

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table as follows:

COMMUNICATION 00468 from the
Assistant Attorney General, Department of Justice,

transmitting

proposed amendments to 18 U.S.C. Sec. 1960.

Referred to the Committee on the Judiciary. February 25, 2025.



00475

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, DC 20530

The Honorable Mike Johnson
Speaker
U.S. House of Representatives
Washington, DC 20515

DEC 20 2024

Dear Speaker Johnson:

On behalf of the Administration, I am pleased to present for congressional consideration 14 legislative proposals. These proposals are designed to strengthen and improve the security of the U.S. financial system, counter criminal use of digital assets, enhance recovery for victims, and support law enforcement investigations. As emerging technologies, including digital assets, play an ever-more important role in the U.S. economy, it highlights the need to update and strengthen safeguards to prevent, deter, and punish abuse of the U.S. financial system for criminal gain. These proposals would help protect the U.S. financial system and U.S. consumers from bad actors' exploitation of gaps in our authorities, including with respect to crime-linked digital assets and financial institutions that violate U.S. law.

Crime-linked digital assets pose grave threats to both the U.S. financial system and U.S. consumers. Criminals have used digital assets to buy and sell illegal fentanyl and other drugs; advertise and promote human trafficking; collect ransomware payments; perpetrate frauds and thefts against consumers and investors; launder their illicit proceeds; and finance threats to national security, including malign state activity and terrorist fundraising.

To safeguard our financial system from these and other threats, we must strengthen the authorities that prevent exploitation of the U.S. financial system and deter criminal misuse of digital assets. With this letter, we propose legislation that will provide critical updates to the law. These proposals would protect the U.S. financial system, including from crime-linked digital assets; enhance law enforcement investigations and prosecutions, including those related to crime-linked digital assets; and support crime victims by enhancing asset recovery authorities. The Department also proposes an enhancement for the Sentencing Guidelines for these offenses

Protecting the U.S. Financial System

- **False Statements to Financial Institutions, Amends 18 U.S.C. § 1014 and U.S.S.G. § 2B1.1.** Criminals often use false information or shell companies to open accounts at financial institutions, launder criminal proceeds including cryptocurrency, and convert the laundered funds. This proposal amends existing statutes to make clear that lying to

financial institutions to open or maintain accounts, including those used to launder and convert crime-linked cryptocurrency, is a crime. The proposal also includes an enhancement to the Sentencing Guidelines for lying to financial institutions regardless of whether there is a loss.

- Bank Secrecy Act Penalties Provisions. Amends 31 U.S.C. § 5322 and U.S.S.G § 2S1.3. Criminals use financial institutions, including cryptocurrency exchanges, to transact ill-gotten gains. These institutions may process hundreds of millions of dollars in transactions. When these institutions fail to maintain appropriate anti-money laundering and countering the financing of terrorism controls required by law, the U.S. financial system is at risk. The proposal clarifies and updates penalties imposed for Bank Secrecy Act (BSA) violations (31 U.S.C. § 5322).
- Enhanced Penalties for Unlicensed Money Transmitting Businesses. Amends 18 U.S.C. § 1960. Many illicit transactions, including cryptocurrency transfers, are conducted through money transmitting businesses. When those businesses operate in the U.S., including by serving U.S. customers, they must register with the Department of Treasury's Financial Crime Enforcement Network, as well as with many states. In addition, these businesses may not transmit the proceeds of crime. The proposal clarifies the statute criminalizing unlicensed money transmitting businesses (18 U.S.C. § 1960) and amends and enhances the penalties for violations.

Countering Criminal Use of Digital Assets and Enhancing Recovery for Victims

- Laundering of Monetary Instruments. Amends 18 U.S.C. § 1956(c)(7). This proposal simplifies the money laundering statute (18 U.S.C. § 1956) to make all federal felonies "specified unlawful activity," including crypto-involved felonies. This also provides forfeiture authority for the criminal proceeds of felonies, including crypto-involved felonies.
- National Stolen Property Act. Amends 18 U.S.C. §§ 2311, 2314, 2315. The National Stolen Property Act (NSPA) is an effective tool to prosecute theft and subsequent interstate moving or transferring of traditional forms of property, including money and securities. This proposal amends the NSPA (18 U.S.C. §§ 2311, 2314, 2315) to make clear that digital assets are subject to the NSPA. The proposal clarifies that the same crimes involving stolen digital assets can be prosecuted under the NSPA.
- Forfeiture Authority for Commodities Violations. Amends 18 U.S.C. §§1956 (c)(7)(D); Administrative Forfeiture of Digital Assets. Amends 19 U.S.C. § 1607; and Extending the Modified Tracing Requirements for Civil Forfeiture to Digital Assets. Amends 18 U.S.C. § 984. These proposals amend existing statutes (19 U.S.C. § 1607, 18 U.S.C. §§ 984, 1956) to ensure that forfeiture is equally available for crime-linked digital assets, just as it is for crime-linked fiat currency. This includes clarifying that (1) crime-linked digital assets in any amount qualify for administrative forfeiture; (2) modified tracing requirements apply to crime-linked digital assets, just as they do to other crime-

linked fungible assets like cash; and (3) forfeiture is available for certain commodities and export violations, which frequently involve digital assets.

