

118TH CONGRESS
1ST SESSION

S. 3384

To combat illicit cross-border financial activity and to improve the Trade Transparency Unit program of U.S. Immigration and Customs Enforcement, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 30, 2023

Mr. WHITEHOUSE (for himself, Mr. CASSIDY, and Mr. KING) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To combat illicit cross-border financial activity and to improve the Trade Transparency Unit program of U.S. Immigration and Customs Enforcement, 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 “Combating Cross-bor-
5 der Financial Crime Act of 2023”.

1 **SEC. 2. ESTABLISHMENT OF CROSS-BORDER FINANCIAL**
2 **CRIME CENTER.**

3 The Tariff Act of 1930 (19 U.S.C. 1304 et seq.) is
4 amended by inserting after section 631 (19 U.S.C. 1631)
5 the following:

6 **“SEC. 632. ESTABLISHMENT OF CROSS-BORDER FINANCIAL**
7 **CRIME CENTER.**

8 “(a) ESTABLISHMENT.—The Secretary of Homeland
9 Security, acting through the Executive Associate Director
10 of Homeland Security Investigations, shall—

11 “(1) establish the Cross-Border Financial
12 Crime Center (in this section referred to as the
13 ‘Center’), which shall be located in the National
14 Capital region (as defined in section 8702 of title
15 40, United States Code); and

16 “(2) appoint a Director to serve as the head of
17 the Center (in this section referred to as the ‘Direc-
18 tor’).

19 “(b) DUTIES.—

20 “(1) IN GENERAL.—The Center shall—

21 “(A) support, through the provision of an-
22 alysts, equipment, and other resources, the in-
23 vestigation and seizure of assets and proceeds
24 (as defined in section 981 of title 18, United
25 States Code) related to trade-based money
26 laundering and other illicit cross-border finan-

1 cial activity or attempted illicit cross-border fi-
2 nancial activity, to, from, or through the United
3 States, including such activity conducted by ac-
4 tors determined by the Secretary of State, the
5 Attorney General, the Secretary of the Treas-
6 ury, and the Secretary of Homeland Security to
7 be the highest priority threats, including—

8 “(i) transnational criminal organiza-
9 tions;

10 “(ii) kleptocrats and oligarchs with re-
11 spect to whom the United States has im-
12 posed sanctions;

13 “(iii) professional money laundering
14 organizations; and

15 “(iv) persons knowingly enabling
16 criminal or corrupt activity, including des-
17 ignated non-financial businesses and pro-
18 fessions;

19 “(B) coordinate with the Deputy Directors
20 appointed under subsection (c) and the heads of
21 other relevant Federal agencies to better ensure
22 uniform training is provided to United States
23 Federal, State, local, and Tribal law enforce-
24 ment agencies and foreign law enforcement
25 agencies to address the vulnerabilities outlined

1 in the National Money Laundering Risk Assess-
2 ment, published by the Department of the
3 Treasury in February 2022, or any successor
4 document;

5 “(C) coordinate with such agencies to de-
6 velop metrics to assess whether the training de-
7 scribed in subparagraph (B) improved enforce-
8 ment of anti-money laundering laws;

9 “(D) leverage existing, lawfully obtained,
10 government data sources to establish a means
11 to receive, collect, track, analyze, and deconflict
12 information regarding illicit cross-border finan-
13 cial activity from United States and foreign law
14 enforcement agencies and other non-Federal
15 sources;

16 “(E) coordinate with the Deputy Directors
17 appointed under subsection (c) and relevant
18 components of their agencies, including the Fi-
19 nancial Crimes Enforcement Network, to dis-
20 seminate information, on a rolling basis, re-
21 garding trends and techniques involved in illicit
22 cross-border financial activity to other Federal
23 agencies, private sector stakeholders, and for-
24 eign law enforcement partners, as appropriate;

1 “(F) coordinate with the offices of United
2 States attorneys in order to develop expertise
3 in, and assist with, the investigation and pros-
4 ecution of crimes involving trade-based money
5 laundering and other illicit cross-border finan-
6 cial activity; and

7 “(G) carry out such other duties as the
8 Executive Associate Director may assign.

