

In carrying out such negotiations, the Secretary should seek to enter into and further cooperative efforts, voluntary information exchanges, the use of letters rogatory, and mutual legal assistance treaties.

“(d) REPORTS.—Not later than 1 year after the date of enactment of this Act [Nov. 18, 1988], the Secretary shall submit an interim report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on progress in the negotiations under subsection (c). Not later than 2 years after such enactment, the Secretary shall submit a final report to such Committees and the President on the outcome of those negotiations and shall identify, in consultation with the Attorney General and the Director of National Drug Control Policy, countries—

“(1) with respect to which the Secretary determines there is evidence that the financial institutions in such countries are engaging in currency transactions involving the proceeds of international narcotics trafficking; and

“(2) which have not reached agreement with United States authorities on a mechanism for exchanging adequate records on international currency transactions in connection with narcotics investigations and proceedings.

“(e) AUTHORITY.—If after receiving the advice of the Secretary and in any case at the time of receipt of the Secretary's report, the Secretary determines that a foreign country—

“(1) has jurisdiction over financial institutions that are substantially engaging in currency transactions that effect [affect] the United States involving the proceeds of international narcotics trafficking;

“(2) such country has not reached agreement on a mechanism for exchanging adequate records on international currency transactions in connection with narcotics investigations and proceedings; and

“(3) such country is not negotiating in good faith to reach such an agreement, the President shall impose appropriate penalties and sanctions, including temporarily or permanently—

“(1) prohibiting such persons, institutions or other entities in such countries from participating in any United States dollar clearing or wire transfer system; and

“(2) prohibiting such persons, institutions or entities in such countries from maintaining an account with any bank or other financial institution chartered under the laws of the United States or any State.

Any penalties or sanctions so imposed may be delayed or waived upon certification of the President to the Congress that it is in the national interest to do so. Financial institutions in such countries that maintain adequate records shall be exempt from such penalties and sanctions.

“(f) DEFINITIONS.—For the purposes of this section—

“(1) The term ‘United States currency’ means Federal Reserve Notes and United States coins.

“(2) The term ‘adequate records’ means records of United States’ currency transactions in excess of \$10,000 including the identification of the person initiating the transaction, the person's business or occupation, and the account or accounts affected by the transaction, or other records of comparable effect.”

INTERNATIONAL INFORMATION EXCHANGE SYSTEM; STUDY OF FOREIGN BRANCHES OF DOMESTIC INSTITUTIONS

Pub. L. 99-570, title I, §1363, Oct. 27, 1986, 100 Stat. 3207-33, required the Secretary of the Treasury to initiate discussions with the central banks or other appropriate governmental authorities of other countries and propose that an information exchange system be established to reduce international flow of money derived from illicit drug operations and other criminal activities and to report to Congress before the end of the 9-month period beginning Oct. 27, 1986. The Secretary of the Treasury was also required to conduct a study of (1)

the extent to which foreign branches of domestic institutions are used to facilitate illicit transfers of or to evade reporting requirements on transfers of coins, currency, and other monetary instruments into and out of the United States; (2) the extent to which the law of the United States is applicable to the activities of such foreign branches; and (3) methods for obtaining the cooperation of the country in which any such foreign branch is located for purposes of enforcing the law of the United States with respect to transfers, and reports on transfers, of such monetary instruments into and out of the United States and to report to Congress before the end of the 9-month period beginning Oct. 27, 1986.

§ 5312. Definitions and application

(a) In this subchapter—

(1) “financial agency” means a person acting for a person (except for a country, a monetary or financial authority acting as a monetary or financial authority, or an international financial institution of which the United States Government is a member) as a financial institution, bailee, depository trustee, or agent, or acting in a similar way related to money, credit, securities, gold, or a transaction in money, credit, securities, or gold.

(2) “financial institution” means—

(A) an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)));

(B) a commercial bank or trust company;

(C) a private banker;

(D) an agency or branch of a foreign bank in the United States;

(E) any credit union;

(F) a thrift institution;

(G) a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);

(H) a broker or dealer in securities or commodities;

(I) an investment banker or investment company;

(J) a currency exchange;

(K) an issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments;

(L) an operator of a credit card system;

(M) an insurance company;

(N) a dealer in precious metals, stones, or jewels;

(O) a pawnbroker;

(P) a loan or finance company;

(Q) a travel agency;

(R) a licensed sender of money or any other person who engages as a business in the transmission of funds, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system;

(S) a telegraph company;

(T) a business engaged in vehicle sales, including automobile, airplane, and boat sales;

(U) persons involved in real estate closings and settlements;

(V) the United States Postal Service;

(W) an agency of the United States Government or of a State or local government

carrying out a duty or power of a business described in this paragraph;

(X) a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than \$1,000,000 which—

(i) is licensed as a casino, gambling casino, or gaming establishment under the laws of any State or any political subdivision of any State; or

(ii) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class I gaming (as defined in section 4(6) of such Act);

(Y) any business or agency which engages in any activity which the Secretary of the Treasury determines, by regulation, to be an activity which is similar to, related to, or a substitute for any activity in which any business described in this paragraph is authorized to engage; or

(Z) any other business designated by the Secretary whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters.

