

Union Calendar No. 256

118TH CONGRESS
1ST SESSION

H. R. 5485

[Report No. 118-317]

To require the Secretary of the Treasury to provide for greater transparency and protections with regard to Bank Secrecy Act reports, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2023

Mr. HILL (for himself and Mr. HIMES) introduced the following bill; which was referred to the Committee on Financial Services

DECEMBER 13, 2023

Additional sponsor: Mr. SHERMAN

DECEMBER 13, 2023

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on September 14, 2023]

A BILL

To require the Secretary of the Treasury to provide for greater transparency and protections with regard to Bank Secrecy Act reports, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Financial Privacy Act*
5 *of 2023”.*

6 **SEC. 2. FINDINGS.**

7 *The Congress finds the following:*

8 *(1) Pursuant to the Bank Secrecy Act (“BSA”),*
9 *the Secretary of the Treasury, acting through the Fi-*
10 *nancial Crimes Enforcement Network (“FinCEN”),*
11 *collects millions of reports annually on the economic*
12 *activity of ordinary Americans.*

13 *(2) Since 2001, FinCEN has applied the BSA to*
14 *collect over 322,000,000 Currency Transaction Re-*
15 *ports and more than 36,000,000 Suspicious Activity*
16 *Reports, as well as nearly 5,000,000 Form 8300 Re-*
17 *ports. In addition, FinCEN expects to amass bene-*
18 *ficial ownership information (“BOI”) from*
19 *32,000,000 companies in its initial year of collection,*
20 *plus 5,000,000 additional companies implicated each*
21 *year thereafter.*

22 *(3) The mass of reporting collected by FinCEN*
23 *suggests that, while certain BSA reports might prove*
24 *useful to combat illicit finance, the bulk of BSA-re-*
25 *lated data may possess little to no nexus to legitimate*

1 *law enforcement or intelligence purposes, even as it*
2 *encompasses highly sensitive details on the everyday*
3 *lives of Americans.*

4 *(4) By law, the Secretary of the Treasury must*
5 *ensure the security and confidentiality of BSA data.*
6 *In a Notice of Proposed Rulemaking from December*
7 *2022, FinCEN acknowledged that “BOI is highly sen-*
8 *sitive information. FinCEN therefore views it as crit-*
9 *ical to mitigate the risk of unauthorized disclosure of*
10 *BOI as much as possible.”.*

11 **SEC. 3. REPORTS TO CONGRESS; REVIEW OF PROTOCOLS**
12 **FOR AGENCY ACCESS TO REPORTS.**

13 *(a) IN GENERAL.—Chapter 53 of title 31, United*
14 *States Code, is amended—*

15 *(1) in subchapter II, by inserting after section*
16 *5326 the following:*

17 **“§5327. Reports to Congress; Review of protocols for**
18 **agency access to reports**

19 *“(a) REPORTS TO CONGRESS.—Not later than 180*
20 *days following the date of the enactment of this section, and*
21 *annually thereafter, the Secretary of the Treasury shall sub-*
22 *mit to the Committee on Financial Services of the House*
23 *of Representatives and the Committee on Banking, Hous-*
24 *ing, and Urban Affairs of the Senate a report containing*
25 *the following:*

1 “(1) *The number of reports, by type, filed each*
2 *year with the Financial Crimes Enforcement Network*
3 *(‘FinCEN’) under this subchapter since January 1,*
4 *2022.*

5 “(2) *The total number of reports filed under this*
6 *subchapter retained by FinCEN.*

7 “(3) *A description of any written protocols or*
8 *guidance from the Secretary to national security, law*
9 *enforcement, or intelligence agencies regarding agency*
10 *access to, and retention or dissemination of, informa-*
11 *tion held by FinCEN from reports filed under this*
12 *subchapter, including—*

13 “(A) *a description of any updates to the*
14 *protocols or guidance during the reporting pe-*
15 *riod;*

16 “(B) *the number of queries by such agencies*
17 *to access the information during the reporting*
18 *period; and*

19 “(C) *any denials of requests for, or revoca-*
20 *tions of, access by a national security, law en-*
21 *forcement, or intelligence agency, or by any em-*
22 *ployee thereof, with a description of the reasons*
23 *for the denial or revocation, as the case may be.*

24 “(b) *REVIEW AND REVISION OF PROTOCOLS.—In con-*
25 *sultation with the Director of National Intelligence and the*

1 *Attorney General, the Secretary of the Treasury shall annu-*
2 *ally review and, as appropriate, revise any written proto-*
3 *cols or guidance described under subsection (a) for the pur-*
4 *poses of—*

5 “(1) *better tailoring the collection, retention, and*
6 *dissemination of information filed under this sub-*
7 *chapter to authorized national security, law enforce-*
8 *ment, or intelligence objectives;*

9 “(2) *enforcing prohibitions against unauthorized*
10 *disclosure of such information; and*

11 “(3) *protecting fully the legal rights of all United*
12 *States persons, including freedoms, civil liberties, and*
13 *privacy rights guaranteed by Federal law.*

14 “(c) *CONGRESSIONAL REQUESTS; NOTICE OF*
15 *CHANGES.—*

16 “(1) *REQUESTS FOR INFORMATION.—Upon re-*
17 *quest of the chair or ranking member of the Com-*
18 *mittee on Financial Services of the House of Rep-*
19 *resentatives or the Committee on Banking, Housing,*
20 *and Urban Affairs of the Senate, the Secretary shall*
21 *provide a copy of any written protocols or guidance*
22 *described in subsection (a)(3).*

23 “(2) *NOTICE OF CHANGES.—Not later than 30*
24 *days after revising any written protocols or guidance*
25 *described in subsection (a)(3), the Secretary shall pro-*

1 *vide a copy of such revised written protocols or guid-*
2 *ance to the Committee on Financial Services of the*
3 *House of Representatives and the Committee on*
4 *Banking, Housing, and Urban Affairs of the Senate.”;*
5 *and*

6 (2) *in the table of contents for such chapter, by*
7 *inserting after the item relating to section 5326 the*
8 *following:*

“5327. Reports to Congress; Review of protocols for agency access to reports.”.

9 (b) *SUNSET.—On the date that is the end of the 7-*
10 *year period beginning on the date of enactment of this*
11 *Act—*

12 (1) *section 5327 of title 31, United States Code,*
13 *is repealed; and*

14 (2) *the table of contents for chapter 53 of title 31,*
15 *United States Code, is amended by striking the item*
16 *relating to section 5327.*

Union Calendar No. 256

118TH CONGRESS
1ST Session

H. R. 5485

[Report No. 118-317]

A BILL

To require the Secretary of the Treasury to provide for greater transparency and protections with regard to Bank Secrecy Act reports, and for other purposes.

DECEMBER 13, 2023

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed