of all assets of the
23 defendant, wherever located, to satisfy a civil
24 judgment under this subsection, a forfeiture
25 judgment under section 981 or 982, or a crimi-

1 nal sentence under section 1957 or subsection
2 (a) of this section, including an order of restitu-
3 tion to any victim of a specified unlawful activ-
4 ity.

5 “(B) APPOINTMENT AND AUTHORITY.—A
6 Federal Receiver described in subparagraph
7 (A)—

8 “(i) may be appointed upon applica-
9 tion of a Federal prosecutor or a Federal
10 or State regulator, by the court having ju-
11 risdiction over the defendant in the case;

12 “(ii) shall be an officer of the court,
13 and the powers of the Federal Receiver
14 shall include the powers set out in section
15 754 of title 28, United States Code; and

16 “(iii) shall have standing equivalent to
17 that of a Federal prosecutor for the pur-
18 pose of submitting requests to obtain infor-
19 mation regarding the assets of the
20 defendant—

21 “(I) from the Financial Crimes
22 Enforcement Network of the Depart-
23 ment of the Treasury; or

24 “(II) from a foreign country pur-
25 suant to a mutual legal assistance

1 treaty, multilateral agreement, or
2 other arrangement for international
3 law enforcement assistance, provided
4 that such requests are in accordance
5 with the policies and procedures of the
6 Attorney General.”.

7 **SEC. 318. LAUNDERING MONEY THROUGH A FOREIGN**
8 **BANK.**

9 Section 1956(c) of title 18, United States Code, is
10 amended by striking paragraph (6) and inserting the fol-
11 lowing:

12 “(6) the term ‘financial institution’ includes—

13 “(A) any financial institution, as defined in
14 section 5312(a)(2) of title 31, United States
15 Code, or the regulations promulgated there-
16 under; and

17 “(B) any foreign bank, as defined in sec-
18 tion 1 of the International Banking Act of 1978
19 (12 U.S.C. 3101).”.

20 **SEC. 319. FORFEITURE OF FUNDS IN UNITED STATES**
21 **INTERBANK ACCOUNTS.**

22 (a) **FORFEITURE FROM UNITED STATES INTERBANK**
23 **ACCOUNT.**—Section 981 of title 18, United States Code,
24 is amended by adding at the end the following:

25 “(k) **INTERBANK ACCOUNTS.**—

1 “(1) IN GENERAL.—

2 “(A) IN GENERAL.—For the purpose of a
3 forfeiture under this section or under the Con-
4 trolled Substances Act (21 U.S.C. 801 et seq.),
5 if funds are deposited into an account at a for-
6 eign bank, and that foreign bank has an inter-
7 bank account in the United States with a cov-
8 ered financial institution (as defined in section
9 5318(j)(1) of title 31), the funds shall be
10 deemed to have been deposited into the inter-
11 bank account in the United States, and any re-
12 straining order, seizure warrant, or arrest war-
13 rant in rem regarding the funds may be served
14 on the covered financial institution, and funds
15 in the interbank account, up to the value of the
16 funds deposited into the account at the foreign
17 bank, may be restrained, seized, or arrested.

18 “(B) AUTHORITY TO SUSPEND.—The At-
19 torney General, in consultation with the Sec-
20 retary of the Treasury, may suspend or termi-
21 nate a forfeiture under this section if the Attor-
22 ney General determines that a conflict of law
23 exists between the laws of the jurisdiction in
24 which the foreign bank is located and the laws
25 of the United States with respect to liabilities

1 arising from the restraint, seizure, or arrest of
2 such funds, and that such suspension or termi-
3 nation would be in the interest of justice and
4 would not harm the national interests of the
5 United States.

6 “(2) NO REQUIREMENT FOR GOVERNMENT TO
7 TRACE FUNDS.—If a forfeiture action is brought
8 against funds that are restrained, seized, or arrested
9 under paragraph (1), it shall not be necessary for
10 the Government to establish that the funds are di-
11 rectly traceable to the funds that were deposited into
12 the foreign bank, nor shall it be necessary for the
13 Government to rely on the application of section
14 984.

15 “(3) CLAIMS BROUGHT BY OWNER OF THE
16 FUNDS.—If a forfeiture action is instituted against
17 funds restrained, seized, or arrested under para-
18 graph (1), the owner of the funds deposited into the
19 account at the foreign bank may contest the for-
20 feiture by filing a claim under section 983.

21 “(4) DEFINITIONS.—For purposes of this sub-
22 section, the following definitions shall apply:

23 “(A) INTERBANK ACCOUNT.—The term
24 ‘interbank account’ has the same meaning as in
25 section 984(c)(2)(B).