



NEW YORK
CITY BAR

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Hon. Charles Schumer
Majority Leader
U.S. Senate
322 Hart Senate Office Building
Washington, D.C. 20510

Hon. Roger Wicker
U.S. Senate
555 Dirksen Senate Office Building
Washington, D.C. 20510

Hon. Jack Reed
Chair, Committee on Armed Services
U.S. Senate
728 Hart Senate Office Building
Washington, D.C. 20510

Hon. Sheldon Whitehouse
U.S. Senate
530 Hart Senate Office Building
Washington, D.C. 20510

Re: Treat the ENABLERS Act as Standalone Legislation Subject to Full Congressional Assessment

Dear Majority Leader Schumer, Senators Reed, Wicker and Whitehouse:

I am writing on behalf of the New York City Bar Association (City Bar) regarding the possible inclusion of the ENABLERS Act in the 2023 National Defense Authorization Act (NDAA), which we understand will be brought to the Senate floor for debate in the coming weeks. We urge the Senate not to include the ENABLERS Act as an amendment to the NDAA at this time and, instead, to consider it as standalone legislation subject to a full congressional assessment.

The Establishing New Authorities for Businesses Laundering and Enabling Risks to Security (ENABLERS) Act amendment would “require that professional service providers that serve as key gatekeepers to the financial system of the United States adopt anti-money laundering procedures that can help detect and prevent the laundering of corrupt and other criminal funds into the United States.”¹ The amendment would broaden the class of persons covered by the definition of “financial institution” under the Bank Secrecy Act (BSA) to include lawyers and law firms that

¹ See https://www.americanbar.org/content/dam/aba/administrative/government_affairs_office/whitehouse-enablers-act-amendment-to-ndaa-september2022.pdf.

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has over 23,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

provide company formation, trust services, and other financial activities, and could subject them to BSA reporting requirements such as, *inter alia*, submitting Suspicious Activity Reports (SARs) on their clients' financial transactions.

The ENABLERS Act raises complex issues implicating legal ethics, confidentiality, privilege and other fundamental aspects of the attorney-client relationship, as well as the role that the states currently play in regulating the legal profession within each state. Therefore, a full examination of the issues through hearings and congressional debate is needed.

Rather than shoehorning the ENABLERS Act amendment into the 2023 NDAA at this juncture, we urge the Senate to pause on considering its inclusion in the Senate version of the NDAA and/or in negotiations with the House of Representatives, and to assess the ENABLERS Act as standalone legislation subject to thorough vetting to understand its potentially wide-ranging implications for lawyers, clients, financial institutions, and the public.

Respectfully,



Susan J. Kohlmann
President
New York City Bar Association

Contact

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