

Memorandum

To: Members of the Committee on Financial Services
From: Committee Staff
Date: September 15, 2023
Re: September 20, 2023, Markup

On Wednesday, September 20, 2023, at 10:00 a.m. in Room 2128 of the Rayburn House Office Building, the Committee on Financial Services will meet to markup the following measures in an order to be determined by the Chairman:

1. H.R. 3378, the *Agricultural Security Risk Review Act* (Lucas)
2. H.R. 5409, the *Safeguarding American Farms from Foreign Influence Act* (Luetkemeyer)
3. H.R. 760, the *Chinese Military and Surveillance Company Sanctions Act* (Barr)
4. H.R. 5472, the *FinCEN Oversight and Accountability Act of 2023* (Davidson)
5. H.R. 5485, the *Financial Privacy Act of 2023* (Hill)
6. H.R. 5119, the *Protect Small Business and Prevent Illicit Financial Activity Act* (Nunn/Beatty)
7. H.R. ____, the *Combatting Foreign Surveillance Spyware Sanctions Act* (Himes)
8. H.R. ____, the *Financial Access Improvements Act* (Waters)
9. H.R. ____, the *Russia and Belarus Financial Sanctions Act of 2023* (Sherman)
10. H.R. ____, the *Foreign Affiliates Sharing Pilot Program Extension Act* (Garcia)
11. H.R. 3402, the *Power of the Mint Act* (Auchincloss/Hill)
12. H.R. 5403, the *CBDC Anti-Surveillance State Act* (Emmer)
13. H.R. 3712, the *Digital Dollar Pilot Prevention Act* (Mooney)

1. H.R. 3378, the *Agricultural Security Risk Review Act* (Lucas)

H.R. 3378, the *Agricultural Security Risk Review Act*, was introduced on May 16, 2023, by Rep. Frank D. Lucas (R-OK). The bill was attached to the September 12, 2023, hearing titled “Oversight of the Committee on Foreign Investment in the United States (CFIUS) and Other Efforts to Strengthen National Security in the United States.”

H.R. 3378 would formally add the Secretary of Agriculture to the Committee on Foreign Investment in the United States (CFIUS) for the purposes of covered transactions related to agriculture.

2. H.R. 5409, the *Safeguarding American Farms from Foreign Influence Act* (Luetkemeyer)

H.R. 5409, the *Safeguarding American Farms from Foreign Influence Act*, was introduced on September 12, 2023, by Rep. Blaine Luetkemeyer (R-MO). The bill was attached to the September 12, 2023, hearing titled, “Oversight of the Committee on Foreign Investment in the United States (CFIUS) and Other Efforts to Strengthen National Security in the United States.”

H.R. 5409 would amend the Defense Production Act of 1950 to require the CFIUS to determine whether a national security review is needed for certain covered agricultural land transactions referred by the Secretary of Agriculture.

3. H.R. 760, the *Chinese Military and Surveillance Company Sanctions Act* (Barr)

H.R. 760, the *Chinese Military and Surveillance Company Sanctions Act*, was introduced on February 2, 2023, by Rep. Andy Barr (R-KY). H.R. 760 has four cosponsors, including Rep. Blaine Luetkemeyer (R-MO), Rep. Neal Dunn (R-FL), Rep. Robert Wittman (R-VA), and Rep. Ashley Hinson (R-IA). The bill was attached to the February 7, 2023, hearing titled, “Combatting the Economic Threat from China.”

H.R. 760 requires the President to impose sanctions on companies involved with China's defense or surveillance technology sectors.

4. H.R. 5472, the *FinCEN Oversight and Accountability Act of 2023* (Davidson)

H.R. 5472, the *FinCEN Oversight and Accountability Act of 2023*, was introduced on September 14, 2023, by Rep. Warren Davidson (R-OH). H.R. 5472 is comprised of the following three separate bills:

Title I – Title I consists of Section 3 of H.R. 4107, the *Civil Liberties Protection Act of 2023*. H.R. 4107 was introduced on June 14, 2023, by Rep. Warren Davidson (R-OH). The bill was attached to the April 27, 2023, hearing titled, “Oversight of the Financial Crimes Enforcement Network (FinCEN) and the Office of Terrorism and Financial Intelligence (TFI).”

Title I requires the Secretary of the Treasury to keep the House Financial Services and Senate Banking Committees informed of FinCEN activities. Additionally, the Secretary of the Treasury must promptly report to the House Financial Services and Senate Banking Committees any unlawful activity occurring at FinCEN along with any corrective activity taken or planned.