9 “(2) SUPPLEMENT NOT SUPPLANT.—The duties
10 described in paragraph (1) shall supplement, not
11 supplant, the work of existing Federal agencies, task
12 forces, and working groups.

13 “(c) DEPUTY DIRECTORS.—The Attorney General,
14 the Secretary of the Treasury (acting through the Director
15 of the Financial Crimes Enforcement Network), and the
16 Secretary of State shall each appoint a Deputy Director
17 to assist the Director.

18 “(d) COORDINATION WITH OTHER AGENCIES.—

19 “(1) IN GENERAL.—In carrying out the duties
20 described in subsection (b), the Director shall coordi-
21 nate with the Federal entities specified in paragraph
22 (2), and to the extent practicable, with the State,
23 local, and Tribal entities specified in paragraph (3)
24 to ensure at least part-time representation, in the
25 form of detailees, in the Center of at least one agent

1 or analyst with expertise in countering cross-border
2 illicit finance, including trade-based money laun-
3 dering, from each such entity.

4 “(2) FEDERAL ENTITIES SPECIFIED.—The
5 Federal entities specified in this paragraph are the
6 following:

7 “(A) The Department of the Treasury and
8 the following components of the Department:

9 “(i) The Financial Crimes Enforce-
10 ment Network.

11 “(ii) The Office of Foreign Assets
12 Control.

13 “(iii) The Office of the Comptroller of
14 the Currency.

15 “(iv) The Office of Technical Assist-
16 ance.

17 “(v) Internal Revenue Service Crimi-
18 nal Investigation.

19 “(vi) The Small Business/Self Em-
20 ployed Division of the Internal Revenue
21 Service.

22 “(B) The Department of Justice and the
23 following components of the Department:

24 “(i) The Criminal Division.

1 “(ii) The Drug Enforcement Adminis-
2 tration.

3 “(iii) The Federal Bureau of Inves-
4 tigation.

5 “(iv) Task Force KleptoCapture.

6 “(C) The Department of State and the fol-
7 lowing components of the Department:

8 “(i) The Bureau of International Nar-
9 cotics and Law Enforcement Affairs.

10 “(ii) The Bureau of Western Hemi-
11 sphere Affairs.

12 “(iii) The Bureau of African Affairs.

13 “(iv) The Bureau of East Asian and
14 Pacific Affairs.

15 “(v) The Bureau of European and
16 Eurasian Affairs.

17 “(vi) The Bureau of Near Eastern Af-
18 fairs.

19 “(vii) The Bureau of South and Cen-
20 tral Asian Affairs.

21 “(viii) The Bureau of Economic and
22 Business Affairs.

23 “(ix) The Bureau of Diplomatic Secu-
24 rity.

1 “(D) The following components of the De-
2 partment of Homeland Security:

3 “(i) U.S. Customs and Border Protec-
4 tion.

5 “(ii) The United States Secret Serv-
6 ice.

7 “(iii) The National Intellectual Prop-
8 erty Rights Coordination Center.

9 “(iv) The Trade Transparency Units
10 program of U.S. Immigration and Customs
11 Enforcement.

12 “(v) The Bulk Cash Smuggling Cen-
13 ter of U.S. Immigration and Customs En-
14 forcement.

15 “(vi) The Cyber Crimes Center of
16 Homeland Security Investigations.

17 “(E) The National Security Agency.

18 “(F) The United States Postal Inspection
19 Service.

20 “(G) The Department of Commerce.

21 “(H) The Department of Defense.

22 “(I) The Office of the United States Trade
23 Representative.

24 “(J) The Board of Governors of the Fed-
25 eral Reserve System.

1 “(K) The Commodity Futures Trading
2 Commission.

3 “(L) The Securities and Exchange Com-
4 mission.

5 “(M) The Federal Trade Commission.

6 “(N) The Federal Deposit Insurance Cor-
7 poration.

