To impose sanctions with respect to trafficking of illicit fentanyl and its precursors by transnational criminal organizations, including cartels, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Scott of South Carolina (for himself, Mr. Brown, Mr. Wicker, and Mr. Reed) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To impose sanctions with respect to trafficking of illicit fentanyl and its precursors by transnational criminal organizations, including cartels, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Fentanyl Eradication and Narcotics Deterrence Off Fentanyl Act” or the “FEND Off Fentanyl Act”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Sense of Congress.
Sec. 3. Definitions.

TITLE I—SANCTIONS MATTERS

Subtitle A—Sanctions in Response to National Emergency Relating to Fentanyl Trafficking

Sec. 101. Finding; policy.
Sec. 102. Use of national emergency authorities; reporting.
Sec. 103. Codification of Executive order imposing sanctions with respect to foreign persons involved in global illicit drug trade.
Sec. 104. Imposition of sanctions with respect to fentanyl trafficking by transnational criminal organizations.
Sec. 105. Penalties; waivers; exceptions.
Sec. 106. Treatment of blocked property of transnational criminal organizations.

Subtitle B—Other Matters

Sec. 111. Eight-year statute of limitations for violations of sanctions.
Sec. 112. Repeal of prohibition on imposition of sanctions with respect to importation of goods under Fentanyl Sanctions Act.
Sec. 113. Classified report and briefing on staffing of Office of Foreign Assets Control.
Sec. 114. Report on drug transportation routes and use of vessels with mislabeled cargo.

TITLE II—ANTI-MONEY LAUNDERING MATTERS

Sec. 201. Designation of illicit fentanyl transactions of sanctioned persons as of primary money laundering concern.
Sec. 203. Report on trade-based money laundering in trade with Mexico, the People’s Republic of China, and Burma.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the proliferation of fentanyl is causing an unprecedented surge in overdose deaths in the United States, fracturing families and communities, and necessitating a comprehensive policy response to combat its lethal flow and to mitigate the drug’s devastating consequences;
(2) the trafficking of fentanyl into the United States is a national security threat that has killed hundreds of thousands of United States citizens;

(3) transnational criminal organizations, including cartels primarily based in Mexico, are the main purveyors of fentanyl into the United States and must be held accountable;

(4) precursor chemicals sourced from the People’s Republic of China are—

(A) shipped from the People’s Republic of China by legitimate and illegitimate means;

(B) transformed through various synthetic processes to produce different forms of fentanyl; and

(C) crucial to the production of illicit fentanyl by transnational criminal organizations, contributing to the ongoing opioid crisis;

(5) the United States Government must remain vigilant to address all new forms of fentanyl precursors and drugs used in combination with fentanyl, such as Xylazine, which attribute to overdose deaths of people in the United States;

(6) to increase the cost of fentanyl trafficking, the United States Government should work collaboratively across agencies and should surge analytic
capability to impose sanctions and other remedies with respect to transnational criminal organizations (including cartels), including foreign nationals who facilitate the trade in illicit fentanyl and its precursors from the People’s Republic of China and such organizations; and

(7) the Department of the Treasury should focus on fentanyl trafficking and its facilitators as one of the top national security priorities for the Department.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Foreign Affairs and the Committee on Financial Services of the House of Representatives.

(2) FOREIGN PERSON.—The term “foreign person”—

(A) means—

(i) any citizen or national of a foreign country; or
(ii) any entity not organized under the laws of the United States or a jurisdiction within the United States; and

(B) does not include the government of a foreign country.

(3) **KNOWLINGLY.**—The term “knowingly”, with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

(4) **TRAFFICKING.**—The term “trafficking”, with respect to fentanyl, fentanyl precursors, or other related opioids, has the meaning given the term “opioid trafficking” in section 7203 of the Fentanyl Sanctions Act (21 U.S.C. 2302).

(5) **TRANSNATIONAL CRIMINAL ORGANIZATION.**—The term “transnational criminal organization” includes—

(A) any organization designated as a significant transnational criminal organization under part 590 of title 31, Code of Federal Regulations;

(B) any of the organizations known as—

(i) the Sinaloa Cartel;
(ii) the Jalisco New Generation Cartel;

(iii) the Gulf Cartel;

(iv) the Los Zetas Cartel;

(v) the Juarez Cartel;

(vi) the Tijuana Cartel;

(vii) the Beltran-Leyva Cartel;

(viii) La Familia Michoacana, also known as the Knights Templar Cartel; or

(ix) La Nueva Familia Michoacan;

(C) any other organization that the President determines is a transnational criminal organization; or

(D) any successor organization to an organization described in subparagraph (B) or as otherwise determined by the President.

