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(Original Signature of Member)

111TH CONGRESS
2D SESSION

H. R. _____

To amend title 31, United States Code, to establish a reporting requirement for any stored value device carried out of, into, or through the United States, to establish registration requirements for stored value programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. GIFFORDS introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title 31, United States Code, to establish a reporting requirement for any stored value device carried out of, into, or through the United States, to establish registration requirements for stored value programs, 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 “Stored Value Device
5 Registration and Reporting Act of 2010”.

1 **SEC. 2. DEFINITIONS.**

2 (a) DEFINITION OF FINANCIAL INSTITUTION.—Para-
3 graph (2) of section 5312(a) of title 31, United States
4 Code is amended—

5 (1) by redesignating subparagraphs (Y) and (Z)
6 as subparagraphs (Z) and (AA), respectively; and

7 (2) by inserting after subparagraph (X) the fol-
8 lowing new subparagraph:

9 “(Y) a person engaged in the business of
10 providing stored value services, including a
11 stored value system operator, an issuer of
12 stored value, a seller of stored value, and a re-
13 deemer of stored value;”.

14 (b) STORED VALUE, STORED VALUE SYSTEM OPER-
15 ATOR, AND DEVICE DEFINED.—Subsection (a) of section
16 5312 of title 31, United States Code, is amended by add-
17 ing at the end the following new paragraphs:

18 “(7) STORED VALUE.—The term ‘stored value’
19 means funds or monetary value represented in dig-
20 ital electronics format (whether or not specially
21 encrypted) and stored or capable of storage on elec-
22 tronic media in such a way as to be retrievable and
23 transferable electronically.

24 “(8) STORED VALUE SYSTEM OPERATOR.—

25 “(A) IN GENERAL.—The term ‘stored
26 value system operator’ means any person doing

1 business in the United States that operates a
2 system for clearing and settling transactions in
3 which the operator's stored value device is used
4 to purchase goods or services or to obtain cash.
5 To fall within this definition, the operator must
6 also have authorized another person (whether
7 located in the United States or not) to be an
8 issuing institution or acquiring institution for
9 the operator's stored value device or must act
10 as its own issuing institution or acquiring insti-
11 tution.

12 “(B) DEFINITIONS.—For purposes of this
13 paragraph:

14 “(i) ISSUING INSTITUTION.—The term
15 ‘issuing institution’ means a person au-
16 thorized by the stored value system oper-
17 ator to issue the operator's stored value
18 device.

19 “(ii) ACQUIRING INSTITUTION.—The
20 term ‘acquiring institution’ means a person
21 authorized by the stored value system op-
22 erator to contract, directly or indirectly,
23 with merchants or other persons to process
24 transactions, including cash access trans-

1 actions, involving the operator's stored
2 value device.

3 “(iii) OPERATOR'S STORED VALUE DE-
4 VICE.—The term ‘operator's stored value
5 device’ means a stored value device capable
6 of being used in the United States that—

7 “(I) has been issued by an
8 issuing institution; and

9 “(II) can be used in the opera-
10 tor's stored value system.

11 “(9) DEVICE.—The term ‘device’ means any
12 card, plate, code, account number, electronic serial
13 number, mobile identification number, personal iden-
14 tification number, or other telecommunications serv-
15 ice, equipment, or instrument identifier, or other
16 means of account access that can be used, alone or
17 in conjunction with another access device, to obtain
18 money, goods, services, or any other thing of value,
19 or that can be used to initiate a transfer of funds
20 or of stored value (other than a transfer originated
21 solely by paper instrument), but a stored value de-
22 vice does not include a credit card or a debit card,
23 as such terms are defined by the Secretary of the
24 Treasury.

1 “(10) REPORTABLE STORED VALUE DEVICE.—

2 The term ‘reportable stored value device’ means a
3 stored value device for which—

4 “(A) the associated stored value account is
5 reloadable by the device holder;

6 “(B) the device does not comply with min-
7 imum stored value device standards prescribed
8 by the Secretary of the Treasury;

9 “(C) the device does not bear the name of
10 the person transporting or possessing the de-
11 vice; or

12 “(D) the device is designated as reportable
13 by the Secretary of the Treasury.”.

