

115TH CONGRESS  
1ST SESSION

# H. R. 3089

To amend title 31, United States Code, to ensure that persons who form corporations or limited liability companies in the United States disclose the beneficial owners of those corporations or limited liability companies, in order to prevent wrongdoers from exploiting United States corporations and limited liability companies for criminal gain, to assist law enforcement in detecting, preventing, and punishing terrorism, money laundering, and other misconduct involving United States corporations and limited liability companies, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2017

Mrs. CAROLYN B. MALONEY of New York (for herself, Mr. KING of New York, Ms. MAXINE WATERS of California, Mr. ROYCE of California, and Ms. MOORE) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend title 31, United States Code, to ensure that persons who form corporations or limited liability companies in the United States disclose the beneficial owners of those corporations or limited liability companies, in order to prevent wrongdoers from exploiting United States corporations and limited liability companies for criminal gain, to assist law enforcement in detecting, preventing, and punishing terrorism, money laundering, and other misconduct involving United States corporations and limited liability companies, 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 “Corporate Trans-  
5       parency Act of 2017”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

8               (1) Nearly 2,000,000 corporations and limited  
9       liability companies are being formed under the laws  
10      of the States each year.

11              (2) Very few States obtain meaningful informa-  
12      tion about the beneficial owners of the corporations  
13      and limited liability companies formed under their  
14      laws.

15              (3) A person forming a corporation or limited  
16      liability company within the United States typically  
17      provides less information to the State of incorpora-  
18      tion than is needed to obtain a bank account or driv-  
19      er’s license and typically does not name a single ben-  
20      eficial owner.

21              (4) Criminals have exploited the weaknesses in  
22      State formation procedures to conceal their identi-  
23      ties when forming corporations or limited liability  
24      companies in the United States, and have then used  
25      the newly created entities to commit crimes affecting

1 interstate and international commerce such as ter-  
2 rorism, drug trafficking, money laundering, tax eva-  
3 sion, securities fraud, financial fraud, and acts of  
4 foreign corruption.

5 (5) Law enforcement efforts to investigate cor-  
6 porations and limited liability companies suspected  
7 of committing crimes have been impeded by the lack  
8 of available beneficial ownership information, as doc-  
9 umented in reports and testimony by officials from  
10 the Department of Justice, the Department of  
11 Homeland Security, the Financial Crimes Enforce-  
12 ment Network of the Department of the Treasury,  
13 the Internal Revenue Service, and the Government  
14 Accountability Office, and others.

15 (6) In July 2006, a leading international anti-  
16 money laundering organization, the Financial Action  
17 Task Force on Money Laundering (in this section  
18 referred to as the “FATF”), of which the United  
19 States is a member, issued a report that criticizes  
20 the United States for failing to comply with a FATF  
21 standard on the need to collect beneficial ownership  
22 information and urged the United States to correct  
23 this deficiency by July 2008. In December 2016,  
24 FATF issued another evaluation of the United  
25 States, which found that little progress has been

1       made over the last ten years to address this problem.  
2       It identified the “lack of timely access to adequate,  
3       accurate and current beneficial ownership informa-  
4       tion” as a fundamental gap in United States efforts  
5       to combat money laundering and terrorist finance.

6           (7) In response to the 2006 FATF report, the  
7       United States has repeatedly urged the States to  
8       strengthen their incorporation practices by obtaining  
9       beneficial ownership information for the corporations  
10      and limited liability companies formed under the  
11      laws of such States.

12          (8) Many States have established automated  
13      procedures that allow a person to form a new cor-  
14      poration or limited liability company within the  
15      State within 24 hours of filing an online application,  
16      without any prior review of the application by a  
17      State official. In exchange for a substantial fee, 2  
18      States will form a corporation within 1 hour of a re-  
19      quest.

20          (9) Dozens of Internet Web sites highlight the  
21      anonymity of beneficial owners allowed under the in-  
22      corporation practices of some States, point to those  
23      practices as a reason to incorporate in those States,  
24      and list those States together with offshore jurisdic-  
25      tions as preferred locations for the formation of new

1 corporations, essentially providing an open invitation  
2 to criminals and other wrongdoers to form entities  
3 within the United States.

4 (10) In contrast to practices in the United  
5 States, all 28 countries in the European Union are  
6 required to have formation agents identify the bene-  
7 ficial owners of the corporations formed under the  
8 laws of the country.

9 (11) To reduce the vulnerability of the United  
10 States to wrongdoing by United States corporations  
11 and limited liability companies with hidden owners,  
12 to protect interstate and international commerce  
13 from criminals misusing United States corporations  
14 and limited liability companies, to strengthen law en-  
15 forcement investigations of suspect corporations and  
16 limited liability companies, to set minimum stand-  
17 ards for and level the playing field among State in-  
18 corporation practices, and to bring the United States  
19 into compliance with its international anti-money  
20 laundering standards, Federal legislation is needed  
21 to require the collection of beneficial ownership in-  
22 formation for the corporations and limited liability  
23 companies formed under the laws of such States.

