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(Original Signature of Member)

113TH CONGRESS
1ST SESSION

H. R.

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.

IN THE HOUSE OF REPRESENTATIVES

Mrs. CAROLYN B. MALONEY of New York introduced the following bill; which was referred to the Committee on _____

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 “Incorporation Trans-
5 parency and Law Enforcement Assistance Act”.

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 efiticial 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.

24 (7) In response to the FATF report, the United
25 States has repeatedly urged the States to strengthen

1 their incorporation practices by obtaining beneficial
2 ownership information for the corporations and lim-
3 ited liability companies formed under the laws of
4 such States.

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

13 (9) Dozens of Internet Web sites highlight the
14 anonymity of beneficial owners allowed under the in-
15 corporation practices of some States, point to those
16 practices as a reason to incorporate in those States,
17 and list those States together with offshore jurisdic-
18 tions as preferred locations for the formation of new
19 corporations, essentially providing an open invitation
20 to criminals and other wrongdoers to form entities
21 within the United States.

22 (10) In contrast to practices in the United
23 States, all 28 countries in the European Union are
24 required to have formation agents identify the bene-

1 ficial owners of the corporations formed under the
2 laws of the country.

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

18 **SEC. 3. TRANSPARENT INCORPORATION PRACTICES.**

19 (a) TRANSPARENT INCORPORATION PRACTICES.—

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

23 **“§ 5333. Transparent incorporation practices**

24 “(a) REPORTING REQUIREMENTS.—

1 “(1) IN GENERAL.—Not later than the begin-
2 ning of fiscal year 2016, the Secretary of the Treas-
3 ury shall issue regulations requiring each corpora-
4 tion and limited liability company formed in a State
5 that does not have a formation system described
6 under subsection (b) to file with the Secretary such
7 information as the corporation or limited liability
8 company would be required to provide the State if
9 such State had a formation system described under
10 subsection (b).

11 “(2) DISCLOSURE OF BENEFICIAL OWNERSHIP
12 INFORMATION.—Beneficial ownership information
13 reported to the Secretary of the Treasury pursuant
14 to paragraph (1) shall be provided by the Secretary
15 of the Treasury upon receipt of—

16 “(A) a civil or criminal subpoena or sum-
17 mons from a State agency, Federal agency, or
18 congressional committee or subcommittee re-
19 questing such information;

20 “(B) a written request made by a Federal
21 agency on behalf of another country under an
22 international treaty, agreement, or convention,
23 or an order under section 3512 of title 18,
24 United States Code, or section 1782 of title 28,

1 United States Code, issued in response to a re-
2 quest for assistance from a foreign country; or

3 “(C) a written request made by the Finan-
4 cial Crimes Enforcement Network of the De-
5 partment of the Treasury.

6 “(b) FORMATION SYSTEM.—

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

10 “(A) IDENTIFICATION OF BENEFICIAL
11 OWNERS.—Except as provided in paragraphs
12 (2) and (4), and subject to paragraph (3), each
13 applicant to form a corporation or limited liabil-
14 ity company under the laws of the State is re-
15 quired to provide to the State during the forma-
16 tion process a list of the beneficial owners of
17 the corporation or limited liability company
18 that—

19 “(i) except as provided in subpara-
20 graph (F), identifies each beneficial owner
21 by—

22 “(I) name;

23 “(II) current residential or busi-
24 ness street address; and

1 “(III) a unique identifying num-
2 ber from a non-expired passport
3 issued by the United States or a non-
4 expired drivers license issued by a
5 State; and

6 “(ii) if the applicant is not the bene-
7 ficial owner, provides the identification in-
8 formation described in clause (i) relating
9 to the applicant.