14 **SEC. 3. REGISTRATION OF STORED VALUE PROGRAMS.**

15 (a) IN GENERAL.—Subchapter II of chapter 53 of
16 title 31, United States Code, is amended by inserting after
17 section 5330 the following new section:

18 **“§ 5330A. Registration of stored value programs**

19 “(a) REGISTRATION WITH SECRETARY OF THE
20 TREASURY REQUIRED.—

21 “(1) IN GENERAL.—Any stored value system
22 operator shall register each stored value program
23 that such person authorizes to function on such
24 stored value system with the Secretary of the Treas-

1 ury not later than the end of the 180-day period be-
2 ginning on the later of—

3 “(A) the date of the enactment of the
4 Stored Value Device Registration and Report-
5 ing Act of 2010; or

6 “(B) the end of the 30-day period that be-
7 gins on the date on which the first stored value
8 transaction in the stored value program is proc-
9 essed.

10 “(2) FORM AND MANNER OF REGISTRATION.—
11 Subject to the requirements of subsection (b), the
12 Secretary of the Treasury shall prescribe, by regula-
13 tion, the form and manner for registering a stored
14 value program pursuant to paragraph (1).

15 “(3) PERSONS REMAIN SUBJECT TO STATE
16 LAW.—This section shall not be construed as super-
17 seding any requirement of State law relating to per-
18 sons operating stored value systems or persons en-
19 gaged in stored value programs within the jurisdic-
20 tion of such State.

21 “(4) FALSE AND INCOMPLETE INFORMATION.—
22 The filing of false or materially incomplete informa-
23 tion in connection with the registration of a stored
24 value program shall be considered as a failure to
25 comply with the requirements of this subchapter.

1 “(b) CONTENTS OF REGISTRATION.—The registra-
2 tion of a stored value program under subsection (a) shall
3 include the following information:

4 “(1) The name and location of the operator of
5 the stored value system.

6 “(2) The name and address of each person
7 who—

8 “(A) issues the stored value associated
9 with the stored value program;

10 “(B) issues a stored value device associ-
11 ated with the stored value program; or

12 “(C) provides stored value processing serv-
13 ices to the issuer of the stored value or to the
14 issuer of the stored value device, or to a person
15 acting in a capacity similar to such issuer.

16 “(3) The name and address of any depository
17 institution at which the stored value program main-
18 tains a transaction account (as defined in section
19 19(b)(1)(C) of the Federal Reserve Act).

20 “(4) The name and address of the bank, foreign
21 or domestic, in which the primary transaction ac-
22 count for the funds representing the stored value
23 sold is held, the bank routing number, and the bank
24 account number.

1 “(5) The bank identification number or other
2 system identifier of the stored value devices for the
3 stored value program.

4 “(6) A description of the features included in
5 the group of services offered to stored value account
6 holders in the stored value program, either provided
7 directly through the stored value system or other-
8 wise, including—

9 “(A) the maximum amount of value that
10 may be held in a stored value account at any
11 time (maximum total load amount);

12 “(B) the maximum amount of funds that
13 may be loaded to the stored value account per
14 load transaction;

15 “(C) the maximum amount of funds that
16 may be loaded to a stored value account per
17 day;

18 “(D) the maximum amount of funds that
19 may be loaded to a stored value account per
20 day through one or more load purchases in cur-
21 rency;

22 “(E) the maximum amount of stored value
23 that may be loaded through an automated
24 clearinghouse transaction;

1 “(F) the maximum amount that may be
2 loaded through a Fedwire (the realtime gross
3 settlement system operated by the Board of
4 Governors of the Federal Reserve System)
5 transaction;

6 “(G) the maximum amount of stored value
7 that may be redeemed in currency through an
8 over-the-counter transaction by a system mem-
9 ber;

10 “(H) the maximum amount of stored value
11 that may be redeemed in currency through an
12 automated teller machine or other mechanical
13 means per transaction;

14 “(I) the maximum amount of stored value
15 that may be redeemed in currency through an
16 automated teller machine or other mechanical
17 means per day;

18 “(J) the maximum amount of value that
19 may be spent though one or more automated
20 clearinghouse transactions per day; and

21 “(K) the maximum amount of value that
22 may be spent through Fedwire transactions per
23 day.

