

118TH CONGRESS
1ST SESSION

H. R. 1164

To require the Comptroller General of the United States to conduct a study with respect to outreach activities performed by the Office of Foreign Assets Control, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 2023

Mr. LYNCH introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To require the Comptroller General of the United States to conduct a study with respect to outreach activities performed by the Office of Foreign Assets Control, 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 “OFAC Outreach and
5 Engagement Capabilities Enhancement Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The Office of Foreign Assets Control is the
2 United States Government agency responsible for
3 administering and enforcing economic sanctions pro-
4 grams, primarily against countries and groups of in-
5 dividuals, such as terrorists and narcotics traf-
6 fickers.

7 (2) All United States persons must comply with
8 OFAC regulations, including all United States citi-
9 zens and permanent resident aliens regardless of
10 where they are located, all persons and entities with-
11 in the United States, all United States incorporated
12 entities and their foreign branches. In the cases of
13 certain programs, foreign subsidiaries owned or con-
14 trolled by United States companies also must com-
15 ply. Certain programs also require foreign persons in
16 possession of United States-origin goods to comply.

17 (3) While the sanctions announcements are
18 themselves notice of the requirements placed on all
19 United States persons, OFAC conducts additional
20 outreach through its compliance office, serving as
21 OFAC's primary liaison to the private sector and op-
22 erating OFAC's public "hotline" for sanctions-re-
23 lated questions and the conduct of civil investiga-
24 tions for potential sanctions violations.

1 (4) While many industries, such as large multi-
2 national financial institutions and industrial firms,
3 have sophisticated sanctions departments to manage
4 compliance with the strict-liability mandates from
5 OFAC and to enact practices to defend their busi-
6 ness’ sales and supply chains from abuse by sanc-
7 tions-designated bad actors, many smaller entities
8 and industries, do not.

9 (5) According to the U.S. Department of the
10 Treasury’s 2021 Sanctions Review, “Sanctions are
11 only as effective as their implementation, especially
12 with regard to communication and engagement. In
13 order to better calibrate the use of this tool, Treas-
14 ury needs to communicate and coordinate more ef-
15 fectively with stakeholders affected by the use of fi-
16 nancial sanctions. Treasury can build on existing
17 outreach and engagement capabilities through en-
18 hanced communication with industry, financial insti-
19 tutions, allies, civil society, and the media, as well as
20 new constituencies, particularly in the digital assets
21 space.”.

22 (6) The Assistant Secretary for Terrorism and
23 Financial Intelligence noted in a 2022 speech to a
24 private-sector audience at the American Conference
25 Institute, “We need to redouble efforts—to make

1 sure that these networks do not pass under your
2 radar and around our laws, and that when you ob-
3 tain information about them, you promptly take ac-
4 tion. This is not just a matter of compliance; it is
5 a moral imperative. The choice is between permitting
6 and preventing sanctions evasion—there is no space
7 for neutral ground here.”.

8 (7) Examples of successful, robust Federal Gov-
9 ernment public-private sector outreach programs
10 that support the agency mission abound from the
11 law enforcement, Intelligence Community, and regu-
12 latory agencies, such as the Federal Bureau of In-
13 vestigation’s InfraGard, the Public-Private Analytic
14 Exchange Program from the Department of Home-
15 land Security and the Office of the Director of Na-
16 tional Intelligence, and the Financial Crime Enforce-
17 ment Network’s FinCEN Exchange.

18 (8) The FinCEN Exchange, from OFAC’s sis-
19 ter agency within the U.S. Department of the Treas-
20 ury, was mandated on January 1, 2021, when Con-
21 gress enacted the Anti-Money Laundering Act of
22 2020 (AML Act). Section 6103 of the AML Act es-
23 tablishes the FinCEN Exchange to facilitate a vol-
24 untary public-private information-sharing partner-
25 ship between law enforcement agencies, national se-

1 security agencies, financial institutions, and FinCEN
2 to effectively and efficiently combat money laun-
3 dering, terrorism financing, organized crime, and
4 other financial crimes, protect the financial system
5 from illicit use, and promote national security.