24 **SEC. 3. TRANSPARENT INCORPORATION PRACTICES.**

25 (a) TRANSPARENT INCORPORATION PRACTICES.—

1           (1) IN GENERAL.—Chapter 53 of title 31,  
2       United States Code, is amended by inserting after  
3       section 5332 the following new section:

4   **“§ 5333. Transparent incorporation practices**

5       “(a) REPORTING REQUIREMENTS.—

6           “(1) IN GENERAL.—Not later than the begin-  
7       ning of fiscal year 2019, the Secretary of the Treas-  
8       ury shall issue regulations requiring each corpora-  
9       tion and limited liability company formed in a State  
10      that does not have a formation system described  
11      under subsection (b) to file with the Financial  
12      Crimes Enforcement Network such information as  
13      the corporation or limited liability company would be  
14      required to provide the State if such State had a for-  
15      mation system described under subsection (b).

16          “(2) DISCLOSURE OF BENEFICIAL OWNERSHIP  
17      INFORMATION.—Beneficial ownership information  
18      reported to the Financial Crimes Enforcement Net-  
19      work pursuant to paragraph (1) shall be provided by  
20      the Financial Crimes Enforcement Network upon re-  
21      ceipt of—

22          “(A) a civil or criminal subpoena or sum-  
23      mons from a State agency, Federal agency, or  
24      congressional committee or subcommittee re-  
25      questing such information;

1           “(B) a written request made by a Federal  
2           agency on behalf of another country under an  
3           international treaty, agreement, or convention,  
4           or an order under section 3512 of title 18,  
5           United States Code, or section 1782 of title 28,  
6           United States Code, issued in response to a re-  
7           quest for assistance from a foreign country; or

8           “(C) a written request made by a financial  
9           institution, with customer consent, as part of  
10          the institution’s compliance with due diligence  
11          requirements imposed under the Bank Secrecy  
12          Act, the USA PATRIOT Act, or other applica-  
13          ble Federal or State law.

14          “(3) LIMITATION.—In issuing regulations pur-  
15          suant to paragraph (1), the Secretary shall not re-  
16          quire such information to be filed with the Internal  
17          Revenue Service.

18          “(b) FORMATION SYSTEM.—

19                 “(1) IN GENERAL.—With respect to a State, a  
20          formation system is described under this subsection  
21          if it meets the following requirements:

22                 “(A) IDENTIFICATION OF BENEFICIAL  
23          OWNERS.—Except as provided in paragraphs  
24          (2) and (4), and subject to paragraph (3), each  
25          applicant to form a corporation or limited liabil-

ity company under the laws of the State is required to provide to the State during the formation process a list of the beneficial owners of the corporation or limited liability company that—

“(i) except as provided in subparagraph (F), identifies each beneficial owner by—

“(I) name;

“(II) current residential or business street address; and

“(III) a unique identifying number from a non-expired passport issued by the United States or a non-expired driver’s license issued by a State; and

“(ii) if the applicant is not the beneficial owner, provides the identification information described in clause (i) relating to the applicant.

“(B) UPDATED INFORMATION.—For each corporation or limited liability company formed under the laws of the State—

“(i) the corporation or limited liability company is required by the State to update



1 the list of the beneficial owners of the cor-  
2 poration or limited liability company by  
3 providing the information described in sub-  
4 paragraph (A) to the State not later than  
5 60 days after the date of any change in the  
6 list of beneficial owners or the information  
7 required to be provided relating to each  
8 beneficial owner;

9 “(ii) in the case of a corporation or  
10 limited liability company formed or ac-  
11 quired by a formation agent and retained  
12 by the formation agent as a beneficial  
13 owner for transfer to another person, the  
14 formation agent is required by the State to  
15 submit to the State an updated list of the  
16 beneficial owners and the information de-  
17 scribed in subparagraph (A) for each such  
18 beneficial owner not later than 10 days  
19 after date on which the formation agent  
20 transfers the corporation or limited liabil-  
21 ity company to another person; and

22 “(iii) the corporation or limited liabil-  
23 ity company is required by the State to  
24 submit to the State an annual filing con-  
25 taining the list of the beneficial owners of

1 the corporation or limited liability company  
2 and the information described in subpara-  
3 graph (A) for each such beneficial owner.

4 “(C) RETENTION OF INFORMATION.—Ben-  
5 efcial ownership information relating to each  
6 corporation or limited liability company formed  
7 under the laws of the State is required to be  
8 maintained by the State until the end of the 5-  
9 year period beginning on the date that the cor-  
10 poration or limited liability company terminates  
11 under the laws of the State.