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

13 “(i) the corporation or limited liability
14 company is required by the State to update
15 the list of the beneficial owners of the cor-
16 poration or limited liability company by
17 providing the information described in sub-
18 paragraph (A) to the State not later than
19 60 days after the date of any change in the
20 list of beneficial owners or the information
21 required to be provided relating to each
22 beneficial owner;

23 “(ii) in the case of a corporation or
24 limited liability company formed or ac-
25 quired by a formation agent and retained

1 by the formation agent as a beneficial
2 owner for transfer to another person, the
3 formation agent is required by the State to
4 submit to the State an updated list of the
5 beneficial owners and the information de-
6 scribed in subparagraph (A) for each such
7 beneficial owner not later than 10 days
8 after date on which the formation agent
9 transfers the corporation or limited liabil-
10 ity company to another person; and

11 “(iii) the corporation or limited liabil-
12 ity company is required by the State to
13 submit to the State an annual filing con-
14 taining the list of the beneficial owners of
15 the corporation or limited liability company
16 and the information described in subpara-
17 graph (A) for each such beneficial owner.

18 “(C) RETENTION OF INFORMATION.—Ben-
19 efiticial ownership information relating to each
20 corporation or limited liability company formed
21 under the laws of the State is required to be
22 maintained by the State until the end of the 5-
23 year period beginning on the date that the cor-
24 poration or limited liability company terminates
25 under the laws of the State.

1 “(D) INFORMATION REQUESTS.—Bene-
2 ficial ownership information relating to each
3 corporation or limited liability company formed
4 under the laws of the State shall be provided by
5 the State upon receipt of—

6 “(i) a civil or criminal subpoena or
7 summons from a State agency, Federal
8 agency, or congressional committee or sub-
9 committee requesting such information;

10 “(ii) a written request made by a Fed-
11 eral agency on behalf of another country
12 under an international treaty, agreement,
13 or convention, or section 1782 of title 28,
14 United States Code; or

15 “(iii) a written request made by the
16 Financial Crimes Enforcement Network.

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

24 “(2) STATES THAT LICENSE FORMATION
25 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 nonexpired drivers 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 nonexpired passport issued by the government
3 of a foreign country bearing a photograph, date
4 of birth, and unique identifying information for
5 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
10 verification described in subparagraph (B) upon
11 request under the same circumstances as re-
12 quired 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; or

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

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

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

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

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

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

1 “(1) BENEFICIAL OWNER.—

2 “(A) IN GENERAL.—Except as provided in
3 subparagraph (B), the term ‘beneficial owner’
4 means a natural person who, directly or indi-
5 rectly—

6 “(i) exercises substantial control over
7 a corporation or limited liability company;
8 or

9 “(ii) has a substantial interest in or
10 receives substantial economic benefits from
11 the assets of a corporation or limited liabil-
12 ity company.

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

15 “(i) a minor child;

16 “(ii) a person acting as a nominee,
17 intermediary, custodian, or agent on behalf
18 of another person;

19 “(iii) a person acting solely as an em-
20 ployee of a corporation or limited liability
21 company and whose control over or eco-
22 nomic benefits from the corporation or lim-
23 ited liability company derives solely from
24 the employment status of the person;

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

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

10 “(2) CORPORATION; LIMITED LIABILITY COM-
11 PANY.—The terms ‘corporation’ and ‘limited liability
12 company’—

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

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

19 “(C) do not include any entity that is, and
20 discloses in the application by the entity to
21 form under the laws of the State or, if the enti-
22 ty was formed before the date of the enactment
23 of this section, in a filing with the State under
24 State law—

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

7 “(ii) a business concern constituted or
8 sponsored by a State, a political subdivi-
9 sion of a State, under an interstate com-
10 pact between 2 or more States, by a de-
11 partment or agency of the United States,
12 or under the laws of the United States;

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

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

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

22 “(vi) a broker or dealer (as defined in
23 section 3 of the Securities Exchange Act of
24 1934 (15 U.S.C. 78c)) that is registered

1 under section 15 of the Securities and Ex-
2 change Act of 1934 (15 U.S.C. 78o);

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

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

22 “(ix) an insurance company (as de-
23 fined in section 2 of the Investment Com-
24 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(e),
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 (2) RULEMAKING.—To carry out this Act and
13 the amendments made by this Act, the Secretary of
14 the Treasury, in consultation with the Secretary of
15 Homeland Security and the Attorney General of the
16 United States, may issue guidance or a rule to—

17 (A) clarify the definitions under section
18 5333(d) of title 31, United States Code, as
19 added by paragraph (1); and

20 (B) specify how to verify beneficial owner-
21 ship information or other identification infor-
22 mation for purposes of such section 5333, in-
23 cluding whether the verification procedures
24 specified in section 5333(b)(3) should apply to
25 all applicants under section 5333(b)(1) or

1 whether such verification process should require
2 the notarization of signatures.