6 (9) The objective of FinCEN Exchange is to
7 develop, deliver, and sustain innovative public-pri-
8 vate information sharing in order to enable the pri-
9 vate sector to better identify risks and provide
10 FinCEN and law enforcement with critical informa-
11 tion to disrupt money laundering, terrorism financ-
12 ing, and other financial crimes. The program goals
13 of the exchange are to:

14 (A) Enhance communication, collaboration,
15 and partnerships among FinCEN, law enforce-
16 ment, and financial institutions.

17 (B) Support priority national security and
18 counter-illicit finance investigations and poli-
19 cies.

20 (C) Enhance the utility of suspicious activ-
21 ity reports and share feedback with the private
22 sector.

23 (D) Encourage, enable, and acknowledge a
24 focus on high-value and high-impact activities.

1 (E) Conduct proactive outreach to allow
2 industry to better prioritize efforts and utilize
3 existing resources.

4 **SEC. 3. OFAC OUTREACH ASSESSMENT.**

5 (a) GAO STUDY.—

6 (1) OUTREACH.—The Comptroller General of
7 the United States shall, not later than 360 days
8 after the date of the enactment of this section, carry
9 out a study with respect to the quality and efficacy
10 of outreach activities performed by OFAC in support
11 of the mission of OFAC on or before the date of the
12 enactment of this section.

13 (2) STUDY REQUIREMENTS.—

14 (A) IN GENERAL.—The Comptroller Gen-
15 eral of the United States shall, in carrying out
16 paragraph (1), examine each of the following
17 with respect to outreach activities performed by
18 OFAC:

19 (i) Goals and strategy.

20 (ii) Audiences.

21 (iii) Resources.

22 (iv) Number and type of engagements
23 with private sector entities.

24 (v) Feedback capabilities.

1 (vi) Appropriate privacy and competi-
2 tive fairness measures for information re-
3 ceived from or shared with private sector
4 entities.

5 (vii) Compliance with the Federal Ad-
6 visory Committee Act, where required.

7 (viii) How information obtained from
8 outreach activities is used by OFAC to
9 support the mission of OFAC.

10 (ix) How, if at all, outreach activities
11 help with enforcement functions.

12 (B) SURVEY OF SIMILAR PROGRAMS.—In
13 carrying out the study required under this sub-
14 section, the Comptroller General of the United
15 States shall—

16 (i) examine outreach programs admin-
17 istered by agencies with similar national
18 security and regulatory missions, including
19 outreach programs administered by similar
20 agencies, including the Financial Crimes
21 Enforcement Network; and

22 (ii) identify best practices, similarities,
23 and differences to inform the evaluation of
24 existing OFAC outreach programs.

1 (b) BRIEFING.—OFAC shall, not later than 60 days
2 after the date on which the Comptroller General of the
3 United States submits a study pursuant to subsection (a),
4 and after considering the results of such study, submit to
5 the Committee on Financial Services of the House of Rep-
6 resentatives and the Committee on Banking, Housing, and
7 Urban Affairs on the Senate a briefing that describes how
8 OFAC will improve its outreach activities going forward,
9 including, at the time of such briefing, in relation to
10 OFAC outreach activities, how OFAC—

11 (1) provides information to those who must
12 comply with OFAC sanctions, especially those in
13 communities and industries that are known to be
14 targeted by bad actors designated by sanctions;

15 (2) uses outreach activities to support to the
16 important mission of OFAC, with minimal redirec-
17 tion of staff and resources;

18 (3) ensures that the selection of private-sector
19 participants for outreach activities is free from fa-
20 voritism;

21 (4) ensures that private-sector information ob-
22 tained by OFAC during outreach activities is appro-
23 priately safeguarded;

24 (5) ensures that information shared at outreach
25 functions can be publicized in a manner that does

1 not competitively disadvantage those not selected to
2 participate in such outreach functions;

3 (6) applies Federal requirements with respect to
4 all outreach activities, including Federal Advisory
5 Committee Act requirements;

6 (7) ensures that private-sector participants not
7 use outreach activities as an opportunity to pitch
8 products or services or receive advance information
9 about OFAC or Department of the Treasury pro-
10 curement opportunities; and

11 (8) maintains compliance with OFAC ethics re-
12 quirements.