12 “(D) INFORMATION REQUESTS.—Bene-  
13 fcial ownership information relating to each  
14 corporation or limited liability company formed  
15 under the laws of the State shall be provided by  
16 the State upon receipt of—

17 “(i) a civil or criminal subpoena or  
18 summons from a State agency, Federal  
19 agency, or congressional committee or sub-  
20 committee requesting such information;

21 “(ii) a written request made by a Fed-  
22 eral agency on behalf of another country  
23 under an international treaty, agreement,  
24 or convention, or section 1782 of title 28,  
25 United States Code;

1 “(iii) a written request made by the  
2 Financial Crimes Enforcement Network; or

3 “(iv) a written request made by a fi-  
4 nancial institution, with customer consent,  
5 as part of the institution’s compliance with  
6 due diligence requirements imposed under  
7 the Bank Secrecy Act, the USA PATRIOT  
8 Act, or other applicable Federal or State  
9 law.

10 “(E) NOTICE.—The State discloses clearly  
11 and conspicuously that the beneficial ownership  
12 information collected under the formation sys-  
13 tem may be provided to the entities described in  
14 subparagraph (D), pursuant to the require-  
15 ments of such subparagraph.

16 “(F) NO BEARER SHARE CORPORATIONS  
17 OR LIMITED LIABILITY COMPANIES.—A cor-  
18 poration or limited liability company formed  
19 under the laws of the State may not issue a cer-  
20 tificate in bearer form evidencing either a whole  
21 or fractional interest in the corporation or lim-  
22 ited liability company.

23 “(2) STATES THAT LICENSE FORMATION  
24 AGENTS.—

1           “(A) IN GENERAL.—Notwithstanding para-  
2 graph (1), a State described in subparagraph  
3 (B) may permit an applicant to form a corpora-  
4 tion or limited liability company under the laws  
5 of the State, or a corporation or limited liability  
6 company formed under the laws of the State, to  
7 provide the required information to a licensed  
8 formation agent residing in the State, instead  
9 of to the State directly, if the application under  
10 paragraph (1)(A) or the update under para-  
11 graph (1)(B) contains—

12           “(i) the name, current business ad-  
13 dress, contact information, and licensing  
14 number of the licensed formation agent  
15 that has agreed to maintain the informa-  
16 tion required under this subsection; and

17           “(ii) a certification by the licensed  
18 formation agent that the licensed forma-  
19 tion agent has possession of the informa-  
20 tion required under this subsection and  
21 will maintain the information in the State  
22 licensing the licensed formation agent in  
23 accordance with State law.

24           “(B) STATES DESCRIBED.—A State de-  
25 scribed in this subparagraph is a State that

1 maintains a formal licensing system for forma-  
2 tion agents that requires a formation agent to  
3 register with the State, meet standards for fit-  
4 ness and honesty, maintain a physical office  
5 and records within the State, undergo regular  
6 monitoring, and be subject to sanctions for non-  
7 compliance with State requirements.

8 “(C) LICENSED FORMATION AGENT DU-  
9 TIES.—A licensed formation agent that receives  
10 beneficial ownership information under State  
11 law in accordance with this paragraph shall—

12 “(i) maintain the information in the  
13 State in which the corporation or limited  
14 liability company is being or has been  
15 formed in the same manner as required for  
16 States under paragraph (1)(C);

17 “(ii) provide the information under  
18 the same circumstances as required for  
19 States under paragraph (1)(D); and

20 “(iii) perform the duties of a forma-  
21 tion agent under paragraph (3).

22 “(D) TERMINATION OF RELATIONSHIP.—

23 “(i) IN GENERAL.—Except as pro-  
24 vided in clause (ii), a licensed formation  
25 agent that receives beneficial ownership in-

1 formation relating to a corporation or lim-  
2 ited liability company under State law in  
3 accordance with this paragraph and that  
4 resigns, dissolves, or otherwise ends a rela-  
5 tionship with the corporation or limited li-  
6 ability company shall promptly—

7 “(I) notify the State in writing  
8 that the licensed formation agent has  
9 resigned or ended the relationship;  
10 and

11 “(II) transmit all beneficial own-  
12 ership information relating to the cor-  
13 poration or limited liability company  
14 in the possession of the licensed for-  
15 mation agent to the licensing State.

16 “(ii) EXCEPTION.—If a licensed for-  
17 mation agent receives written instructions  
18 from a corporation or limited liability com-  
19 pany, the licensed formation agent may  
20 transmit the beneficial ownership informa-  
21 tion relating to the corporation or limited  
22 liability company to another licensed for-  
23 mation agent that is within the same State  
24 and has agreed to maintain the informa-  
25 tion in accordance with this section.