(3) “monetary instruments” means—

(A) United States coins and currency;

(B) as the Secretary may prescribe by regulation, coins and currency of a foreign country, travelers’ checks, bearer negotiable instruments, bearer investment securities, bearer securities, stock on which title is passed on delivery, and similar material; and

(C) as the Secretary of the Treasury shall provide by regulation for purposes of sections 5316 and 5331, checks, drafts, notes, money orders, and other similar instruments which are drawn on or by a foreign financial institution and are not in bearer form.

(4) **NONFINANCIAL TRADE OR BUSINESS.**—The term “nonfinancial trade or business” means any trade or business other than a financial institution that is subject to the reporting requirements of section 5313 and regulations prescribed under such section.

(5) “person”, in addition to its meaning under section 1 of title 1, includes a trustee, a representative of an estate and, when the Secretary prescribes, a governmental entity.

(6) “United States” means the States of the United States, the District of Columbia, and, when the Secretary prescribes by regulation, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands, a territory or possession of the United States, or a military or diplomatic establishment.

(b) In this subchapter—

(1) “domestic financial agency” and “domestic financial institution” apply to an action in the United States of a financial agency or institution.

(2) “foreign financial agency” and “foreign financial institution” apply to an action outside the United States of a financial agency or institution.

(c) **ADDITIONAL DEFINITIONS.**—For purposes of this subchapter, the following definitions shall apply:

(1)¹ **CERTAIN INSTITUTIONS INCLUDED IN DEFINITION.**—The term “financial institution” (as defined in subsection (a)) includes the following:

(A)² Any futures commission merchant, commodity trading advisor, or commodity pool operator registered, or required to register, under the Commodity Exchange Act.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 995; Pub. L. 99-570, title I, §1362, Oct. 27, 1986, 100 Stat. 3207-33; Pub. L. 100-690, title VI, §6185(a), (g)(1), Nov. 18, 1988, 102 Stat. 4354, 4357; Pub. L. 103-325, title IV, §§405, 409, Sept. 23, 1994, 108 Stat. 2247, 2252; Pub. L. 107-56, title III, §§321(a), (b), 359(a), 365(c)(1), (2)(A), Oct. 26, 2001, 115 Stat. 315, 328, 335; Pub. L. 108-458, title VI, §§6202(g), 6203(b), Dec. 17, 2004, 118 Stat. 3746.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5312(a)(1)	31:1052(a), (b), (g), (i).	Oct. 26, 1970, Pub. L. 91-508, §203(a)–(i), (l), 84 Stat. 1118.
5312(a)(2)	31:1052(e).	
5312(a)(3)	31:1052(l).	
5312(a)(4)	31:1052(c).	
5312(a)(5)	31:1052(d).	
5312(b)	31:1052(f), (h).	

In subsection (a)(1), the text of 31:1052(a) is omitted as unnecessary. The text of 31:1052(b) is omitted because of the restatement. The text of 31:1052(i) is omitted as unnecessary because the source provision is restated where necessary in the revised subchapter.

In subsection (a)(2), (3), (4), and (5), the words “the Secretary . . . prescribes” are substituted for “specified by the Secretary by regulation”, “as the Secretary may by regulation specify”, “specified by the Secretary”, and “the Secretary shall by regulation specify” for consistency.

In subsection (a)(2) and (3), the words “for the purposes of the provision of this chapter to which the regulation relates” are omitted as surplus.

In subsection (a)(2), before subclause (A), the words “any person which does business in any one or more of the following capacities” are omitted as surplus. In subclause (F), the words “savings bank, building and loan association, credit union, industrial bank, or other” are omitted as surplus. In subclause (T), the words “agency of the United States Government or of a State or local government” are substituted for “Federal, State, or local government institution” for consistency. In subclause (U), the words “type of” are omitted as surplus. The word “agency” is substituted for “institution” for consistency.

In subsection (a)(3)(B)–(5), the word “prescribe” is substituted for “specify” for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(3)(B), the words “in addition”, and “and such types of” are omitted as surplus. The words “similar material” are substituted for “the equivalent thereof” for clarity.

In subsection (a)(4), the words “in addition to its meaning under section 1 of title 1” are substituted for “natural persons, partnerships, . . . associations, corporations, and all entities cognizable as legal personalities” for consistency because 1:1 is applicable to all laws unless otherwise provided. The words “a trustee, a representative of an estate” are substituted for “trusts, estates”, and the word “entity” is substituted for “department or agency”, for consistency. The words “either for the purpose of this chapter generally or any particular requirement thereunder” are omitted as surplus.

In subsection (a)(5), the words “used in a geographic sense” are omitted because of the restatement. The

¹ So in original. No par. (2) has been enacted.

² So in original. No subpar. (B) has been enacted.

words “either for the purposes of this chapter generally or any particular requirement thereunder” are omitted as surplus. The words “territory or” are added for consistency.

Subsection (b) is substituted for 31:1052(f) and (h) to eliminate unnecessary words and for consistency.

