

Citing Crypto Threats, ‘Must-Pass’ Bill Would Allow Broader Transaction Bans

By PYMNTS

Posted on January 28, 2022

A provision in the House’s version of the **America COMPETES Act** would strip the requirement for public notice and the time limit on the Treasury Department’s ability to ban financial transactions of any type.

Broadly aimed at strengthening — really jump-starting — the U.S.’s strategic semiconductor manufacturing market, now dominated by China, the 2,900-page bill would allow the Treasury Department’s Financial Crimes Enforcement Network (FinCEN) to impose “special measures” on U.S. financial institutions (FIs) that it suspects are participating in overseas fraud, money-laundering and other crimes.

Citing the speed and anonymity that digital assets can bring to financial transactions, a provision added to H.R. 4521 would eliminate the requirement of public notice of the FinCEN action and a 120-day time limit on the Treasury secretary’s enforcement authority before a formal rule must be made.

This includes ordering surveillance of financial transactions and freezing transactions from an account as long as one party is non-American or not located in America.

However, the measure is so broadly written that the libertarian Cato Institute **warned** that it gives the Treasury Department “unchecked power” that “boils down to this: If anyone outside the United States is involved with a transaction and the Treasury deems it to be a money-laundering concern, the Treasury secretary can prohibit the transactions.”

The Crypto Connection

The justification for the provision is placed squarely at the feet of cryptocurrency, which is why the warnings about the bill's impact came first from an industry-backed cryptocurrency think tank, Coin Center.

Calling the provision “another must-pass bill” and a “blank check to ban crypto at exchanges,” Coin Center's executive director, Jerry Brito, and research director, Peter Van Valkenburgh, warned in a **blog post** that it applies far beyond crypto.

Essentially identical to a provision stripped from the final version of last year's National Defense Authorization Act, the regulatory changes would allow FinCEN “to secretly prohibit any kind of transaction it deems a ‘concern’ without any public notice or input,” Brito and Van Valkenburgh said.

Aside from the public notice and time limit changes, it would “add ‘certain transmittal of funds’ to the list of things that can be banned by the secretary,” Brito **tweeted**.

Treasury can take this action if the department “finds that reasonable grounds exist” to conclude that a jurisdiction, FI or class of transaction outside the U.S. is “of primary money laundering concern,” the proposed legislation reads. (See page 1,482.)

According to the provision, the “digital assets and informal value transfer systems” that enable “bad actors like sanctions evaders, fraudsters, money launderers, and those who commit ransomware attacks” to move funds around the world virtually instantly, and in a way that is hard (although not impossible) to track and simply did not exist when the Treasury Department was given the special measures authority in 2001, the bill's text notes.

At the time, “most cross-border transactions occurred through correspondent or payable-through accounts held with large financial institutions which serve as intermediaries to facilitate financial transactions on behalf of other banks,” it reads.

Crime and Competition

That is certainly true, and it's a growing concern to federal law enforcement agencies, including the FBI, Drug Enforcement Agency (DEA), the IRS's Criminal Investigations division, and the Attorney General's Office.

See also: [When Privacy Counts, Crypto Users Turn to Mixing Services](#)

While the speed, ease and low-cost crypto-based financial transaction channels are good for legitimate consumers, the proposed legislation said, they also make it far easier for “bad actors like sanctions evaders, fraudsters, money launderers, and those who commit ransomware attacks” to move funds. The measure also cites the growth of ransomware, and specifically alleged Chinese involvement in recent ransomware attacks.

Read also: [As Money Laundering Booms, Crypto Thieves Flock to DeFi](#)

That argument makes sense in light of the America COMPETES Act’s goal, which to build a U.S. semiconductor manufacturing sector less for economic competition reasons than to prevent Chinese domination of a key part of any computer chip ranging from those used in 5G mobile networks — remember the Huawei ban pushed by the U.S. — to those used in military hardware as varied as GPS readers to F-35 fighter jets.

See also: [Commerce Department Tightens Reins on Huawei](#)

CNBC reported that the legislation is expected to pass the House of Representatives by March 1, adding that Speaker Nancy Pelosi called it necessary to “strengthen America’s national and economic security and the financial security of families, and advance our leadership in the world.”

Still, it goes way too far, Brito and Van Valkenburgh argued — well beyond crypto.

“This amendment offers the secretary an entirely unchecked power to secretly ban or condition any transaction at any domestic financial institution,” they said in their blog post. “It is a dangerously authoritarian approach to solving money laundering concerns.”

Widespread Damage to Crypto

The America COMPETES Act provision is particularly worrisome for the cryptocurrency industry, as “all cryptocurrencies are inherently global in scope and therefore any cryptocurrency transaction could credibly be related to a foreign jurisdiction,” the pair wrote in the post.

A new block of transaction added to the bitcoin blockchain — or any other — can be mined anywhere in the world, they noted. And copies of it are added to blockchain nodes operating throughout the world.

They give this example: “If the Secretary of the Treasury deems that either (a) the Netherlands, (b) a Dutch crypto exchange, (c) all cryptocurrency transactions validated by a miner outside of

the U.S., or (d) all non-custodial wallets are ‘of primary money laundering concern,’ then she can swiftly make it illegal for any U.S. financial institution (regulated cryptocurrency exchanges included) from maintaining accounts for customers involving those ‘concerns.’”

As a result, Brito and Van Valkenburgh wrote in their post, the language in the provision “empowers the secretary to prohibit any (or indeed all) cryptocurrency transactions at financial intermediaries without any process, rulemaking or limitation on the duration of the prohibition.”