8 “(O) The National Credit Union Adminis-
9 tration.

10 “(3) STATE, LOCAL, AND TRIBAL ENTITIES
11 SPECIFIED.—The State, local, and Tribal entities
12 specified in this paragraph are the following:

13 “(A) Any State bank supervisor (as that
14 term is defined in section 3 of the Federal De-
15 posit Insurance Act (12 U.S.C. 1813)) that the
16 Executive Associate Director considers appro-
17 priate.

18 “(B) Any State credit union supervisor (as
19 that term is used in the Federal Credit Union
20 Act (12 U.S.C. 1751 et seq.)) that the Execu-
21 tive Associate Director considers appropriate.

22 “(C) Any State, local, and Tribal law en-
23 forcement agency that the Executive Associate
24 Director considers appropriate.

1 “(4) SUPPLEMENT NOT SUPPLANT.—The co-
2 ordination described in paragraph (1) shall supple-
3 ment, not supplant, the work of existing Federal
4 agencies, task forces, and working groups.

5 “(e) PRIVATE SECTOR OUTREACH.—

6 “(1) IN GENERAL.—The Director, in coordina-
7 tion with the Deputy Directors appointed under sub-
8 section (c) by the Attorney General and the Sec-
9 retary of the Treasury, shall work with the Federal
10 entities specified in subsection (d)(2) to conduct out-
11 reach to private sector entities in the United States
12 in order to exchange information, in real-time or as
13 soon as practicable, with respect to tactics and
14 trends being used to conduct illicit cross-border fi-
15 nancial activity, including such activity that involves
16 corruption, international commercial trade and coun-
17 terfeit products, bulk cash smuggling, the illicit use
18 of digital assets or digital currencies and the dark
19 web, and financial institutions and designated non-
20 financial businesses and professions.

21 “(2) TRAINING AND TECHNICAL ASSISTANCE.—

22 In order to coordinate public and private sector ef-
23 forts to combat the tactics and trends described in
24 paragraph (1), the Director, in coordination with the
25 Deputy Directors appointed under subsection (c) by

1 the Attorney General and the Secretary of the
2 Treasury, shall provide training and technical assist-
3 ance, as appropriate, regarding best practices for—

4 “(A) identifying, reporting, and protecting
5 against money laundering; and

6 “(B) maintaining sensitive financial infor-
7 mation, which may include suspicious activity
8 reports and currency transaction reports.

9 “(3) SUPPLEMENT NOT SUPPLANT.—The ac-
10 tivities described in paragraphs (1) and (2) shall
11 supplement, not supplant, the work of existing Fed-
12 eral agencies, task forces, and working groups.

13 “(f) INTERNATIONAL OUTREACH.—

14 “(1) IN GENERAL.—The Secretary of State,
15 acting through the Assistant Secretary of State for
16 International Narcotics and Law Enforcement Af-
17 fairs, shall coordinate with the Director of the Cen-
18 ter and the Deputy Directors of the Center ap-
19 pointed under subsection (c) by the Attorney Gen-
20 eral and the Secretary of the Treasury to facilitate
21 capacity building and perform outreach to law en-
22 forcement agencies of countries that are partners of
23 the United States and foreign private industry
24 stakeholders by developing and providing specialized
25 training and information-sharing opportunities re-

1 garding illicit cross-border financial activity, includ-
2 ing such activity that involves corruption, inter-
3 national commercial trade and counterfeit products,
4 bulk cash smuggling, the illicit use of digital assets
5 or digital currencies and the dark web, and financial
6 institutions and designated nonfinancial businesses
7 and professions.

8 “(2) COORDINATION.—In carrying out para-
9 graph (1) in a country, the Secretary of State, act-
10 ing through the Assistant Secretary of State for
11 International Narcotics and Law Enforcement Af-
12 fairs, and in coordination with the Director of the
13 Center and the Deputy Directors of the Center ap-
14 pointed under subsection (c) by the Attorney Gen-
15 eral and the Secretary of the Treasury, shall estab-
16 lish and maintain relationships with—

17 “(A) officials from law enforcement agen-
18 cies, regulatory authorities, customs authorities,
19 financial intelligence units, and ministries of fi-
20 nance in that country; and

21 “(B) private industry stakeholders in that
22 country, including commercial and financial in-
23 dustry stakeholders most commonly impacted
24 by illicit cross-border financial activity.