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

5 (A) in section 5321(a)—

6 (i) in paragraph (1), by striking “sec-
7 tions 5314 and 5315” each place it ap-
8 pears and inserting “sections 5314, 5315,
9 and 5333”; and

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

13 (B) in section 5322, by striking “section
14 5315 or 5324” each place it appears and insert-
15 ing “section 5315, 5324, or 5333”.

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

“Sec. 5333. Transparent incorporation practices.”.

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

22 (A) restrict public access to all or any por-
23 tion of the beneficial ownership information
24 provided to the State as described under section

1 5332 of title 31, United States Code, as added
2 by this Act; and

3 (B) by statute, regulation, order, or inter-
4 pretation adopted or issued by the State after
5 the date of enactment of this Act, provide for
6 public access to all or any portion of such infor-
7 mation.

8 (6) NO DUTY OF VERIFICATION.—This Act and
9 the amendments made by this Act do not impose
10 any obligation on a State to verify the name, ad-
11 dress, or identity of a beneficial owner whose infor-
12 mation is submitted to such State under section
13 5333 of title 31, United States Code, as added by
14 this Act.

15 (b) FUNDING AUTHORIZATION.—

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

22 (2) FUNDING SOURCES.—To protect the United
23 States against the misuse of United States corpora-
24 tions and limited liability companies with hidden
25 owners, funds shall be provided to each State to

1 carry out the purposes described in paragraph (1)
2 from one or more of the following sources:

3 (A) Upon application by a State, and with-
4 out further appropriation, the Secretary of the
5 Treasury shall make available to the State un-
6 obligated balances described in section
7 9703(g)(4)(B) of title 31, United States Code,
8 in the Department of the Treasury Forfeiture
9 Fund established under section 9703(a) of title
10 31, United States Code.

11 (B) Upon application by a State, after con-
12 sultation with the Secretary of the Treasury,
13 and without further appropriation, the Attorney
14 General of the United States shall make avail-
15 able to the State excess unobligated balances
16 (as defined in section 524(c)(8)(D) of title 28,
17 United States Code) in the Department of Jus-
18 tice Assets Forfeiture Fund established under
19 section 524(c) of title 28, United States Code.

20 (3) MAXIMUM AMOUNTS.—

21 (A) DEPARTMENT OF THE TREASURY.—
22 The Secretary of the Treasury may not make
23 available to States a total of more than
24 \$30,000,000 under paragraph (2)(A).

1 (B) DEPARTMENT OF JUSTICE.—The At-
2 torney General of the United States may not
3 make available to States a total of more than
4 \$10,000,000 under paragraph (2)(B).

5 (4) RULEMAKING.—Not later than the end of
6 the 180-day period beginning on the date of the en-
7 actment of this Act, the Secretary of the Treasury
8 and the Attorney General shall, jointly, issue regula-
9 tions setting forth the procedures for States to apply
10 for funds under this subsection, including deter-
11 mining which State measures should be funded to
12 assess, plan, develop, test, or implement relevant
13 policies, procedures, or system modifications.

14 (c) COMPLIANCE REPORT.—Nothing in this section
15 or the amendments made by this section authorizes the
16 Secretary of the Treasury to withhold from a State any
17 funding otherwise available to the State because of a fail-
18 ure by that State to comply with section 5333 of title 31,
19 United States Code. Not later than the end of the 42-
20 month period beginning on the date of the enactment of
21 this Act, the Comptroller General of the United States
22 shall submit to the Committee on Financial Services of
23 the House of Representatives and the Committee on
24 Homeland Security and Governmental Affairs of the Sen-
25 ate a report—

1 (1) identifying which States obtain beneficial
2 ownership information as described in such section
3 5333;

4 (2) with respect to each State that does not ob-
5 tain such information, whether corporations and lim-
6 ited liability companies formed under the laws of
7 such State are in compliance with such section 5333
8 and providing the specified beneficial ownership in-
9 formation to the Secretary of the Treasury; and

10 (3) whether the Department of the Treasury is
11 in compliance with such section 5333 and, if not,
12 what steps it must take to come into compliance
13 with this section.

