

118TH CONGRESS  
1ST SESSION

# H. R. 5485

To require the Secretary of the Treasury to provide for greater transparency and protections with regard to Bank Secrecy Act reports, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2023

Mr. HILL (for himself and Mr. HIMES) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To require the Secretary of the Treasury to provide for greater transparency and protections with regard to Bank Secrecy Act reports, 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 “Financial Privacy Act  
5 of 2023”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) Pursuant to the Bank Secrecy Act  
9 (“BSA”), the Secretary of the Treasury, acting

1 through the Financial Crimes Enforcement Network  
2 (“FinCEN”), collects millions of reports annually on  
3 the economic activity of ordinary Americans.

4 (2) Since 2001, FinCEN has applied the BSA  
5 to collect over 322,000,000 Currency Transaction  
6 Reports and more than 36,000,000 Suspicious Ac-  
7 tivity Reports, as well as nearly 5,000,000 Form  
8 8300 Reports. In addition, FinCEN expects to  
9 amass beneficial ownership information (“BOI”)  
10 from 32,000,000 companies in its initial year of col-  
11 lection, plus 5,000,000 additional companies impli-  
12 cated each year thereafter.

13 (3) The mass of reporting collected by FinCEN  
14 suggests that, while certain BSA reports might  
15 prove useful to combat illicit finance, the bulk of  
16 BSA-related data may possess little to no nexus to  
17 legitimate law enforcement or intelligence purposes,  
18 even as it encompasses highly sensitive details on the  
19 everyday lives of Americans.

20 (4) By law, the Secretary of the Treasury must  
21 ensure the security and confidentiality of BSA data.  
22 In a Notice of Proposed Rulemaking from December  
23 2022, FinCEN acknowledged that “BOI is highly  
24 sensitive information. FinCEN therefore views it as

1 critical to mitigate the risk of unauthorized disclo-  
2 sure of BOI as much as possible.”.

3 **SEC. 3. REPORTS TO CONGRESS; REVIEW OF PROTOCOLS**  
4 **FOR AGENCY ACCESS TO REPORTS.**

5 (a) IN GENERAL.—Chapter 53 of title 31, United  
6 States Code, is amended—

7 (1) in subchapter II, by inserting after section  
8 5326 the following:

9 **“§ 5327. Reports to Congress; Review of protocols for**  
10 **agency access to reports**

11 “(a) REPORTS TO CONGRESS.—Not later than 180  
12 days following the date of the enactment of this section,  
13 and annually thereafter, the Secretary of the Treasury  
14 shall submit to the Committee on Financial Services of  
15 the House of Representatives and the Committee on  
16 Banking, Housing, and Urban Affairs of the Senate a re-  
17 port containing the following:

18 “(1) The number of reports, by type, filed each  
19 year with the Financial Crimes Enforcement Net-  
20 work (‘FinCEN’) under this subchapter since Janu-  
21 ary 1, 2022.

22 “(2) The total number of reports filed under  
23 this subchapter retained by FinCEN.

24 “(3) A description of any written protocols or  
25 guidance from the Secretary to national security,

1 law enforcement, or intelligence agencies regarding  
2 agency access to, and retention or dissemination of,  
3 information held by FinCEN from reports filed  
4 under this subchapter, including—

5 “(A) a description of any updates to the  
6 protocols or guidance during the reporting pe-  
7 riod;

8 “(B) the number of queries by such agen-  
9 cies to access the information during the report-  
10 ing period; and

11 “(C) any denials of requests for, or revoca-  
12 tions of, access by a national security, law en-  
13 forcement, or intelligence agency, or by any em-  
14 ployee thereof, with a description of the reasons  
15 for the denial or revocation, as the case may be.

16 “(b) REVIEW AND REVISION OF PROTOCOLS.—In  
17 consultation with the Director of National Intelligence and  
18 the Attorney General, the Secretary of the Treasury shall  
19 annually review and, as appropriate, revise any written  
20 protocols or guidance described under subsection (a) for  
21 the purposes of—

22 “(1) better tailoring the collection, retention,  
23 and dissemination of information filed under this  
24 subchapter to authorized national security, law en-  
25 forcement, or intelligence objectives;

1           “(2) enforcing prohibitions against unauthor-  
2           ized disclosure of such information; and

3           “(3) protecting fully the legal rights of all  
4           United States persons, including freedoms, civil lib-  
5           erties, and privacy rights guaranteed by Federal law.

6           “(c) CONGRESSIONAL REQUESTS; NOTICE OF  
7           CHANGES.—

8           “(1) REQUESTS FOR INFORMATION.—Upon re-  
9           quest of the chair or ranking member of the Com-  
10          mittee on Financial Services of the House of Rep-  
11          resentatives or the Committee on Banking, Housing,  
12          and Urban Affairs of the Senate, the Secretary shall  
13          provide a copy of any written protocols or guidance  
14          described in subsection (a)(3).

15          “(2) NOTICE OF CHANGES.—Not later than 30  
16          days after revising any written protocols or guidance  
17          described in subsection (a)(3), the Secretary shall  
18          provide a copy of such revised written protocols or  
19          guidance to the Committee on Financial Services of  
20          the House of Representatives and the Committee on  
21          Banking, Housing, and Urban Affairs of the Sen-  
22          ate.”; and

23                 (2) in the table of contents for such chapter, by  
24                 inserting after the item relating to section 5326 the  
25                 following:

“5327. Reports to Congress; Review of protocols for agency access to reports”.

1 (b) SUNSET.—On the date that is the end of the 7-  
2 year period beginning on the date of enactment of this  
3 Act—

4 (1) section 5327 of title 31, United States  
5 Code, is repealed; and

6 (2) the table of contents for chapter 53 of title  
7 31, United States Code, is amended by striking the  
8 item relating to section 5327.

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