

118TH CONGRESS
1ST SESSION

S. 3441

To prevent Foreign Terrorist Organizations and their financial enablers, whether in currency or digital assets, from accessing financial and other institutions of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2023

Mr. WARNER (for himself, Mr. ROUNDS, Mr. REED, and Mr. ROMNEY) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To prevent Foreign Terrorist Organizations and their financial enablers, whether in currency or digital assets, from accessing financial and other institutions of the United States, 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 “Terrorist Financing
5 Prevention Act of 2023”.

1 **TITLE I—PREVENTION OF AC-**
2 **CESS TO FINANCIAL AND**
3 **OTHER INSTITUTIONS OF THE**
4 **UNITED STATES BY FOREIGN**
5 **TERRORIST ORGANIZATIONS**
6 **AND THEIR ENABLERS**

7 **SEC. 101. DEFINITIONS.**

8 In this title:

9 (1) **DIGITAL ASSET.**—The term “digital asset”
10 means any digital representation of value that is re-
11 corded on a cryptographically secured distributed
12 ledger or any similar technology, or another imple-
13 mentation which was designed and built as part of
14 a system to leverage or replace blockchain or distrib-
15 uted ledger technology or their derivatives.

16 (2) **DIGITAL ASSET PROTOCOL.**—The term
17 “digital asset protocol” means any communication
18 protocol, smart contract, or other software—

19 (A) deployed through the use of distributed
20 ledger or similar technology; and

21 (B) that provides a mechanism for users to
22 interact and agree to the terms of a trade for
23 digital assets.

24 (3) **FOREIGN DIGITAL ASSET TRANSACTION**
25 **FACILITATOR.**—The term “foreign digital asset

1 transaction facilitator” means any foreign person or
2 group of foreign persons that, as determined by the
3 Secretary, controls, operates, or makes available a
4 digital asset protocol or similar facility, or otherwise
5 materially assists in the purchase, sale, exchange,
6 custody, or other transaction involving an exchange
7 or transfer of value using digital assets.

8 (4) FOREIGN FINANCIAL INSTITUTION.—The
9 term “foreign financial institution” has the meaning
10 given that term under section 561.308 of title 31,
11 Code of Federal Regulations.

12 (5) FOREIGN PERSON.—The term “foreign per-
13 son” means an individual or entity that is not a
14 United States person.

15 (6) FOREIGN TERRORIST ORGANIZATION.—The
16 term “Foreign Terrorist Organization” means an or-
17 ganization that has been designated as a Foreign
18 Terrorist Organization by the Secretary of State,
19 pursuant to section 219 of the Immigration and Na-
20 tionality Act (8 U.S.C. 1189).

21 (7) SECRETARY.—The term “Secretary” means
22 the Secretary of the Treasury.

23 (8) SPECIALLY DESIGNATED GLOBAL TER-
24 RORIST ORGANIZATION.—The term “specially des-
25 ignated global terrorist organization” means an or-

1 organization that has been designated as a specially
 2 designated global terrorist by the Secretary of State
 3 or the Secretary, pursuant to Executive Order
 4 13224 (50 U.S.C. 1701 note; relating to blocking
 5 property and prohibiting transactions with persons
 6 who commit, threaten to commit, or support ter-
 7 rorism).

8 (9) UNITED STATES PERSON.—The term
 9 “United States person” means—

10 (A) an individual who is a United States
 11 citizen or an alien lawfully admitted for perma-
 12 nent residence to the United States;

13 (B) an entity organized under the laws of
 14 the United States or any jurisdiction within the
 15 United States, including a foreign branch of
 16 such an entity; or

17 (C) any person in the United States.

18 **SEC. 102. SANCTIONS WITH RESPECT TO FOREIGN FINAN-**
 19 **CIAL INSTITUTIONS AND FOREIGN DIGITAL**
 20 **ASSET TRANSACTION FACILITATORS THAT**
 21 **ENGAGE IN CERTAIN TRANSACTIONS.**

22 (a) MANDATORY IDENTIFICATION.—Not later than
 23 60 days after the date of enactment of this Act, and peri-
 24 odically thereafter, the Secretary shall identify and submit
 25 to the President a report identifying any foreign financial

1 institution or foreign digital asset transaction facilitator
2 that has knowingly—

3 (1) facilitated a significant financial transaction
4 with—

5 (A) a Foreign Terrorist Organization;

6 (B) a specially designated global terrorist
7 organization; or

8 (C) a person identified on the list of spe-
9 cially designated nationals and blocked persons
10 maintained by the Office of Foreign Assets
11 Control of the Department of the Treasury, the
12 property and interests in property of which are
13 blocked pursuant to the International Emer-
14 gency Economic Powers Act (50 U.S.C. 1701 et
15 seq.) for acting on behalf of or at the direction
16 of, or being owned or controlled by, a Foreign
17 Terrorist Organization or a specially designated
18 global terrorist organization; or

19 (2) engaged in money laundering to carry out
20 an activity described in paragraph (1).