14 (d) FEDERAL CONTRACTORS.—Not later than the
15 first day of the first full fiscal year beginning at least one
16 year after the date of the enactment of this Act, the Ad-
17 ministrator for Federal Procurement Policy shall revise
18 the Federal Acquisition Regulation maintained under sec-
19 tion 1303(a)(1) of title 41, United States Code, to require
20 any contractor who is subject to the requirement to dis-
21 close beneficial ownership information under section 5333
22 of title 31, United States Code, to provide the information
23 required to be disclosed under such section to the Federal
24 Government as part of any bid or proposal for a contract
25 with a value threshold in excess of the simplified acquisi-

1 tion threshold under section 134 of title 41, United States
2 Code.

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

5 (1) IN GENERAL.—Section 5312(a)(2) of title
6 31, United States Code, is amended—

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

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

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

13 “(Z) any person who, for compensation—

14 “(i) acts on behalf of another person
15 to form, or assist in formation of, a cor-
16 poration or limited liability company under
17 the laws of a State; or

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

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

23 (A) PROPOSED RULE.—Not later than 120
24 days after the date of enactment of this Act,
25 the Secretary of the Treasury, in consultation

1 with the Attorney General of the United States
2 and the Commissioner of the Internal Revenue
3 Service, shall publish a proposed rule in the
4 Federal Register requiring persons described in
5 section 5312(a)(2)(Z) of title 31, United States
6 Code, as amended by this subsection, to estab-
7 lish anti-money laundering programs under sub-
8 section (h) of section 5318 of that title.

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

14 (C) EXCLUSIONS.—Any rule promulgated
15 under this subsection shall exclude from the
16 category of persons involved in forming a cor-
17 poration or limited liability company—

- 18 (i) any government agency; and
19 (ii) any attorney or law firm that uses
20 a paid formation agent operating within
21 the United States to form the corporation
22 or limited liability company.

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

24 (a) OTHER LEGAL ENTITIES.—Not later than 2
25 years after the date of enactment of this Act, the Comp-

1 troller General of the United States shall conduct a study
2 and submit to the Congress a report—

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

7 (2) identifying each State that requires persons
8 seeking to form or register partnerships, trusts, or
9 other legal entities under the laws of the State to
10 provide information about the beneficial owners (as
11 that term is defined in section 5333(d)(1) of title
12 31, United States Code, as added by this Act) or
13 beneficiaries of such entities, and the nature of the
14 required information;

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

18 (A) raises concerns about the involvement
19 of such entities in terrorism, money laundering,
20 tax evasion, securities fraud, or other mis-
21 conduct; and

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

24 (4) evaluating whether the failure of the United
25 States to require beneficial ownership information

1 for partnerships and trusts formed or registered in
2 the United States has elicited international criticism
3 and what steps, if any, the United States has taken
4 or is planning to take in response.

5 (b) EFFECTIVENESS OF INCORPORATION PRAC-
6 TICES.—Not later than 5 years after the date of enact-
7 ment of this Act, the Comptroller General of the United
8 States shall conduct a study and submit to the Congress
9 a report assessing the effectiveness of incorporation prac-
10 tices implemented under this Act and the amendments
11 made by this Act in—

12 (1) providing law enforcement agencies with
13 prompt access to reliable, useful, and complete bene-
14 ficial ownership information; and

15 (2) strengthening the capability of law enforce-
16 ment agencies to combat incorporation abuses, civil
17 and criminal misconduct, and detect, prevent, or
18 punish terrorism, money laundering, tax evasion, or
19 other misconduct.