Protecting and Enhancing Law Enforcement Investigations

- Anti-Tip Off, Amends 18 U.S.C. § 1510(b); Extending the Statute of Limitations for Digital Assets and Cyber Crimes, Amends 18 U.S.C. § 3293; Collecting Foreign Evidence, Amends 18 U.S.C. § 3292; Increase the Department's Working Capital Fund, Amends § 11013(a), P.L. 107-273; Modernize Venue Statute, Amends 18 U.S.C. § 3238. These proposals amend existing provisions to protect and enhance law enforcement investigations, including those involving crime-linked digital assets. These include: (1) closing statutory gaps to prevent financial institutions from tipping off customers to law enforcement investigations (18 U.S.C. § 1510(b)); (2) extending the statute of limitations for digital asset and cybercrime offenses (18 U.S.C. § 3293); (3) updating and clarifying the suspension of the statute of limitations while obtaining foreign evidence, which is often needed in complex digital asset cases (18 U.S.C. § 3292); (4) amending the Department's Working Capital Fund from 3 percent to 6 percent of civil debts to provide resources for digital asset fraud investigations; and (5) amending the venue statute to allow a defendant to be tried in any district. This eliminates costly and complex international travel plans that require a defendant to be "first brought" to the district that filed charges (18 U.S.C. § 3238).

We appreciate your consideration and look forward to working with Congress on these legislative proposals.

Sincerely,



Carlos Felipe Uriarte
Assistant Attorney General

Enclosure

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7. Enhanced Penalties for Unlicensed Money Transmitting Businesses, Amendments to 18 U.S.C. § 1960

STRENGTHENING PENALTIES FOR UNLICENSED MONEY TRANSMITTING BUSINESSES AND CLARIFYING THE INTENT REQUIREMENT

Existing law makes it a crime to operate an unlicensed money transmitting business or to otherwise transmit funds derived from or intended to be used for unlawful activity. A covered money transmitter, including a digital asset exchange, may be subject to criminal prosecution under 18 U.S.C. § 1960 – including fines and imprisonment of up to five years – if it fails to register with the Financial Crimes Enforcement Network (FinCEN), fails to obtain the requisite state license, or otherwise transports or transmits funds known to be criminally derived or destined to promote or support illicit activity. See FIN-2013-G001, “*Application of FinCEN’s Regulations to Persons Administering, Exchanging, or Using Virtual Currencies*” (Mar. 18, 2013) and FIN-2019-G001, “*Application of FinCEN’s Regulations to Certain Business Models Involving Convertible Virtual Currencies*” (May 9, 2019) (noting that digital asset exchanges are money transmitters). Investigations and prosecutions of suspected section 1960 violations involving digital assets have underscored that the applicable penalties are currently too low to achieve appropriate punishment and deterrence. This proposal would bring penalties under section 1960 in line with other money laundering statutes. It would also clarify that the same general intent requirement now found in the state-licensing prong (§ 1960(b)(1)(A)) also applies to the federal-registration prong (§ 1960(b)(1)(B)).

SECTION BY SECTION ANALYSIS

Amendments to 18 USC § 1960

Section 1960 of title 18 criminalizes operating an unlicensed money transmitting business or otherwise transmitting funds derived from or intended to be used for unlawful activity. This proposal would amend the offense to increase the maximum penalties to align better with other money laundering statutes (18 U.S.C. §§ 1956 and 1957). The proposal would also clarify that the general intent requirement in the state-licensing prong also applies to the federal-registration prong.

REDLINE

§ 3238. Offenses not committed in any district

~~The trial of all~~ All offenses begun or committed upon the high seas, or elsewhere outside of the jurisdiction of any particular State or district, may ~~shall~~ be tried in any ~~the~~ district, ~~in which the~~ offender, or any one of two or more joint offenders, is arrested or is first brought; but if such offender or offenders are not so arrested or brought into any district, an indictment or information may be filed in the district of the last known residence of the offender or of any one of two or more joint offenders, or if no such residence is known the indictment or information may be filed in the District of Columbia.