21 (b) IMPOSITION OF SANCTIONS.—

22 (1) FOREIGN FINANCIAL INSTITUTIONS.—The
23 President shall prohibit, or impose strict conditions
24 on, the opening or maintaining of a correspondent
25 account or a payable-through account in the United

1 States by a foreign financial institution identified
2 under subsection (a).

3 (2) FOREIGN DIGITAL ASSET TRANSACTION
4 FACILITATORS.—The President, pursuant to such
5 regulations as the President may prescribe, shall
6 prohibit any transactions between any person subject
7 to the jurisdiction of the United States with a for-
8 eign digital asset transaction facilitator identified
9 under subsection (a).

10 (c) IMPLEMENTATION AND PENALTIES.—

11 (1) IMPLEMENTATION.—The President may ex-
12 ercise all authorities provided under sections 203
13 and 205 of the International Emergency Economic
14 Powers Act (50 U.S.C. 1702, 1704) to the extent
15 necessary to carry out this Act.

16 (2) PENALTIES.—The penalties set forth in
17 subsections (b) and (c) of section 206 of the Inter-
18 national Emergency Economic Powers Act (50
19 U.S.C. 1705) shall apply to a person that violates,
20 attempts to violate, conspires to violate, or causes a
21 violation of regulations prescribed under this section
22 to the same extent that such penalties apply to a
23 person that commits an unlawful act described in
24 subsection (a) of such section 206.

1 (d) PROCEDURES FOR JUDICIAL REVIEW OF CLASSI-
2 FIED INFORMATION.—

3 (1) IN GENERAL.—If a finding under this sec-
4 tion, or a prohibition, condition, or penalty imposed
5 as a result of any such finding, is based on classified
6 information (as defined in section 1(a) of the Classi-
7 fied Information Procedures Act (18 U.S.C. App.)),
8 the Secretary may submit to a court reviewing the
9 finding or the imposition of the prohibition, condi-
10 tion, or penalty such classified information *ex parte*
11 and *in camera*.

12 (2) RULE OF CONSTRUCTION.—Nothing in this
13 subsection shall be construed to confer or imply any
14 right to judicial review of any finding under this
15 subsection or any prohibition, condition, or penalty
16 imposed as a result of any such finding.

17 (e) WAIVER FOR NATIONAL SECURITY.—The Sec-
18 retary may waive the imposition of sanctions under this
19 section with respect to a person if the Secretary—

20 (1) determines that such a waiver is in the na-
21 tional interests of the United States; and

22 (2) submits to Congress a notification of the
23 waiver and the reasons for the waiver.

24 (f) EXCEPTION FOR INTELLIGENCE ACTIVITIES.—
25 This section shall not apply with respect to any activity

1 subject to the reporting requirements under title V of the
2 National Security Act of 1947 (50 U.S.C. 3091 et seq.)
3 or any authorized intelligence activities of the United
4 States.

5 (g) EXCEPTION RELATING TO IMPORTATION OF
6 GOODS.—

7 (1) IN GENERAL.—The authorities and require-
8 ments under this section shall not include the au-
9 thority or a requirement to impose sanctions on the
10 importation of goods.

11 (2) GOOD DEFINED.—In this section, the term
12 “good” means any article, natural or manmade sub-
13 stance, material, supply, or manufactured product,
14 including inspection and test equipment, and exclud-
15 ing technical data.

16 **TITLE II—SPECIAL MEASURES** 17 **FOR MODERN THREATS**

18 **SEC. 201. PROHIBITIONS OR CONDITIONS ON CERTAIN**
19 **TRANSMITTALS OF FUNDS.**

20 Section 5318A of title 31, United States Code, is
21 amended—

22 (1) in subsection (a)(2)(C), by striking “sub-
23 section (b)(5)” and inserting “paragraphs (5) and
24 (6) of subsection (b)”; and

25 (2) in subsection (b)—

1 (A) in paragraph (5), by striking “for or
2 on behalf of a foreign banking institution”; and

3 (B) by adding at the end the following:

4 “(6) PROHIBITIONS OR CONDITIONS ON CER-
5 TAIN TRANSMITTALS OF FUNDS.—If the Secretary
6 finds a jurisdiction outside of the United States, 1
7 or more financial institutions operating outside of
8 the United States, 1 or more types of accounts with-
9 in, or involving, a jurisdiction outside of the United
10 States, or 1 or more classes of transactions within,
11 or involving, a jurisdiction outside of the United
12 States to be of primary money laundering concern,
13 the Secretary, in consultation with the Secretary of
14 State, the Attorney General, and the Chairman of
15 the Board of Governors of the Federal Reserve Sys-
16 tem, may prohibit, or impose conditions upon, cer-
17 tain transmittals of funds (as such term may be de-
18 fined by the Secretary in a special measure issuance,
19 by regulation, or as otherwise permitted by law), to
20 or from any domestic financial institution or domes-
21 tic financial agency if such transmittal of funds in-
22 volves any such jurisdiction, institution, type of ac-
23 count, class of transaction, or type of account.”.

1 **TITLE III—FUNDING**
2 **SEC. 301. ADEQUATE FUNDING TO PREVENT EVASION OF**
3 **COUNTER-TERRORISM SANCTIONS AND FI-**
4 **NANCIAL CRIME ENFORCEMENT.**

5 There are authorized to be appropriated to the Sec-
6 retary of the Treasury such funds as are necessary to
7 carry out the purposes of this Act.

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