24 “(7) A description of the measures in effect
25 under the program to assure that—

1 “(A) the identity of the owner of the
2 stored value is accurate;

3 “(B) the person using the device is the
4 person entitled to do so;

5 “(C) stored value account holders are in-
6 formed that participation in a stored value pro-
7 gram constitutes waiver of objection to law en-
8 forcement access to the present amount of
9 stored value accessible through a stored value
10 device; and

11 “(D) the amount of value available
12 through the device at the time of the inquiry is
13 accessible to law enforcement.

14 “(8) Such other information as the Secretary of
15 the Treasury may require.

16 “(c) ELIGIBILITY FOR REGISTRATION.—No stored
17 value program is eligible for registration unless the stored
18 value devices associated with that program clearly and
19 visibly state on the device, to the extent the device is a
20 physical device, and to the extent prescribed by the Sec-
21 retary of the Treasury—

22 “(1) that the device is a stored value device;

23 “(2) the name, address, and telephone number
24 of the issuer of the stored value associated with the
25 device for use by law enforcement;

1 “(3) the maximum amount of value that may
2 be held in a stored value account associated with the
3 device at any time (maximum value);

4 “(4) the bank identification number of the
5 stored value program that is associated with the de-
6 vice, if any; and

7 “(5) a clear and concise descriptive label of the
8 type of stored value program through which the de-
9 vice is issued.

10 “(d) STORED VALUE PROGRAM DEFINED.—For pur-
11 poses of this section, the term ‘stored value program’
12 means any one or more stored value devices with the same
13 device functionality authorized by a stored value system
14 operator to be issued by an issuing institution in which
15 each device in the program is identified by the same bank
16 identification number or other identifier that relates the
17 stored value device to the issuing institution.

18 “(e) CIVIL PENALTY FOR FAILURE TO COMPLY
19 WITH REGISTRATION REQUIREMENTS.—

20 “(1) IN GENERAL.—Any person who fails to
21 comply with any requirement of this section or any
22 regulation prescribed under this section shall be lia-
23 ble to the United States for a civil penalty of \$5,000
24 for each such violation.

1 “(2) CONTINUING VIOLATION.—Each day a vio-
2 lation described in paragraph (1) continues shall
3 constitute a separate violation for purposes of such
4 paragraph.

5 “(3) ASSESSMENTS.—Any penalty imposed
6 under this subsection shall be assessed and collected
7 by the Secretary of the Treasury in the manner pro-
8 vided in section 5321 and any such assessment shall
9 be subject to the provisions of such section.

10 “(f) FORFEITURE.—

11 “(1) IN GENERAL.—Any—

12 “(A) stored value device issued in connec-
13 tion with a stored value program that fails to
14 comply with any requirement of this section or
15 any regulation prescribed under this section,

16 “(B) stored value issued in connection with
17 a stored value program that fails to comply
18 with any requirement of this section or any reg-
19 ulation prescribed under this section, or

20 “(C) physical stored value device that does
21 not comply with the physical characteristics re-
22 quired for registration under this section,
23 may be seized and forfeited to the United States.

24 “(2) PROCEDURE.—The seizure and forfeiture
25 shall be governed by the procedures governing civil

1 forfeitures in money laundering cases pursuant to
2 section 981(a)(1)(A) of title 18, United States Code.