1                   “(iii) NOTICE TO STATE.—If a li-  
2                   censed formation agent provides beneficial  
3                   ownership information to another licensed  
4                   formation agent under clause (ii), the li-  
5                   censed formation agent providing the infor-  
6                   mation shall promptly notify in writing the  
7                   State under the laws of which the corpora-  
8                   tion or limited liability company is formed  
9                   of the identity of the licensed formation  
10                  agent receiving the information.

11               “(3) CERTAIN BENEFICIAL OWNERS.—If an ap-  
12               plicant to form a corporation or limited liability com-  
13               pany or a beneficial owner, officer, director, or simi-  
14               lar agent of a corporation or limited liability com-  
15               pany who is required to provide identification infor-  
16               mation under this subsection does not have a non-  
17               expired passport issued by the United States or a  
18               non-expired driver’s license or identification card  
19               issued by a State, each application described in  
20               paragraph (1)(A) and each update described in  
21               paragraph (1)(B) shall include a certification by a  
22               formation agent residing in the State that the for-  
23               mation agent—

24               “(A) has obtained for each such person a  
25               current residential or business street address

1 and a legible and credible copy of the pages of  
2 a non-expired passport issued by the govern-  
3 ment of a foreign country bearing a photo-  
4 graph, date of birth, and unique identifying in-  
5 formation for the person;

6 “(B) has verified the name, address, and  
7 identity of each such person;

8 “(C) will provide the information described  
9 in subparagraph (A) and the proof of verifica-  
10 tion described in subparagraph (B) upon re-  
11 quest under the same circumstances as required  
12 for States under paragraph (1)(D); and

13 “(D) will retain the information and proof  
14 of verification under this paragraph in the  
15 State in which the corporation or limited liabil-  
16 ity company is being or has been formed until  
17 the end of the 5-year period beginning on the  
18 date that the corporation or limited liability  
19 company terminates under the laws of the  
20 State.

21 “(4) EXEMPT ENTITIES.—

22 “(A) IN GENERAL.—A formation system  
23 described in paragraph (1) shall require that an  
24 application for an entity described in subpara-  
25 graph (C) or (D) of subsection (d)(2) that is



1 proposed to be formed under the laws of a  
2 State and that will be exempt from the bene-  
3 ficial ownership disclosure requirements under  
4 this subsection shall include in the application  
5 a certification by the applicant, or a prospective  
6 officer, director, or similar agent of the entity—

7 “(i) identifying the specific provision  
8 of subsection (d)(2) under which the entity  
9 proposed to be formed would be exempt  
10 from the beneficial ownership disclosure re-  
11 quirements under paragraphs (1), (2), and  
12 (3);

13 “(ii) stating that the entity proposed  
14 to be formed meets the requirements for  
15 an entity described under such provision of  
16 subsection (d)(2); and

17 “(iii) providing identification informa-  
18 tion for the applicant or prospective offi-  
19 cer, director, or similar agent making the  
20 certification in the same manner as pro-  
21 vided under paragraph (1) or (3).

22 “(B) EXISTING ENTITIES.—On and after  
23 the date that is 2 years after the effective date  
24 of the amendments to the formation system of  
25 a State made to comply with this section, an

1           entity formed under the laws of the State be-  
2           fore such effective date shall be considered to  
3           be a corporation or limited liability company for  
4           purposes of, and shall be subject to the require-  
5           ments of, this subsection unless an officer, di-  
6           rector, or similar agent of the entity submits to  
7           the State a certification—

8                   “(i) identifying the specific provision  
9                   of subsection (d)(2) under which the entity  
10                  is exempt from the requirements under  
11                  paragraphs (1), (2), and (3);

12                  “(ii) stating that the entity meets the  
13                  requirements for an entity described under  
14                  such provision of subsection (d)(2); and

15                  “(iii) providing identification informa-  
16                  tion for the officer, director, or similar  
17                  agent making the certification in the same  
18                  manner as provided under paragraph (1)  
19                  or (3).

20           “(C) EXEMPT ENTITIES HAVING OWNER-  
21           SHIP INTEREST.—If an entity described in sub-  
22           paragraph (C) or (D) of subsection (d)(2) has  
23           or will have an ownership interest in a corpora-  
24           tion or limited liability company formed or to be  
25           formed under the laws of a State, the applicant,

1 corporation, or limited liability company in  
2 which the entity has or will have the ownership  
3 interest shall provide the information required  
4 under this subsection relating to the entity, ex-  
5 cept that the entity shall not be required to pro-  
6 vide information regarding any natural person  
7 who has an ownership interest in, exercises sub-  
8 stantial control over, or receives substantial eco-  
9 nomic benefits from the entity.