13 (c) FEASIBILITY OF VOLUNTARY EXCHANGE PRO-
14 GRAM.—OFAC shall, after reviewing the report produced
15 by the Comptroller General of the United States pursuant
16 to subsection (a) and submitting the briefing required
17 under subsection (b), assess the feasibility of the establish-
18 ment of a program by OFAC designed to—

19 (1) facilitate a voluntary public-private informa-
20 tion sharing partnership among law enforcement
21 agencies, national security agencies, financial institu-
22 tions, and OFAC to effectively and efficiently admin-
23 ister and enforce economic sanctions against tar-
24 geted foreign countries and regimes, terrorists, inter-
25 national narcotics traffickers, those engaged in ac-

1 activities related to the proliferation of weapons of
2 mass destruction, and other threats to the national
3 security, foreign policy, or economy of the United
4 States by promoting innovation and technical ad-
5 vances in reporting;

6 (2) protect the financial system from illicit use,
7 including evasions of existing economic sanctions
8 programs; and

9 (3) facilitate two-way information exchange be-
10 tween OFAC and persons who are required to com-
11 ply with sanctions administered and enforced by
12 OFAC, including financial institutions, business sec-
13 tors frequently affected by sanctions programs, and
14 non-government organizations and humanitarian
15 groups impacted by such sanctions programs.

16 (d) PILOT PROGRAM.—

17 (1) IN GENERAL.—The Secretary of the Treas-
18 ury may, after considering the results of the study
19 conducted by the Comptroller General of the United
20 States pursuant to subsection (a), the briefing pro-
21 vided by OFAC pursuant to subsection (b), and the
22 feasibility assessment conducted by OFAC pursuant
23 to subsection (c), require OFAC to establish a 3-
24 year pilot of a program designed to—

1 (A) facilitate a voluntary public-private in-
2 formation sharing partnership among law en-
3 forcement agencies, national security agencies,
4 financial institutions, and OFAC to effectively
5 and efficiently administer and enforce economic
6 sanctions against targeted foreign countries and
7 regimes, terrorists, international narcotics traf-
8 fickers, those engaged in activities related to
9 the proliferation of weapons of mass destruc-
10 tion, and other threats to the national security,
11 foreign policy, or economy of the United States
12 by promoting innovation and technical advances
13 in reporting;

14 (B) protect the financial system from illicit
15 use, including evasions of existing economic
16 sanctions programs; and

17 (C) facilitate two-way information ex-
18 change between OFAC and persons who are re-
19 quired to comply with sanctions administered
20 and enforced by OFAC, including financial in-
21 stitutions, business sectors frequently affected
22 by sanctions programs, and non-government or-
23 ganizations and humanitarian groups impacted
24 by such sanctions programs.

25 (2) INFORMATION SHARING.—

1 (A) IN GENERAL.—Any information shared
2 by a private sector entity as a part of any pro-
3 gram established under paragraph (1) shall be
4 shared—

5 (i) in compliance with all other appli-
6 cable Federal laws and regulations; and

7 (ii) in such a manner as to ensure the
8 appropriate confidentiality of personal in-
9 formation.

10 (B) USE OF INFORMATION.—Information
11 received by OFAC from a private sector entity
12 as a part of any program established under
13 paragraph (1) may not be used for any purpose
14 other than identifying and reporting on activi-
15 ties that may involve the compliance with
16 United States sanctions requirements.

17 (C) RULE OF CONSTRUCTION.—Nothing in
18 this subsection may be construed to create new
19 information sharing authorities or requirements
20 relating to sanctions laws.

21 (3) REPORT.—If a program is established
22 under paragraph (1), OFAC shall, annual submit a
23 report to the Committee on Financial Services of the
24 House of Representatives and the Committee on

1 Banking, Housing, and Urban Affairs of the Senate
2 that describes the activities of such program.

3 (e) DEFINITIONS.—In this Act:

4 (1) OFAC.—The term “OFAC” means the Of-
5 fice of Foreign Assets Control.

6 (2) PRIVATE SECTOR.—The term “private sec-
7 tor entity” means a business, a nonprofit organiza-
8 tion, a nongovernmental organization, a legal and or
9 advisory firm that supports such a business or orga-
10 nization, and a technology provider that supports
11 such a business or organization.

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