3 “(3) TREATMENT OF CERTAIN PROPERTY AS
4 INVOLVED IN THE OFFENSE.—For purposes of this
5 subsection, any stored value device, and any other
6 property used, or intended to be used to facilitate
7 the offense (including the funds or value of funds
8 accessible by the stored value device at the time of
9 the offense), shall be considered property involved in
10 the offense.

11 “(g) SMALL BUSINESS AND LOW-RISK EXEMP-
12 TION.—The Secretary of the Treasury shall prescribe reg-
13 ulations establishing, on the basis of such criteria as the
14 Secretary determines to be appropriate, a threshold point
15 under which small- and low-risk stored value programs
16 will not be required to register under this section.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 for chapter 53 of title 31, United States Code, is amended
19 by inserting after the item relating to section 5330 the
20 following new item:

“5330A. Registration of stored value programs.”.

1 **SEC. 4. AMENDMENTS RELATING TO REPORTS ON EXPORTS**
2 **AND IMPORTS OF MONETARY INSTRUMENTS,**
3 **STORED VALUE, AND STORED VALUE DE-**
4 **VICES.**

5 (a) REQUIREMENT OF REPORTS ON EXPORTS AND
6 IMPORTS OF STORED VALUE AND STORED VALUE DE-
7 VICES.—Section 5316(a) of title 31, United States Code,
8 is amended to read as follows:

9 “(a) Except as provided in subsection (d) of this sec-
10 tion, a person or an agent or bailee of the person shall
11 file a report under subsection (b) of this section when the
12 person, agent, or bailee knowingly—

13 “(1) transports, is about to transport, or has
14 transported, monetary instruments, stored value, or
15 a combination of monetary instruments and stored
16 value, of more than \$10,000 at one time, or report-
17 able stored value devices at one time—

18 “(A) from a place in the United States to
19 or through a place outside the United States; or

20 “(B) to a place in the United States from
21 or through a place outside the United States; or

22 “(2) receives monetary instruments, stored
23 value, or a combination of monetary instruments
24 and stored value, of more than \$10,000 at one time,
25 or reportable stored value devices at one time, trans-

1 ported into the United States from or through a
2 place outside the United States.”.

3 (b) REPORT FILING AND CONTENT REQUIRE-
4 MENTS.—Subsection (b) of section 5316 of title 31,
5 United States Code, is amended to read as follows:

6 “(b) REPORT FILING AND CONTENT REQUIRE-
7 MENTS.—

8 “(1) TIME AND PLACE OF FILING.—A report
9 under subsection (a) shall be filed at the time and
10 place the Secretary of the Treasury prescribes.

11 “(2) MONETARY INSTRUMENT OR STORED
12 VALUE.—A report filed under this subsection with
13 respect to monetary instruments or stored value
14 shall contain the following information to the extent
15 the Secretary of the Treasury prescribes:

16 “(A) The legal capacity in which the per-
17 son filing the report is acting.

18 “(B) The origin, destination, and route of
19 the monetary instruments or stored value.

20 “(C) When the monetary instruments or
21 stored value are not legally and beneficially
22 owned by the person transporting the instru-
23 ments or stored value, or if the person trans-
24 porting the instruments or stored value person-
25 ally is not going to use them, the identity of the

1 person that gave the instruments or stored
2 value to the person transporting them, the iden-
3 tity of the person who is to receive them, or
4 both.

5 “(D) The amount and kind of monetary
6 instruments or stored value transported.

7 “(E) Such additional information as the
8 Secretary of the Treasury may require.

9 “(3) STORED VALUE DEVICES.—A report filed
10 under this subsection with respect to reportable
11 stored value devices shall contain the following infor-
12 mation to the extent the Secretary of the Treasury
13 prescribes:

14 “(A) The legal capacity in which the per-
15 son filing the report is acting.

16 “(B) The origin, destination, and route of
17 the stored value devices.

18 “(C) When the stored value devices are not
19 legally and beneficially owned by the person
20 transporting the stored value devices, or if the
21 person transporting the stored value devices
22 personally is not going to use the stored value
23 devices, the identity of the person that gave the
24 stored value devices to the person transporting

1 them, the identity of the person who is to re-
2 ceive them, or both.