10 “(c) PENALTIES.—

11 “(1) IN GENERAL.—It shall be unlawful for—

12 “(A) any person to affect interstate or for-  
13 eign commerce by—

14 “(i) knowingly providing, or attempt-  
15 ing to provide, false or fraudulent bene-  
16 ficial ownership information, including a  
17 false or fraudulent identifying photograph,  
18 to a State or licensed formation agent  
19 under State law in accordance with this  
20 section;

21 “(ii) willfully failing to provide com-  
22 plete or updated beneficial ownership infor-  
23 mation to a State or licensed formation  
24 agent under State law in accordance with  
25 this section; or

1 “(iii) knowingly disclosing the exist-  
2 ence of a subpoena, summons, or other re-  
3 quest for beneficial ownership information,  
4 except—

5 “(I) to the extent necessary to  
6 fulfill the authorized request;

7 “(II) as authorized by the entity  
8 that issued the subpoena, summons,  
9 or other request; or

10 “(III) as prescribed by a State;  
11 or

12 “(B) in the case of a formation agent,  
13 knowingly failing to obtain or maintain credible,  
14 legible, and updated beneficial ownership infor-  
15 mation, including any required identifying pho-  
16 tograph.

17 “(2) CIVIL AND CRIMINAL PENALTIES.—In ad-  
18 dition to any civil or criminal penalty that may be  
19 imposed by a State, any person who violates para-  
20 graph (1)—

21 “(A) shall be liable to the United States  
22 for a civil penalty of not more than \$10,000;  
23 and

1           “(B) may be fined under title 18, United  
2           States Code, imprisoned for not more than 3  
3           years, or both.

4           “(d) DEFINITIONS.—For the purposes of this section:

5           “(1) BENEFICIAL OWNER.—

6           “(A) IN GENERAL.—Except as provided in  
7           subparagraph (B), the term ‘beneficial owner’  
8           means a natural person who, directly or indi-  
9           rectly—

10                  “(i) exercises substantial control over  
11                  a corporation or limited liability company;  
12                  or

13                  “(ii) has a substantial interest in or  
14                  receives substantial economic benefits from  
15                  the assets of a corporation or limited liabil-  
16                  ity company.

17           “(B) EXCEPTIONS.—The term ‘beneficial  
18           owner’ shall not include—

19                  “(i) a minor child;

20                  “(ii) a person acting as a nominee,  
21                  intermediary, custodian, or agent on behalf  
22                  of another person;

23                  “(iii) a person acting solely as an em-  
24                  ployee of a corporation or limited liability  
25                  company and whose control over or eco-

1            nomic benefits from the corporation or lim-  
2            ited liability company derives solely from  
3            the employment status of the person;

4            “(iv) a person whose only interest in  
5            a corporation or limited liability company  
6            is through a right of inheritance, unless  
7            the person also meets the requirements of  
8            subparagraph (A); or

9            “(v) a creditor of a corporation or  
10           limited liability company, unless the cred-  
11           itor also meets the requirements of sub-  
12           paragraph (A).

13           “(2) CORPORATION; LIMITED LIABILITY COM-  
14           PANY.—The terms ‘corporation’ and ‘limited liability  
15           company’—

16           “(A) have the meanings given such terms  
17           under the laws of the applicable State;

18           “(B) include any non-United States entity  
19           eligible for registration or registered to do busi-  
20           ness as a corporation or limited liability com-  
21           pany under the laws of the applicable State;

22           “(C) do not include any entity that is, and  
23           discloses in the application by the entity to  
24           form under the laws of the State or, if the enti-  
25           ty was formed before the date of the enactment

1 of this section, in a filing with the State under  
2 State law—

3 “(i) a business concern that is an  
4 issuer of a class of securities registered  
5 under section 12 of the Securities Ex-  
6 change Act of 1934 (15 U.S.C. 781) or  
7 that is required to file reports under sec-  
8 tion 15(d) of that Act (15 U.S.C. 78o(d));

9 “(ii) a business concern constituted or  
10 sponsored by a State, a political subdivi-  
11 sion of a State, under an interstate com-  
12 pact between two or more States, by a de-  
13 partment or agency of the United States,  
14 or under the laws of the United States;

15 “(iii) a depository institution (as de-  
16 fined in section 3 of the Federal Deposit  
17 Insurance Act (12 U.S.C. 1813));

18 “(iv) a credit union (as defined in sec-  
19 tion 101 of the Federal Credit Union Act  
20 (12 U.S.C. 1752));

21 “(v) a bank holding company (as de-  
22 fined in section 2 of the Bank Holding  
23 Company Act of 1956 (12 U.S.C. 1841));

24 “(vi) a broker or dealer (as defined in  
25 section 3 of the Securities Exchange Act of