Title II - H.R. 2963, the *FinCEN Accountability Act of 2023*, was introduced on April 27, 2023, by Rep. Barry Loudermilk (R-GA). The bill was attached to the April 27, 2023, hearing titled, “Oversight of the Financial Crimes Enforcement Network (FinCEN) and the Office of Terrorism and Financial Intelligence (TFI).”

Title II ensures that the House Financial Services and Senate Banking Committees have access to Department of the Treasury documents authorizing or instructing FinCEN or its Director, including any changes made to such documents from time to time.

Subsection (a) defines the controlling documents that FinCEN must provide to the House Financial Services and Senate Banking Committees. It incorporates the definition of "record" used in administering statutes governing federal records (44 U.S.C. 3301). The subsection identifies the controlling documents as records issued by the Secretary of the Treasury or other officials of the Treasury Department that delegate authority, or give instructions, to FinCEN or the Director of FinCEN, when implementing the statute establishing FinCEN as a Treasury bureau (31 U.S.C. 310) or the Bank Secrecy Act (section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b), chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 et seq.), and subchapter II of chapter 53 of title 31 of the U.S. Code).

Subsection (b) requires the Secretary of the Treasury to provide to the House Financial Services and Senate Banking Committees copies of all "controlling documents" as defined in subsection (a), and any changes to the controlling documents, including revocations. Subsection (b) ensures that both the House Financial Services and Senate Banking Committees will have full and timely information of departmental delegations of authority, and departmental instructions, to FinCEN or its Director. Such information will assist the committees in ensuring that FinCEN activities remain within its appropriate limits and in formulating any legislation needed to govern such activities.

Title III - H.R. 5422, the *Small Business Working Group Act*, was introduced on September 12, 2023, by Rep. Roger Williams (R-TX) and Rep. Joyce Beatty (D-OH). The bill was attached to the July 18, 2023, hearing titled, "Potential Consequences of FinCEN's Beneficial Ownership Rulemaking."

Title III will create a small business working group that will be carried out annually by the newly established domestic liaisons. The working group will provide an opportunity for small businesses to understand the purpose and benefit of beneficial ownership and promote coordination between FinCEN and the small business community.

5. H.R. 5485, the *Financial Privacy Act of 2023* (Hill)

H.R. 5485, the *Financial Privacy Act of 2023*, was introduced on September 14, 2023, by Rep. French Hill (R-AR). Rep. Jim Himes (D-CT) is an original cosponsor.

H.R. 5485 would require an annual report to Congress on data collected and retained by the Secretary of the Treasury under the Bank Secrecy Act. The bill would further require the Secretary to report on protocols governing the retention and dissemination of this data, as well as notify Congress of any updates to the protocols. H.R. 5485 requires an annual review of the protocols by the Secretary.

6. H.R. 5119, the *Protect Small Business and Prevent Illicit Financial Activity Act* (Nunn/Beatty)

H.R. 5119, the *Protect Small Business and Prevent Illicit Financial Activity Act of 2023*, was introduced on August 1, 2023, by Rep. Zach Nunn (R-IA). H.R. 5119 has one cosponsor, Rep. Joyce Beatty (D-OH). The bill was attached to the July 18, 2023, hearing titled, "Potential Consequences of FinCEN's Beneficial Ownership Rulemaking."

H.R. 5119 reverts the FinCEN beneficial ownership filing deadline for existing small businesses, January 1, 2024, to the statutorily mandated two years after the effective date of the regulation for initial filing.

Additionally, it extends the filing deadline for updating beneficial ownership for registered small businesses to 90 days, which was shortened to 30 days in FinCEN's final rule. Finally, this legislation closes a loophole created by FinCEN's filing form notice and comment that would allow a reporting company to obfuscate its beneficial owners by allowing alternative identification to be submitted.

7. H.R. ___, the *Combatting Foreign Surveillance Spyware Sanctions Act* (Himes)

H.R. ___, the *Combatting Foreign Surveillance Spyware Sanctions Act*, was introduced on ___, by Rep. Jim Himes (D-CT). H.R. ___ has ___ cosponsors. The bill was attached to the July 18, 2023, hearing titled, "Potential Consequences of FinCEN's Beneficial Ownership Rulemaking."

H.R. ___ would authorize sanctions on individuals and entities who directly or indirectly facilitate spyware, including spyware that could enable the targeting of United States Government officials or personnel of the intelligence community.

8. H.R. ___, the *Financial Access Improvements Act* (Waters)

H.R. ___, the *Financial Access Improvements Act*, was introduced on ___, by Ranking Member Maxine Waters (D-CA). The bill from last Congress was attached to the July 18, 2023, hearing titled "Potential Consequences of FinCEN's Beneficial Ownership Rulemaking."