1 “(3) SUPPLEMENT NOT SUPPLANT.—The ac-
2 tivities described in paragraph (1) shall supplement,
3 not supplant, international training conducted by
4 other Federal agencies.

5 “(4) INFORMATION SHARING.—To the extent
6 practicable and consistent with other provisions of
7 law, the Secretary of State, acting through the As-
8 sistant Secretary of State for International Nar-
9 cotics and Law Enforcement Affairs, shall work with
10 the Director and, as appropriate, the Deputy Direc-
11 tors appointed under subsection (c), to strengthen
12 international cooperation and information-sharing
13 agreements with law enforcement agencies of coun-
14 tries that are partners of the United States regard-
15 ing combating illicit cross-border financial activity,
16 including through the enhancement and expansion of
17 Trade Transparency Units under section 633.

18 “(g) REPORT REQUIRED.—

19 “(1) IN GENERAL.—Not less frequently than
20 annually, the Director shall submit to the appro-
21 priate congressional committees a report detailing
22 the latest trends and techniques utilized to facilitate
23 illicit cross-border financial activity.

24 “(2) ELEMENTS.—The report required by para-
25 graph (1) shall include—

1 “(A) an assessment of the training pro-
2 vided to United States and foreign law enforce-
3 ment agencies under subsection (b)(1)(B),
4 based upon the metrics developed under sub-
5 section (b)(1)(C);

6 “(B) a summary of the activities conducted
7 pursuant to subsections (d), (e), and (f);

8 “(C) the number and status of investiga-
9 tions supported by the Center, unless the dislo-
10 sure of such information would reveal informa-
11 tion protected by rule 6(e) of the Federal Rules
12 of Criminal Procedure or a court order;

13 “(D) the amount of money and other as-
14 sets of value in various forms that the United
15 States Government seized as a result of such
16 investigations; and

17 “(E) the countries with which the Center
18 has established information-sharing agreements.

19 “(3) FORM.—Each report required by para-
20 graph (1) shall be submitted in unclassified form,
21 but may include information that is classified or law
22 enforcement sensitive in an annex.

23 “(h) AUTHORIZATION OF APPROPRIATIONS.—

1 “(1) IN GENERAL.—There are authorized to be
2 appropriated to the Secretary of Homeland Security
3 to establish and maintain the Center—

4 “(A) \$6,200,000 for fiscal year 2024; and

5 “(B) such sums as may be necessary for
6 each of fiscal years 2025 through 2029.

7 “(2) PROHIBITION ON USE OF FUNDS.—None
8 of the funds authorized to be appropriated pursuant
9 to the authorization of appropriations under para-
10 graph (1) may be obligated or expended to carry out
11 civil immigration enforcement or removal activities.

12 “(i) DEFINITIONS.—In this section:

13 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
14 TEES.—The term ‘appropriate congressional com-
15 mittees’ means—

16 “(A) the Caucus on International Nar-
17 cotics Control, the Committee on Finance, the
18 Committee on Banking, Housing, and Urban
19 Affairs, the Committee on the Judiciary, and
20 the Committee on Foreign Relations of the Sen-
21 ate; and

22 “(B) the Committee on Ways and Means,
23 the Committee on Financial Services, the Com-
24 mittee on the Judiciary, and the Committee on

1 Foreign Affairs of the House of Representa-
2 tives.

3 “(2) TRADE-BASED MONEY LAUNDERING.—The
4 term ‘trade-based money laundering’ means the
5 process of disguising the proceeds of crime by mov-
6 ing such proceeds through the use of trade trans-
7 actions in an attempt to legitimize the illegal origin
8 of such proceeds or to finance criminal activities.