1 1934 (15 U.S.C. 78c)) that is registered  
2 under section 15 of the Securities Ex-  
3 change Act of 1934 (15 U.S.C. 78o);

4 “(vii) an exchange or clearing agency  
5 (as defined in section 3 of the Securities  
6 Exchange Act of 1934 (15 U.S.C. 78c))  
7 that is registered under section 6 or 17A  
8 of the Securities Exchange Act of 1934  
9 (15 U.S.C. 78f and 78q-1);

10 “(viii) an investment company (as de-  
11 fined in section 3 of the Investment Com-  
12 pany Act of 1940 (15 U.S.C. 80a-3)) or  
13 an investment advisor (as defined in sec-  
14 tion 202(11) of the Investment Advisors  
15 Act of 1940 (15 U.S.C. 80b-2(11))), if the  
16 company or adviser is registered with the  
17 Securities and Exchange Commission, or  
18 has filed an application for registration  
19 which has not been denied, under the In-  
20 vestment Company Act of 1940 (15 U.S.C.  
21 80a-1 et seq.) or the Investment Advisor  
22 Act of 1940 (15 U.S.C. 80b-1 et seq.);

23 “(ix) an insurance company (as de-  
24 fined in section 2 of the Investment Com-  
25 pany Act of 1940 (15 U.S.C. 80a-2));



1 “(x) a registered entity (as defined in  
2 section 1a of the Commodity Exchange Act  
3 (7 U.S.C. 1a)), or a futures commission  
4 merchant, introducing broker, commodity  
5 pool operator, or commodity trading advi-  
6 sor (as defined in section 1a of the Com-  
7 modity Exchange Act (7 U.S.C. 1a)) that  
8 is registered with the Commodity Futures  
9 Trading Commission;

10 “(xi) a public accounting firm reg-  
11 istered in accordance with section 102 of  
12 the Sarbanes-Oxley Act (15 U.S.C. 7212);

13 “(xii) a public utility that provides  
14 telecommunications service, electrical  
15 power, natural gas, or water and sewer  
16 services, within the United States;

17 “(xiii) a church, charity, or nonprofit  
18 entity that is described in section 501(c),  
19 527, or 4947(a)(1) of the Internal Revenue  
20 Code of 1986, has not been denied tax ex-  
21 empt status, and has filed the most re-  
22 cently due annual information return with  
23 the Internal Revenue Service, if required to  
24 file such a return;

25 “(xiv) any business concern that—

1                   “(I) employs more than 20 em-  
2                   ployees on a full-time basis in the  
3                   United States;

4                   “(II) files income tax returns in  
5                   the United States demonstrating more  
6                   than \$5,000,000 in gross receipts or  
7                   sales; and

8                   “(III) has an operating presence  
9                   at a physical office within the United  
10                  States; or

11                  “(xv) any corporation or limited liabil-  
12                  ity company formed and owned by an enti-  
13                  ty described in clause (i), (ii), (iii), (iv),  
14                  (v), (vi), (vii), (viii), (ix), (x), (xi), (xii),  
15                  (xiii), or (xiv); and

16                  “(D) do not include any individual busi-  
17                  ness concern or class of business concerns  
18                  which the Secretary of the Treasury, with the  
19                  written concurrence of the Attorney General of  
20                  the United States, has determined in writing  
21                  should be exempt from the requirements of sub-  
22                  section (a), because requiring beneficial owner-  
23                  ship information from the business concern  
24                  would not serve the public interest and would  
25                  not assist law enforcement efforts to detect,

1 prevent, or punish terrorism, money laundering,  
2 tax evasion, or other misconduct.

3 “(3) FORMATION AGENT.—The term ‘formation  
4 agent’ means a person who, for compensation—

5 “(A) acts on behalf of another person to  
6 assist in the formation of a corporation or lim-  
7 ited liability company under the laws of a State;  
8 or

9 “(B) purchases, sells, or transfers the pub-  
10 lic records that form a corporation or limited li-  
11 ability company.

12 “(4) BANK SECRECY ACT.—The term ‘Bank Se-  
13 crecy Act’ means—

14 “(A) section 21 of the Federal Deposit In-  
15 surance Act;

16 “(B) chapter 2 of title I of Public Law 91–  
17 508; and

18 “(C) this subchapter.”.

19 (2) RULEMAKING.—To carry out this Act and  
20 the amendments made by this Act, the Secretary of  
21 the Treasury, in consultation with the Secretary of  
22 Homeland Security and the Attorney General of the  
23 United States, may issue guidance or a rule to—

1 (A) clarify the definitions under section  
2 5333(d) of title 31, United States Code, as  
3 added by paragraph (1); and

4 (B) specify how to verify beneficial owner-  
5 ship information or other identification infor-  
6 mation for purposes of such section 5333, in-  
7 cluding whether the verification procedures  
8 specified in section 5333(b)(3) should apply to  
9 all applicants under section 5333(b)(1) or  
10 whether such verification process should require  
11 the notarization of signatures.