§ 3239. ~~Optional venue for espionage and related offenses~~

The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

- (1) ~~section 793, 794, 798, or section 1030(a)(1) of this title;~~
- (2) ~~section 601 of the National Security Act of 1947 (50 U.S.C. 421); [1] or~~
- (3) ~~section 4(b) or 4(c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b) or (c)); may be in the District of Columbia or in any other district authorized by law.~~

PROPOSED LEGISLATION

LEGISLATIVE PROPOSAL:

To amend 18 U.S.C. § 1960, the criminal statute governing unlicensed money transmitting businesses and the transmission of funds derived from or intended to be used for unlawful activity, to

- Increase the penalties to (1) a maximum term of imprisonment of ten years for general violations of section 1960, and (2) a maximum term of 20 years and an enhanced fine for violations involving more than \$1 million during a 12-month period, to be more consistent with the other major money laundering statutes, 18 U.S.C. §§ 1956 and 1957;
- Add an enhanced penalty for all terrorism-related cases, regardless of the dollar amount involved; and
- Clarify that the same general intent requirement now found in the state-licensing prong (18 U.S.C. § 1960(b)(1)(A)) applies to the federal-registration prong (18 U.S.C. § 1960(b)(1)(B)).

PROPOSAL HISTORY:

Section 6 of S. 3697, as introduced in the 117th Congress, contains similar language. The Department provided comments to the bill's sponsor, Senator Charles Grassley (R-IA), on the most recent version of that proposal in July 2022.

PROPOSED LEGISLATIVE LANGUAGE:

Section 1960 of Title 18 is amended by striking subsections (a) and (b) and inserting:

(a) OFFENSE— Whoever knowingly conducts, controls, manages, supervises, directs, or owns all or part of a money transmitting business that affects interstate or foreign commerce in any manner or degree and—

(1) is operated without an appropriate money transmitting license in a State where such operation is punishable as a misdemeanor or a felony under State law, whether or not the defendant knew that the operation was required to be licensed or that the operation was so punishable;

(2) fails to comply with the money transmitting business registration requirements under section 5330 of title 31, United States Code, or regulations prescribed under such section, whether or not the defendant knew that the operation was required to comply with those registration requirements or that the operation was so punishable; or

(3) otherwise involves the transportation or transmission of funds that are known to the defendant to have been derived from a criminal offense or are intended to be used to promote or support unlawful activity;

shall be punished as provided in subsection (b).

(b) CRIMINAL PENALTY— Any person who violates—

(1) subsection (a) shall be fined in accordance with this title, imprisoned for not more than 10 years, or both;

(2) subsection (a), when the offense involved more than \$1,000,000 during any 12-month period, shall be fined in accordance with this title, except that the amount provided in subsection (b)(3) of section 3571 is doubled and the amount provided in subsection (c)(3) of section 3571 is tripled, imprisoned for not more than 20 years, or both; or

(3) subsection (a), with the knowledge or belief that any funds transmitted will be used in furtherance of a federal crime of terrorism, as defined in section 2332b(g)(5), shall be fined in accordance with this title or imprisoned for any term of years or for life, or both so fined and so imprisoned.

(c) As used in this section—

(1) the term “money transmitting” includes transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier; and

(2) the term “State” means any State of the United States, the District of Columbia, the Northern Mariana Islands, and any commonwealth, territory, or possession of the United States.

BACKGROUND / ANALYSIS:

The criminal statute governing unlicensed money transmitting businesses and the transmission of funds derived from or intended to be used for unlawful activity, 18 U.S.C. § 1960, makes it a crime to “knowingly” conduct, control, manage, supervise, direct, or own all or part of a money transmitting business when the business: (1) operates without a state license, if that is a crime in that state, “whether or not the defendant knew that the operation was required to be licensed or that the operation was so punishable”; (2) fails to register with the Financial Crimes Enforcement Network (FinCEN) in accordance with 31 U.S.C. § 5330; or (3) transmits or transports funds known to be derived from a criminal offense or with the intention to promote unlawful activity.

A variety of bad actors may seek out or operate as unlicensed money transmitters to facilitate illicit conduct, as these businesses may be perceived as less transparent – and their transactions thus more difficult to trace. For example, illicit actors have used unlicensed money transmitting businesses to finance terrorism, as well as to launder the proceeds of computer fraud, bank fraud, wire fraud, Medicare and Medicaid fraud, Covid-19 fraud, lottery fraud,

multi-million dollar securities and tax fraud, international Ponzi-style investment fraud schemes, romance scams, and the purported proceeds of drug trafficking. To strengthen the enforcement tools available to prosecutors and to ensure consistency in the statute's application, the Department proposes two changes.