6. UNITED STATES PERSON.—The term “United States person” means—

(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States;

(B) an entity organized under the laws of the United States or of any jurisdiction within the United States, including a foreign branch of such an entity; or
TITLE I—SANCTIONS MATTERS
Subtitle A—Sanctions in Response to National Emergency Relating to Fentanyl Trafficking

SEC. 101. FINDING; POLICY.

(a) FINDING.—Congress finds that international trafficking of fentanyl, fentanyl precursors, or other related opioids constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and is a national emergency.

(b) POLICY.—It shall be the policy of the United States to apply economic and other financial sanctions to those who engage in the international trafficking of fentanyl, fentanyl precursors, or other related opioids to protect the national security, foreign policy, and economy of the United States.

SEC. 102. USE OF NATIONAL EMERGENCY AUTHORITIES; REPORTING.

(a) IN GENERAL.—The President may exercise all authorities provided under sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) to carry out this subtitle.

(b) REPORT REQUIRED.—
(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall submit to the appropriate congressional committees a report on actions taken by the executive branch pursuant to this subtitle and any national emergency declared with respect to the trafficking of fentanyl, including—

(A) the issuance of any new or revised regulations, policies, or guidance;

(B) the imposition of sanctions;

(C) the collection of relevant information from outside parties;

(D) the approval or denial of licenses by the Office of Foreign Assets Control;

(E) the initiation of enforcement cases; or

(F) the implementation of mitigation procedures.

(2) FORM OF REPORT.—Each report required by paragraph (1) shall be submitted in unclassified form, but may include the matters required by subparagraphs (C), (D), (E), and (F) of that paragraph in a classified annex.
SEC. 103. CODIFICATION OF EXECUTIVE ORDER IMPOSING SANCTIONS WITH RESPECT TO FOREIGN PERSONS INVOLVED IN GLOBAL ILLICIT DRUG TRADE.

United States sanctions provided for in Executive Order 14059 (50 U.S.C. 1701 note; relating to imposing sanctions on foreign persons involved in the global illicit drug trade), and any amendments to or directives issued pursuant to such Executive orders before the date of the enactment of this Act, shall remain in effect.

SEC. 104. IMPOSITION OF SANCTIONS WITH RESPECT TO FENTANYL TRAFFICKING BY TRANSNATIONAL CRIMINAL ORGANIZATIONS.

(a) In General.—The President shall impose the sanctions described in subsection (b) with respect to any foreign person the President determines—

(1) is knowingly involved in the significant trafficking of fentanyl, fentanyl precursors, or other related opioids by a transnational criminal organization; or

(2) otherwise is knowingly involved in significant activities of a transnational criminal organization relating to the trafficking of fentanyl, fentanyl precursors, or other related opioids.

(b) SANCTIONS DESCRIBED.—The President may, pursuant to the International Emergency Economic Pow-
ers Act (50 U.S.C. 1701 et seq.), block and prohibit all transactions in property and interests in property of a foreign person described in subsection (a) if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(c) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall submit to the appropriate congressional committees a report on actions taken by the executive branch with respect to the foreign persons identified under subsection (a).

SEC. 105. PENALTIES; WAIVERS; EXCEPTIONS.

(a) PENALTIES.—A person that violates, attempts to violate, conspires to violate, or causes a violation of this subtitle or any regulation, license, or order issued to carry out this subtitle shall be subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of that section.

(b) WAIVER AUTHORITY.—

(1) IN GENERAL.—The President may waive the imposition of sanctions under this subtitle if the
President determines, and reports to the appropriate congressional committees, that—

(A) the waiver is needed for humanitarian purposes; or

(B) the national emergency described in section 101 has ended.

(2) NATIONAL SECURITY WAIVER.—The President may waive the application of sanctions under this subtitle with respect to a foreign person if the President determines that the waiver is in the national security interest of the United States.

(c) EXCEPTIONS.—

(1) EXCEPTION FOR INTELLIGENCE ACTIVITIES.—This subtitle shall not apply with respect to activities subject to the reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.) or any authorized intelligence activities of the United States.

(2) EXCEPTION FOR COMPLIANCE WITH INTERNATIONAL OBLIGATIONS AND LAW ENFORCEMENT ACTIVITIES.—Sanctions under section 102(c) shall not apply with respect to an alien if admitting or paroling the alien into the United States is necessary—
(A) to permit the United States to comply
with the Agreement regarding the Head-
quarters of the United Nations, signed at Lake
Success on June 26, 1947, and entered into
force November 21, 1947, between the United
Nations and the United States, or other appli-
cable international obligations of the United
States; or

(B) to carry out or assist law enforcement
activity of the United States.