3 “(D) The maximum value of the devices
4 transported.

5 “(E) The amount of stored value in the
6 stored value account associated with the devices
7 at the time they are transported.

8 “(F) The number and kind of stored value
9 devices transported.

10 “(G) Such additional information as the
11 Secretary of the Treasury may require.

12 “(4) MAXIMUM VALUE.—For purposes of this
13 subsection, the ‘maximum value’ of a stored value
14 device is the maximum monetary value that can be
15 loaded to the stored value account that the device
16 accesses.”.

17 **SEC. 5. AMENDMENTS RELATING TO SEARCH AND FOR-**
18 **FEITURE OF MONETARY INSTRUMENTS AND**
19 **STORED VALUE DEVICES.**

20 Section 5317 of title 31, United States Code, is
21 amended—

22 (1) in the heading of such section, by inserting
23 after “**instruments**” the following: “**and stored**
24 **value devices**”; and

1 (2) by amending subsection (a) to read as fol-
2 lows:

3 “(a) IN GENERAL.—The Secretary of the Treasury
4 or the Secretary of Homeland Security may apply to a
5 court of competent jurisdiction for a search warrant when
6 such Secretary reasonably believes a monetary instrument,
7 stored value, or a reportable stored value device is being
8 transported and a report on the instrument or device
9 under section 5316 of this title has not been filed or con-
10 tains a material omission or misstatement. Such Secretary
11 shall include a statement of information in support of the
12 warrant. On a showing of probable cause, the court may
13 issue a search warrant for a designated person or a des-
14 ignated or described place or physical object. This sub-
15 section does not affect the authority of the Secretary of
16 the Treasury or the Secretary of Homeland Security under
17 another law.”.

18 **SEC. 6. AMENDMENT OF SMUGGLING PROVISIONS.**

19 Chapter 53 of subtitle IV of title 31, United States
20 Code, is amended by amending section 5332 to read as
21 follows:

1 **“SEC. 5332. SMUGGLING OF CASH, MONETARY INSTRU-**
2 **MENTS, STORED VALUE, AND STORED VALUE**
3 **DEVICES INTO OR OUT OF THE UNITED**
4 **STATES.**

5 “(a) CRIMINAL OFFENSE.—

6 “(1) IN GENERAL.—Whoever, with the intent to
7 evade a currency reporting requirement under sec-
8 tion 5316, knowingly conceals more than \$10,000 in
9 currency or other monetary instruments or stored
10 value, or any physical reportable stored value device,
11 on the person of such individual or in any convey-
12 ance, article of luggage, merchandise, or other con-
13 tainer, and transports or transfers or attempts to
14 transport or transfer such currency, other monetary
15 instruments, stored value, or physical reportable
16 stored value device from a place within the United
17 States to a place outside of the United States, or
18 from a place outside the United States to a place
19 within the United States, shall be guilty of a cur-
20 rency smuggling offense and subject to punishment
21 pursuant to subsection (b).

22 “(2) CONCEALMENT ON PERSON.—For pur-
23 poses of this section, the concealment of currency,
24 other monetary instruments, or physical reportable
25 stored value device on the person of any individual
26 includes concealment in any article of clothing worn

1 by the individual or in any luggage, backpack, or
2 other container worn or carried by such individual.

3 “(b) PENALTY.—

4 “(1) TERM OF IMPRISONMENT.—A person con-
5 victed of a currency smuggling offense under sub-
6 section (a), or a conspiracy to commit such offense,
7 shall be imprisoned for not more than 5 years.

8 “(2) FORFEITURE.—In addition, the court, in
9 imposing sentence under paragraph (1), shall order
10 that the defendant forfeit to the United States any
11 property, real or personal, involved in the offense,
12 and any property traceable to such property.

13 “(3) PROCEDURE.—The seizure, restraint, and
14 forfeiture of property under this section shall be gov-
15 erned by section 413 of the Controlled Substances
16 Act.