12 (3) CONFORMING AMENDMENTS.—Title 31,  
13 United States Code, is amended—

14 (A) in section 5321(a)—

15 (i) in paragraph (1), by striking “sec-  
16 tions 5314 and 5315” each place it ap-  
17 pears and inserting “sections 5314, 5315,  
18 and 5333”; and

19 (ii) in paragraph (6), by inserting  
20 “(except section 5333)” after “sub-  
21 chapter” each place it appears; and

22 (B) in section 5322, by striking “section  
23 5315 or 5324” each place it appears and insert-  
24 ing “section 5315, 5324, or 5333”.

1           (4) TABLE OF CONTENTS.—The table of con-  
2           tents of chapter 53 of title 31, United States Code,  
3           is amended by inserting after the item relating to  
4           section 5332 the following:

“Sec. 5333. Transparent incorporation practices.”.

5           (5) RESTRICTIONS ON PUBLIC ACCESS.—A  
6           State may—

7                   (A) restrict public access to all or any por-  
8                   tion of the beneficial ownership information  
9                   provided to the State as described under section  
10                  5332 of title 31, United States Code, as added  
11                  by this Act; and

12                   (B) by statute, regulation, order, or inter-  
13                   pretation adopted or issued by the State after  
14                   the date of enactment of this Act, provide for  
15                   public access to all or any portion of such infor-  
16                   mation.

17           (6) NO DUTY OF VERIFICATION.—This Act and  
18           the amendments made by this Act do not impose  
19           any obligation on a State to verify the name, ad-  
20           dress, or identity of a beneficial owner whose infor-  
21           mation is submitted to such State under section  
22           5333 of title 31, United States Code, as added by  
23           this Act.

24           (b) FUNDING AUTHORIZATION.—

1           (1) IN GENERAL.—To carry out section 5333 of  
2           title 31, United States Code, during the 3-year pe-  
3           riod beginning on the date of enactment of this Act,  
4           funds shall be made available to each State to pay  
5           reasonable costs relating to compliance with the re-  
6           quirements of such section.

7           (2) FUNDING SOURCES.—To protect the United  
8           States against the misuse of United States corpora-  
9           tions and limited liability companies with hidden  
10          owners, funds shall be provided to each State to  
11          carry out the purposes described in paragraph (1)  
12          from one or more of the following sources:

13                (A) Upon application by a State, and with-  
14                out further appropriation, the Secretary of the  
15                Treasury shall make available to the State un-  
16                obligated balances described in section  
17                9703(g)(4)(B) of title 31, United States Code,  
18                in the Department of the Treasury Forfeiture  
19                Fund established under section 9703(a) of title  
20                31, United States Code.

21                (B) Upon application by a State, after con-  
22                sultation with the Secretary of the Treasury,  
23                and without further appropriation, the Attorney  
24                General of the United States shall make avail-  
25                able to the State excess unobligated balances

1 (as defined in section 524(c)(8)(D) of title 28,  
2 United States Code) in the Department of Jus-  
3 tice Assets Forfeiture Fund established under  
4 section 524(c) of title 28, United States Code.

5 (3) MAXIMUM AMOUNTS.—

6 (A) DEPARTMENT OF THE TREASURY.—

7 The Secretary of the Treasury may not make  
8 available to States a total of more than  
9 \$30,000,000 under paragraph (2)(A).

10 (B) DEPARTMENT OF JUSTICE.—The At-  
11 torney General of the United States may not  
12 make available to States a total of more than  
13 \$10,000,000 under paragraph (2)(B).

14 (4) RULEMAKING.—Not later than the end of  
15 the 180-day period beginning on the date of the en-  
16 actment of this Act, the Secretary of the Treasury  
17 and the Attorney General shall, jointly, issue regula-  
18 tions setting forth the procedures for States to apply  
19 for funds under this subsection, including deter-  
20 mining which State measures should be funded to  
21 assess, plan, develop, test, or implement relevant  
22 policies, procedures, or system modifications.