(3) Exception to Comply with USMCA.—
Sanctions under this subtitle shall not apply in a
case in which such sanctions would conflict with pro-
visions of the USMCA (as defined in section 3 of the
United States-Mexico-Canada Agreement Implement-
tation Act (19 U.S.C. 4502)).

(4) Humanitarian Exemption.—The Presi-
dent may not impose sanctions under this subtitle
with respect to any person for conducting or facili-
tating a transaction for the sale of agricultural com-
modities, food, medicine, or medical devices or for
the provision of humanitarian assistance.
SEC. 106. TREATMENT OF BLOCKED PROPERTY OF TRANSMATIONAL CRIMINAL ORGANIZATIONS.

(a) Transfer of Blocked Property to Forfeiture Funds.—

(1) In general.—The President may transfer the proceeds of any covered forfeited property to the Department of the Treasury Forfeiture Fund established under section 9705 of title 31, United States Code, or the Department of Justice Assets Forfeiture Fund established under section 524(c) of title 28, United States Code.

(2) Report required.—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter, the President shall submit to the appropriate congressional committees a report on any transfers made under paragraph (1) during the 180-day period preceding submission of the report.

(3) Covered forfeited property defined.—In this subsection, the term “covered forfeited property” means property—

(A) seized by the Department of Justice under chapter 46 or section 1963 of title 18, United States Code; and
(B) that belonged to or was possessed by
a transnational criminal organization subject to
sanctions under—

(i) this subtitle;

(ii) the Fentanyl Sanctions Act (21
U.S.C. 2301 et seq.); or

(iii) Executive Order 14059 (50
U.S.C. 1701 note; relating to imposing
sanctions on foreign persons involved in
the global illicit drug trade).

(b) Blocked Assets Under Terrorism Risk Insur-
ance Act of 2002.—Nothing in this subtitle affects
the treatment of blocked assets of a terrorist party de-
scribed in subsection (a) of section 201 of the Terrorism

Subtitle B—Other Matters

Sec. 111. Eight-Year Statute of Limitations for Viola-
Lutions of Sanctions.

(a) International Emergency Economic Pow-
er Act.—Section 206 of the International Emergency
Economic Powers Act (50 U.S.C. 1705) is amended by
adding at the end the following:

“(d) Statute of Limitations.—

“(1) Time for commencing proceedings.—
“(A) IN GENERAL.—An action, suit, or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, under this section shall not be entertained unless commenced within eight years after the latest date of the violation upon which the civil fine, penalty, or forfeiture is based.

“(B) COMMENCEMENT.—For purposes of this paragraph, the commencement of an action, suit, or proceeding includes the issuance of a pre-penalty notice or finding of violation.

“(2) TIME FOR INDICTMENT.—No person shall be prosecuted, tried, or punished for any offense under subsection (c) unless the indictment is found or the information is instituted within eight years after the latest date of the violation upon which the indictment or information is based.”.

(b) TRADING WITH THE ENEMY ACT.—Section 16 of the Trading with the Enemy Act (50 U.S.C. 4315) is amended by adding at the end the following:

“(d) STATUTE OF LIMITATIONS.—

“(1) TIME FOR COMMENCING PROCEEDINGS.—

“(A) IN GENERAL.—An action, suit, or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise,
under this section shall not be entertained unless commenced within eight years after the latest date of the violation upon which the civil fine, penalty, or forfeiture is based.

“(B) COMMENCEMENT.—For purposes of this paragraph, the commencement of an action, suit, or proceeding includes the issuance of a pre-penalty notice or finding of violation.

“(2) TIME FOR INDICTMENT.—No person shall be prosecuted, tried, or punished for any offense under subsection (a) unless the indictment is found or the information is instituted within eight years after the latest date of the violation upon which the indictment or information is based.”.

SEC. 112. REPEAL OF PROHIBITION ON IMPOSITION OF SANCTIONS WITH RESPECT TO IMPORTATION OF GOODS UNDER FENTANYL SANCTIONS ACT.

Section 7235 of the Fentanyl Sanctions Act (21 U.S.C. 2335) is repealed.

SEC. 113. CLASSIFIED REPORT AND BRIEFING ON STAFFING OF OFFICE OF FOREIGN ASSETS CONTROL.

Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Foreign
Assets Control shall provide to the appropriate congressional committees a classified report and briefing on the staffing of the Office of Foreign Assets Control, disaggregated by staffing dedicated to each sanctions program and each country or issue.

SEC. 114. REPORT ON DRUG TRANSPORTATION ROUTES AND USE OF VESSELS WITH MISLABELED CARGO.

Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury, in conjunction with the heads of other relevant Federal agencies, shall provide to the appropriate congressional committees a classified report and briefing on efforts to target drug transportation routes and modalities, including an assessment of the prevalence of false cargo labeling and shipment of precursor chemicals without accurate tracking of the customers purchasing the chemicals.

TITLE II—ANTI-MONEY LAUNDERING MATTERS

SEC. 201. DESIGNATION OF ILLICIT FENTANYL TRANSACTIONS OF SANCTIONED PERSONS AS OF PRIMARY MONEY LAUNDERING CONCERN.

Subtitle A of the Fentanyl Sanctions Act (21 U.S.C. 2311 et seq.) is amended by inserting after section 7213 the following:
“SEC. 7213A. DESIGNATION OF TRANSACTIONS OF SANCTIONED PERSONS AS OF PRIMARY MONEY LAUNDERING CONCERN.

“(a) IN GENERAL.—If the Secretary of the Treasury determines that reasonable grounds exist for concluding that one or more classes of transactions within, or involving, a jurisdiction outside of the United States is of primary money laundering concern in connection with illicit opioid trafficking, the Secretary of the Treasury may, by order, regulation, or otherwise as permitted by law—

“(1) require domestic financial institutions and domestic financial agencies to take 1 or more of the special measures provided for in section 9714(a)(1) of the National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 31 U.S.C. 5318A note); and

“(2) prohibit, or impose conditions upon, certain transmittals of funds (to be defined by the Secretary) by any domestic financial institution or domestic financial agency, if such transmittal of funds involves any such class of transactions.

“(b) CLASSIFIED INFORMATION.—In any judicial review of a finding of the existence of a primary money laundering concern, or of the requirement for 1 or more special measures with respect to a primary money laundering concern made under this section, if the designation or imposi-
tion, or both, were based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.)), such information may be submitted by the Secretary to the reviewing court ex parte and in camera. This subsection does not confer or imply any right to judicial review of any finding made or any requirement imposed under this section.

“(c) Availability of Information.—The exemptions from, and prohibitions on, search and disclosure referred to in section 9714(c) of the National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 31 U.S.C. 5318A note) shall apply to any report or record of report filed pursuant to a requirement imposed under subsection (a). For purposes of section 552 of title 5, United States Code, this section shall be considered a statute described in subsection (b)(3)(B) of that section.

“(d) Penalties.—The penalties referred to in section 9714(d) of the National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 31 U.S.C. 5318A note) shall apply to violations of any order, regulation, special measure, or other requirement imposed under subsection (a), in the same manner and to the same extent as described in such section 9714(d).

“(e) Injunctions.—The Secretary of the Treasury may bring a civil action to enjoin a violation of any order,
regulation, special measure, or other requirement imposed under subsection (a) in the same manner and to the same extent as described in section 9714(e) of the National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 31 U.S.C. 5318A note).

“(f) Definitions.—In this section, the terms ‘domestic financial agency’, ‘domestic financial institution’, ‘financial agency’, and ‘financial institution’ have the meanings given those terms as used in section 9714 of the National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 31 U.S.C. 5318A note).”.

SEC. 202. TREATMENT OF TRANSNATIONAL CRIMINAL ORGANIZATIONS IN SUSPICIOUS TRANSACTIONS REPORTS OF THE FINANCIAL CRIMES ENFORCEMENT NETWORK.

(a) Filing Instructions.—Not later than 180 days after the date of the enactment of this Act, the Director of the Financial Crimes Enforcement Network shall issue guidance or instructions to United States financial institutions for filing reports on suspicious transactions required by section 1010.320 of title 31, Code of Federal Regulations, related to suspected fentanyl trafficking by transnational criminal organizations.

(b) Prioritization of Reports Relating to Fentanyl Trafficking or Transnational Criminal
The Director shall prioritize research into reports described in subsection (a) that indicate a connection to trafficking of fentanyl or related synthetic opioids or financing of suspected transnational criminal organizations.

SEC. 203. REPORT ON TRADE-BASED MONEY LAUNDERING IN TRADE WITH MEXICO, THE PEOPLE'S REPUBLIC OF CHINA, AND BURMA.

Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the appropriate congressional committees a report on trade-based money laundering originating in Mexico or the People’s Republic of China and involving Burma.