REFERENCES IN TEXT

The Securities Exchange Act of 1934, referred to in subsec. (a)(2)(G), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§ 78a et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

The Indian Gaming Regulatory Act, referred to in subsec. (a)(2)(X)(ii), is Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, as amended, which is classified principally to chapter 29 (§ 2701 et seq.) of Title 25, Indians. Section 4(6) of the Act is classified to section 2703(6) of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

The Commodity Exchange Act, referred to in subsec. (c)(1)(A), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, as amended, which is classified generally to chapter 1 (§ 1 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1 of Title 7 and Tables.

AMENDMENTS

2004—Subsec. (a)(2)(E). Pub. L. 108-458, § 6202(g), made technical correction to directory language of Pub. L. 107-56, § 321(a). See 2001 Amendment note below.

Subsec. (a)(3)(C). Pub. L. 108-458, § 6203(b), substituted “sections 5316 and 5331” for “sections 5333 and 5316”.

2001—Subsec. (a)(2)(E). Pub. L. 107-56, § 321(a), as amended by Pub. L. 108-458, § 6202(g), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: “an insured institution (as defined in section 401(a) of the National Housing Act (12 U.S.C. 1724(a)))”.

Subsec. (a)(2)(R). Pub. L. 107-56, § 359(a), amended subpar. (R) generally. Prior to amendment, subpar. (R) read as follows: “a licensed sender of money”.

Subsec. (a)(3)(C). Pub. L. 107-56, § 365(c)(2)(A), substituted “sections 5333 and 5316,” for “section 5316.”

Subsec. (a)(4) to (6). Pub. L. 107-56, § 365(c)(1), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (c). Pub. L. 107-56, § 321(b), added subsec. (c). 1994—Subsec. (a)(2)(X) to (Z). Pub. L. 103-325, § 409, added subpar. (X) and redesignated former subpars. (X) and (Y) as (Y) and (Z), respectively.

Subsec. (a)(3)(C). Pub. L. 103-325, § 405, added subpar. (C).

1988—Subsec. (a)(2)(T) to (Y). Pub. L. 100-690, § 6185(a), added subpars. (T) to (Y) and struck out former subpars. (T) and (U) which read as follows:

“(T) an agency of the United States Government or of a State or local government carrying out a duty or power of a business described in this clause (2), including the United States Postal Service; or

“(U) another business or agency carrying out a similar, related, or substitute duty or power the Secretary of the Treasury prescribes.”

Subsec. (a)(5). Pub. L. 100-690, § 6185(g)(1), inserted a comma after “Puerto Rico” and struck out second comma after “Pacific Islands”.

1986—Subsec. (a)(2)(T). Pub. L. 99-570, § 1362(a), which directed that the Postal Service be included within United States agencies by amending subsec. (a)(2)(U) of this section by inserting before the semicolon at the end thereof the following “, including the United States Postal Service”, was executed to subsec. (a)(2)(T) of this section as the probable intent of Congress, because subsec. (a)(2)(U) does not contain a semicolon and subsec. (a)(2)(T) relates to United States agencies.

Subsec. (a)(5). Pub. L. 99-570, § 1362(b), inserted “the Virgin Islands, Guam, the Northern Mariana Islands,

American Samoa, the Trust Territory of the Pacific Islands,” after “Puerto Rico”.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-458 effective as if included in Pub. L. 107-56, as of the date of enactment of such Act, and no amendment made by Pub. L. 107-56 that is inconsistent with such amendment to be deemed to have taken effect, see section 6205 of Pub. L. 108-458, set out as a note under section 1828 of Title 12, Banks and Banking.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 5313. Reports on domestic coins and currency transactions

(a) When a domestic financial institution is involved in a transaction for the payment, receipt, or transfer of United States coins or currency (or other monetary instruments the Secretary of the Treasury prescribes), in an amount, denomination, or amount and denomination, or under circumstances the Secretary prescribes by regulation, the institution and any other participant in the transaction the Secretary may prescribe shall file a report on the transaction at the time and in the way the Secretary prescribes. A participant acting for another person shall make the report as the agent or bailee of the person and identify the person for whom the transaction is being made.

(b) The Secretary may designate a domestic financial institution as an agent of the United States Government to receive a report under this section. However, the Secretary may designate a domestic financial institution that is not insured, chartered, examined, or registered as a domestic financial institution only if the institution consents. The Secretary may suspend or revoke a designation for a violation of this subchapter or a regulation under this subchapter (except a violation of section 5315 of this title or a regulation prescribed under section 5315), section 411¹ of the National Housing Act (12 U.S.C. 1730d), or section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b).

(c)(1) A person (except a domestic financial institution designated under subsection (b) of this section) required to file a report under this section shall file the report—

(A) with the institution involved in the transaction if the institution was designated;

(B) in the way the Secretary prescribes when the institution was not designated; or

(C) with the Secretary.

(2) The Secretary shall prescribe—

(A) the filing procedure for a domestic financial institution designated under subsection (b) of this section; and

(B) the way the institution shall submit reports filed with it.

(d) MANDATORY EXEMPTIONS FROM REPORTING REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall exempt, pursuant to section

¹ See References in Text note below.