First, the Department proposes strengthening some of section 1960's maximum fines and prison terms, as existing penalties are currently too low to achieve appropriate punishment and deterrence and are materially less than those prescribed for the other major money laundering statutes. Specifically, the proposal would raise the maximum term of imprisonment from five to ten years for general violations of section 1960, and impose a maximum term of 20 years for violations involving more than \$1 million during a 12-month period. The proposal would add an enhanced fines provision, under which individual criminal fines would double—and corporate criminal fines would triple—for violations involving a money transmitter's business of more than \$1 million in a 12-month period. These amendments would reflect the seriousness of the conduct at issue and bring the statute in line with the other major money laundering statutes, 18 U.S.C. §§ 1956 (statutory maximum of 20 years imprisonment and \$500,000 or twice the value of the property involved in the transaction, whichever is greater) and 1957 (statutory maximum of 10 years imprisonment and fine of up to twice the amount of criminally derived property involved in the transaction). They would also allow for sentences more in line with the Sentencing Commission's Guidelines ranges, which often are calculated based on the volume of transactions and can and frequently exceed the current statutory maximum. *See* U.S.S.G. §§ 2S1.1, 2S1.3 (advisory Guidelines applicable to § 1960 offenses calculated based on amount of funds laundered or transferred).

In addition, the proposal would add an enhanced criminal penalty for all terrorism-related cases, regardless of the dollar amount involved (“whoever violates this section with the knowledge or belief that any funds transmitted will be used in furtherance of a federal crime of terrorism, as defined in section 2332b(g)(5), shall be fined in accordance with this title or imprisoned for any term of years or for life, or both so fined and so imprisoned”). This comports with the potential sentences for material support of terrorism.

Second, the Department proposes clarifying, as held in case law, that the same general intent requirement now found in the state-licensing prong (18 U.S.C. § 1960(b)(1)(A) in the current statute) applies to the federal-registration prong (18 U.S.C. § 1960(b)(1)(B)). *See, e.g., United States v. Dimitrov*, 546 F.3d 409, 413 (7th Cir. 2008); *United States v. Keleta*, 441 F. Supp. 2d 1, 3 (D.D.C. 2006). To align these prongs' intent requirement, the amendments add “whether or not the defendant knows that the operation was required to comply with those registration requirements or that the operation was so punishable” to the federal registration prong.

REDLINE REFLECTING PROPOSED CHANGES TO CURRENT LAW

The proposed changes to 18 U.S.C. § 1960 are indicated below:

- (a) OFFENSE– Whoever knowingly conducts, controls, manages, supervises, directs, or owns all or part of a an unlicensed money transmitting business that affects interstate or foreign commerce in any manner or degree and ~~that, that shall be fined in accordance with this title or imprisoned not more than 5 years, or both.~~
- (b) ~~As used in this section–~~
- ~~(1) the term “unlicensed money transmitting business” means a money transmitting business which affects interstate or foreign commerce in any manner or degree and–~~
- ~~(A) (1) is operated without an appropriate money transmitting license in a State where such operation is punishable as a misdemeanor or a felony under State law, whether or not the defendant knew that the operation was required to be licensed or that the operation was so punishable;~~
- ~~(B) (2) fails to comply with the money transmitting business registration requirements under section 5330 of title 31, United States Code, or regulations prescribed under such section whether or not the defendant knew that the operation was required to comply with those registration requirements or that the operation was so punishable; or~~
- ~~(C) (3) otherwise involves the transportation or transmission of funds that are known to the defendant to have been derived from a criminal offense or are intended to be used to promote or support unlawful activity;~~

shall be punished as provided in subsection (b).

(b) CRIMINAL PENALTY– Any person who violates–

- (1) subsection (a) shall be fined in accordance with this title, imprisoned for not more than 10 years, or both;
- (2) subsection (a), when the offense involved more than \$1,000,000 during any 12-month period, shall be fined in accordance with this title, except that the amount provided in subsection (b)(3) of section 3571 is doubled and the amount provided in subsection (c)(3) of section 3571 is tripled, imprisoned for not more than 20 years, or both; or
- (3) subsection (a), with the knowledge or belief that any funds transmitted will be used in furtherance of a federal crime of terrorism, as defined in section 2332b(g)(5), shall be fined in accordance with this title or imprisoned for any term of years or for life, or both so fined and so imprisoned.

(c) As used in this section-

~~(2)~~ (1) the term "money transmitting" includes transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier; and

~~(3)~~ (2) the term "State" means any State of the United States, the District of Columbia, the Northern Mariana Islands, and any commonwealth, territory, or possession of the United States.