23 (c) COMPLIANCE REPORT.—Nothing in this section  
24 or the amendments made by this section authorizes the  
25 Secretary of the Treasury to withhold from a State any

1 funding otherwise available to the State because of a fail-  
2 ure by that State to comply with section 5333 of title 31,  
3 United States Code. Not later than the end of the 42-  
4 month period beginning on the date of the enactment of  
5 this Act, the Comptroller General of the United States  
6 shall submit to the Committee on Financial Services of  
7 the House of Representatives and the Committee on  
8 Homeland Security and Governmental Affairs of the Sen-  
9 ate a report—

10 (1) identifying which States obtain beneficial  
11 ownership information as described in such section  
12 5333;

13 (2) with respect to each State that does not ob-  
14 tain such information, whether corporations and lim-  
15 ited liability companies formed under the laws of  
16 such State are in compliance with such section 5333  
17 and providing the specified beneficial ownership in-  
18 formation to the Financial Crimes Enforcement Net-  
19 work; and

20 (3) whether the Department of the Treasury is  
21 in compliance with such section 5333 and, if not,  
22 what steps it must take to come into compliance  
23 with this section.

24 (d) FEDERAL CONTRACTORS.—Not later than the  
25 first day of the first full fiscal year beginning at least one



1 year after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall revise the Federal Acquisition Regulation maintained under section 1303(a)(1) of title 41, United States Code, to require any contractor who is subject to the requirement to disclose beneficial ownership information under section 5333 of title 31, United States Code, to provide the information required to be disclosed under such section to the Federal Government as part of any bid or proposal for a contract with a value threshold in excess of the simplified acquisition threshold under section 134 of title 41, United States Code.

(e) ANTI-MONEY LAUNDERING OBLIGATIONS OF FORMATION AGENTS.—

(1) IN GENERAL.—Section 5312(a)(2) of title 31, United States Code, is amended—

(A) in subparagraph (Y), by striking “or” at the end;

(B) by redesignating subparagraph (Z) as subparagraph (AA); and

(C) by inserting after subparagraph (Y) the following:

“(Z) any person who, for compensation—

“(i) acts on behalf of another person to form, or assist in formation of, a cor-

poration or limited liability company under  
the laws of a State; or

“(ii) purchases, sells, or transfers the  
public records that form a corporation or  
limited liability company; or”.

(2) DEADLINE FOR ANTI-MONEY LAUNDERING  
RULE FOR FORMATION AGENTS.—

(A) PROPOSED RULE.—Not later than 120  
days after the date of enactment of this Act,  
the Secretary of the Treasury, in consultation  
with the Attorney General of the United States  
and the Commissioner of the Internal Revenue  
Service, shall publish a proposed rule in the  
Federal Register requiring persons described in  
section 5312(a)(2)(Z) of title 31, United States  
Code, as amended by this subsection, to estab-  
lish anti-money laundering programs under sub-  
section (h) of section 5318 of that title.

(B) FINAL RULE.—Not later than 270  
days after the date of enactment of this Act,  
the Secretary of the Treasury shall publish the  
rule described in this subsection in final form in  
the Federal Register.

(C) EXCLUSIONS.—Any rule promulgated  
under this subsection shall exclude from the

category of persons involved in forming a corporation or limited liability company—

(i) any government agency; and

(ii) any attorney or law firm that uses a paid formation agent operating within the United States to form the corporation or limited liability company.

**SEC. 4. STUDIES AND REPORTS.**

(a) OTHER LEGAL ENTITIES.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and submit to the Congress a report—

(1) identifying each State that has procedures that enable persons to form or register under the laws of the State partnerships, trusts, or other legal entities, and the nature of those procedures;

(2) identifying each State that requires persons seeking to form or register partnerships, trusts, or other legal entities under the laws of the State to provide information about the beneficial owners (as that term is defined in section 5333(d)(1) of title 31, United States Code, as added by this Act) or beneficiaries of such entities, and the nature of the required information;

1           (3) evaluating whether the lack of available  
2       beneficial ownership information for partnerships,  
3       trusts, or other legal entities—

4           (A) raises concerns about the involvement  
5       of such entities in terrorism, money laundering,  
6       tax evasion, securities fraud, or other mis-  
7       conduct; and

8           (B) has impeded investigations into enti-  
9       ties suspected of such misconduct; and

10          (4) evaluating whether the failure of the United  
11       States to require beneficial ownership information  
12       for partnerships and trusts formed or registered in  
13       the United States has elicited international criticism  
14       and what steps, if any, the United States has taken  
15       or is planning to take in response.

16       (b) EFFECTIVENESS OF INCORPORATION PRAC-  
17       TICES.—Not later than 5 years after the date of enact-  
18       ment of this Act, the Comptroller General of the United  
19       States shall conduct a study and submit to the Congress  
20       a report assessing the effectiveness of incorporation prac-  
21       tices implemented under this Act and the amendments  
22       made by this Act in—

23           (1) providing law enforcement agencies with  
24       prompt access to reliable, useful, and complete bene-  
25       ficial ownership information; and

1           (2) strengthening the capability of law enforce-  
2           ment agencies to combat incorporation abuses, civil  
3           and criminal misconduct, and detect, prevent, or  
4           punish terrorism, money laundering, tax evasion, or  
5           other misconduct.

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