H.R. ___ adds a requirement to the President's annual International Narcotics Control Strategy Report (INCSR), which currently includes information on the adoption of law and regulations to prevent narcotics-related money laundering in countries determined to be major money laundering countries. The new requirement would add an optional "Improvements" section to country listings in the Money Laundering volume of the annual INCSR issued by the State Department. It would also add Treasury to the report's consultative agencies.

9. H.R. ___, the *Russia and Belarus Financial Sanctions Act of 2023* (Sherman)

H.R. ___, the *Russia and Belarus Financial Sanctions Act of 2023*, was introduced on ___ by Rep. Brad Sherman (D-CA). A draft of the bill was attached to the July 18, 2023, hearing titled, "Potential Consequences of FinCEN's Beneficial Ownership Rulemaking."

H.R. ___ would require a U.S. financial institution to ensure any entity or person owned or controlled by such institution comply with U.S. financial sanctions applicable to Russia or Belarus to the same extent required of that institution.

10. H.R. ___, the *Foreign Affiliates Sharing Pilot Program Extension Act* (Garcia)

H.R. ___, the *Foreign Affiliates Sharing Pilot Program Extension Act*, was introduced on ___, by Rep. Sylvia Garcia (R-TX). The bill was attached to the July 18, 2023, hearing titled "Potential Consequences of FinCEN's Beneficial Ownership Rulemaking."

H.R. ____ would change the tolling date of the referenced anti-money laundering pilot program from three years after the date of enactment (January 1, 2021) to three years after the date that the Secretary of the Treasury actually starts the program.

11. H.R. 3402, the *Power of the Mint Act* (Auchincloss/Hill)

H.R. 3402, the *Power of the Mint Act*, was introduced on May 17, 2023, by Rep. Jake Auchincloss (D-MA) and Rep. French Hill (R-AR). The legislation is cosponsored by Reps. Barry Moore (R-AL), Ritchie Torres (D-NY), and Rep. Wiley Nickel (D-NC). The bill was attached to the September 14, 2023, hearing titled, “Digital Dollar Dilemma: The Implications of a Central Bank Digital Currency and Private Sector Alternatives.”

H.R. 3402 would amend Section 16 of the Federal Reserve Act to prohibit the Board of Governors of the Federal Reserve System and the Secretary of the Treasury from issuing a Central Bank Digital Currency (CBDC) without congressional authorization. Section 16 of the Federal Reserve Act sets forth the authority for the Board of Governors of the Federal Reserve System to issue notes at its discretion, which shall be obligations of the United States and shall be receivable by all national and member banks and Federal reserve banks and for all taxes, customs, and other public dues. The bill also prohibits the Secretary of the Treasury from directing the Board of Governors of the Federal Reserve System to issue a CBDC.

This bill defines a CBDC as a “form of digital money or monetary value, denominated in the national unit of account, that is a direct liability of the Federal Reserve.”

12. H.R. 5403, the *CBDC Anti-Surveillance State Act* (Emmer)

H.R. 5403, the *CBDC Anti-Surveillance State Act*, was introduced on September 12, 2023, by Rep. Tom Emmer (R-MN). The bill was attached to the September 14, 2023, hearing titled “Digital Dollar Dilemma: The Implications of a Central Bank Digital Currency and Private Sector Alternatives.” H.R. 5403 has 56 cosponsors.

H.R. 5403 would amend Section 13 of the Federal Reserve Act to prohibit the Federal Reserve Banks from issuing a central bank digital currency (CBDC), or any substantially similar digital asset, directly or indirectly to individuals. Additionally, the bill would prohibit the Federal Reserve System and the Federal Open Market Committee from using a CBDC to implement monetary policy.

H.R. 5403 would also prohibit the Federal Reserve Banks from maintaining an account on behalf of any individual and or offering products or services to any individual. The bill does not prohibit the development or issuance of any dollar-denominated currency that is open, permissionless, private, and fully preserves the privacy protections of cash.

13. H.R. 3712, the *Digital Dollar Pilot Prevention Act* (Mooney)

H.R. 3712, the *Digital Dollar Pilot Prevention Act*, was introduced on May 25, 2023, by Rep. Alex Mooney (R-WV). The legislation is cosponsored by 19 Republican Members.

H.R. 3712 would amend Section 16 of the Federal Reserve Act to prohibit the Federal Reserve from establishing, carrying out, or approving a program, including those that partner or

coordinate with the private sector, intended to test the practicability of issuing a central bank digital currency unless authorized by Congress.

This bill defines a CBDC as a “form of digital money or monetary value, denominated in the national unit of account, that is a direct liability of the Federal Reserve.”