9 “(3) UNITED STATES.—The term ‘United
10 States’ means the several States, the District of Co-
11 lumbia, the Commonwealth of Puerto Rico, Amer-
12 ican Samoa, the Commonwealth of the Northern
13 Mariana Islands, Guam, and the Virgin Islands, and
14 any federally recognized tribe (as defined in section
15 4(3)(B) of the Native American Housing Assistance
16 and Self-Determination Act of 1996 (25 U.S.C.
17 4103(13)(B)).”

18 **SEC. 3. TRADE TRANSPARENCY UNITS PROGRAM.**

19 The Tariff Act of 1930 (19 U.S.C. 1304 et seq.), as
20 amended by section 2, is further amended by inserting
21 after section 632 the following:

22 **“SEC. 633. TRADE TRANSPARENCY UNITS PROGRAM.**

23 “(a) ESTABLISHMENT OF PROGRAM.—The Secretary
24 of Homeland Security, acting through the Executive Asso-
25 ciate Director of Homeland Security Investigations, shall

1 establish a program under which Trade Transparency
2 Units are established with foreign countries.

3 “(b) PURPOSES.—The purposes of Trade Trans-
4 parency Units are—

5 “(1) to combat transnational criminal organiza-
6 tions, kleptocrats and oligarchs with respect to
7 whom the United States has imposed sanctions, pro-
8 fessional money laundering organizations, and other
9 criminal or corrupt actors or enablers of criminal or
10 corrupt activity; and

11 “(2) to prevent such persons from exploiting
12 the international trade and financial infrastructures
13 to finance criminal acts, evade sanctions or export
14 controls, evade taxes, tariffs, or customs duties, or
15 launder criminal or corrupt proceeds, by—

16 “(A) developing relationships with foreign
17 law enforcement agencies and customs authori-
18 ties; and

19 “(B) working through the Department of
20 State to strengthen international cooperation
21 and facilitate information-sharing agreements
22 with foreign countries that provide for the ex-
23 change of import and export data with agencies
24 of those countries, and as appropriate, other
25 United States agencies, which can be used to

1 investigate and prosecute international money
2 laundering and illicit trade cases.

3 “(c) ESTABLISHMENT AND COMPOSITION OF
4 UNITS.—

5 “(1) ESTABLISHMENT OF UNITS.—The Execu-
6 tive Associate Director, in consultation with the Sec-
7 retary of State, may establish Trade Transparency
8 Units in—

9 “(A) countries in which money laundering
10 is prevalent;

11 “(B) countries in which corruption is prev-
12 alent;

13 “(C) countries that conduct a high volume
14 of trade with the United States;

15 “(D) countries that have inconsistent trade
16 figures or high incidences of illicit trade;

17 “(E) trade corridors in which one country
18 that has a currency restriction in place;

19 “(F) countries that have been identified as
20 having substantial volumes of suspicious finan-
21 cial transactions, based on data obtained under
22 subchapter II of chapter 53 of title 31, United
23 States Code; or

24 “(G) countries for which the Executive As-
25 sociate Director, in consultation with the Sec-

1 retary of State, determines that a Trade Trans-
2 parency Unit would support the purposes of the
3 Trade Transparency Units program under this
4 section.

5 “(2) REQUIREMENTS.—

6 “(A) IN GENERAL.—Before establishing a
7 Trade Transparency Unit in a country after the
8 date of the enactment of the Combating Cross-
9 border Financial Crime Act of 2023, the Execu-
10 tive Associate Director shall—

11 “(i) ensure the United States and the
12 government of the country have an active
13 Customs Mutual Assistance Agreement in
14 place;

15 “(ii) conduct a risk-based assessment
16 to determine whether the country meets
17 the criteria described in any of subpara-
18 graphs (A) through (F) of paragraph (1);
19 and

20 “(iii) work with the United States em-
21 bassy in the country to establish a trade
22 data exchange agreement or memorandum
23 of understanding with the government of
24 the country that includes, to the greatest
25 extent practicable, language to provide for

1 the sharing of foreign import and export
2 data with relevant United States agencies.