17 “(4) PERSONAL MONEY JUDGMENT.—If the
18 property subject to forfeiture under paragraph (2) is
19 unavailable, and the defendant has insufficient sub-
20 stitute property that may be forfeited pursuant to
21 section 413(p) of the Controlled Substances Act, the
22 court shall enter a personal money judgment against
23 the defendant for the amount that would be subject
24 to forfeiture.

25 “(c) CIVIL FORFEITURE.—

1 “(1) IN GENERAL.—Any property involved in a
2 violation of subsection (a), or a conspiracy to com-
3 mit such violation, and any property traceable to
4 such violation or conspiracy, may be seized and for-
5 feited to the United States.

6 “(2) PROCEDURE.—The seizure and forfeiture
7 shall be governed by the procedures governing civil
8 forfeitures in money laundering cases pursuant to
9 section 981(a)(1)(A) of title 18, United States Code.

10 “(3) TREATMENT OF CERTAIN PROPERTY AS
11 INVOLVED IN THE OFFENSE.—For purposes of this
12 subsection and subsection (b), any currency, other
13 monetary instrument, stored value, or physical re-
14 reportable stored value device that is concealed or in-
15 tended to be concealed in violation of subsection (a)
16 or a conspiracy to commit such violation, any article,
17 container, or conveyance used, or intended to be
18 used, to conceal or transport the currency, other
19 monetary instrument, stored value, or physical re-
20 reportable stored value device, and any other property
21 used, or intended to be used to facilitate the offense
22 (including the funds or value of funds accessible by
23 the stored value device at the time of the offense),
24 shall be considered property involved in the of-
25 fense.”.

1 **SEC. 7. STORED VALUE DEVICE STUDY.**

2 (a) IN GENERAL.—The Secretary of the Treasury, in
3 consultation with the Attorney General, the Secretary of
4 Homeland Security, and the Director of National Intel-
5 ligence, shall carry out a study on stored value devices.

6 Such study shall include—

7 (1) an analysis of the extent to which stored
8 value devices are used for the purpose of pro-
9 viding—

10 (A) payments related to drug trafficking;

11 (B) payments related to human trafficking;

12 or

13 (C) financial support to terror cells oper-
14 ating within the United States;

15 (2) an analysis of the extent to which stored
16 value devices issued by foreign entities are being uti-
17 lized in the United States, including the typical
18 countries of origin of such devices and the typical
19 values of such devices when imported into the
20 United States;

21 (3) an analysis of the extent to which stored
22 value devices issued by United States entities are
23 being utilized outside the United States, including
24 the typical locations where value is added to such
25 device and where value is typically subtracted inter-
26 nationally;

1 (4) an identification of any trends in stored
2 value addition and subtraction that appear to be as-
3 sociated with drug trafficking or human trafficking;

4 (5) a list of stored value device types which are
5 now or may soon be used for money laundering;

6 (6) recommendations on methods to collect data
7 related to stored value device transactions for pur-
8 poses of law enforcement and intelligence analysis in
9 a manner consistent with the Foreign Intelligence
10 Surveillance Act and privacy laws; and

11 (7) an analysis of whether requiring certain in-
12 formation to be printed, or otherwise made available,
13 on stored value devices would help customs and law
14 enforcement officers identify such devices and track
15 the origins of such devices, where such information
16 could include the name and address of the device
17 issuer, the maximum value of funds that can be
18 stored on such device, and the fact that the device
19 is a stored value device.

20 (b) REPORT.—Not later than the end of the 180-day
21 period beginning on the date of the enactment of this Act,
22 the Secretary of the Treasury shall submit a report to the
23 Congress containing all findings and determinations made
24 in carrying out the study required under subsection (a).

1 (c) STORED VALUE DEVICE DEFINED.—For pur-
2 poses of this section, the term “stored value device” shall
3 have the meaning given such term under section
4 5312(a)(9) of title 31, United States Code.