3 “(B) TRANSITION RULE.—The require-
4 ments under subparagraph (A) do not apply
5 with respect to a Trade Transparency Unit es-
6 tablished before the date of the enactment of
7 the Combating Cross-border Financial Crime
8 Act of 2023.

9 “(3) COMPOSITION.—A Trade Transparency
10 Unit may be comprised of personnel from—

11 “(A) Homeland Security Investigations;

12 “(B) other Federal agencies, as appro-
13 priate; and

14 “(C) foreign law enforcement agencies, as
15 appropriate and pursuant to a trade data ex-
16 change agreement or memorandum of under-
17 standing described in paragraph (2)(C).

18 “(d) OPERATION.—After a trade data exchange
19 agreement or memorandum of understanding described in
20 subsection (c)(2)(A)(iii) is signed with a country, the Ex-
21 ecutive Associate Director, in consultation with the Sec-
22 retary of State, may assign Homeland Security Investiga-
23 tions criminal investigators to the country to provide
24 training and technical assistance to the country in order

1 to operationalize and maintain a Trade Transparency
2 Unit in that country.

3 “(e) AUTHORIZATION OF APPROPRIATIONS.—

4 “(1) IN GENERAL.—There are authorized to be
5 appropriated to the Secretary of Homeland Security
6 \$4,100,000 for each of fiscal years 2024 through
7 2029 to establish and maintain Trade Transparency
8 Units.

9 “(2) PROHIBITION ON USE OF FUNDS.—None
10 of the funds authorized to be appropriated pursuant
11 to the authorization of appropriations under para-
12 graph (1) may be obligated or expended to carry out
13 civil immigration enforcement or removal activities.”.

14 **SEC. 4. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW**
15 **OF BARRIERS TO HARMONIZING DATA SYS-**
16 **TEMS OF CERTAIN LAW ENFORCEMENT**
17 **AGENCIES.**

18 (a) IN GENERAL.—Not later than one year after the
19 date of the enactment of this Act, the Comptroller General
20 of the United States shall submit to the appropriate con-
21 gressional committees a report detailing the statutory,
22 technical, and security barriers to harmonizing the data
23 systems of relevant law enforcement agencies, including
24 the Bureau of Alcohol, Tobacco, Firearms, and Explosives,
25 the Federal Bureau of Investigation, the Drug Enforce-

1 ment Administration, the United States Secret Service,
2 the Diplomatic Security Service, the Financial Crimes En-
3 forcement Network, and U.S. Customs and Border Protec-
4 tion, to improve data access necessary to facilitate trade-
5 based money laundering investigations.

6 (b) ASSESSMENT OF NEW TECHNOLOGIES.—The re-
7 port required by subsection (a) shall include an assess-
8 ment of the benefits and feasibility of integrating new
9 technologies, including distributed ledger technology and
10 quantum ledger technology, into the processes of U.S.
11 Customs and Border Protection and the customs services
12 of foreign jurisdictions with which the United States has
13 trade agreements in effect in order to facilitate the imme-
14 diate, secure, and complete transfer between jurisdictions
15 of lists of goods and related invoices and bills of lading.

16 (c) DEFINITIONS.—In this section:

17 (1) APPROPRIATE CONGRESSIONAL COMMIT-
18 TEES.—The term “appropriate congressional com-
19 mittees” means—

20 (A) the Caucus on International Narcotics
21 Control, the Committee on Finance, the Com-
22 mittee on Banking, Housing, and Urban Af-
23 fairs, and the Committee on the Judiciary of
24 the Senate; and

1 (B) the Committee on Ways and Means,
2 the Committee on Financial Services, and the
3 Committee on the Judiciary of the House of
4 Representatives.

5 (2) TRADE-BASED MONEY LAUNDERING.—The
6 term “trade-based money laundering” means the
7 process of disguising the proceeds of crime by mov-
8 ing such proceeds through the use of trade trans-
9 actions in an attempt to legitimize the illegal origin
10 of such proceeds or to finance criminal activities.

○