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31 U.S. Code Â§ 5302. Stabilizing Exchange Rates and Arrangements

United States: Department of the Treasury

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HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5301(c)	31:821(a)(last sentence).	

In subsection (a), before clause (1), the text of 31:821(b)(matter before (1)) is omitted as obsolete because clause (1) is omitted as executed, and clause (2) is omitted as expired. The text of 31:821(b)(matter after (2)) is omitted as obsolete because silver is no longer coined. The words “in his discretion” and “several” are omitted as surplus. The words “Board of Governors of the Federal Reserve System” are substituted for “Federal Reserve Board” because of 12:241. The words “upon investigation” are omitted as surplus. In clause (1), the word “foreign” is substituted for “of any other government or governments” to eliminate unnecessary words. The words “coins and” are added for consistency. In clause (2), the words “United States coins and currency” are substituted for “currency issues of the United States” for consistency. In clause (4), the words “so that the United States Government and the governments of other countries can stabilize” are substituted for “to secure by international agreement a stabilization” for clarity. The words “at proper levels” are omitted as surplus.

In subsection (b), before clause (1), the words “(and the Board is authorized to permit the banks notwithstanding another law)” are substituted for “notwithstanding any provisions of law or rules and regulations to the contrary” for clarity. In clause (1), the words “pursuant to existing law” are omitted as surplus. The words “through each entire” are substituted for “throughout” for clarity. In clause (2), the words “in portfolio”, “or periods of time Treasury bills or other” and “in an aggregate sum of” are omitted as surplus.

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105-310, §1, Oct. 30, 1998, 112 Stat. 2941, provided that: “This Act [enacting subchapter III of this chapter and provisions set out as a note under section 5342 of this title] may be cited as the ‘Money Laundering and Financial Crimes Strategy Act of 1998’.”

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-325, title IV, §401, Sept. 23, 1994, 108 Stat. 2243, provided that: “This title [enacting section 5330 of this title, amending sections 5312, 5313, 5318, 5321, 5322, and 5324 of this title, sections 93, 1464, 1772d, 1786, 1818, and 1821 of Title 12, Banks and Banking, and sections 984, 986, 1956, 1957, and 1960 of Title 18, Crimes and Criminal Procedure, and enacting provisions set out as notes under sections 5311, 5313, 5318, and 5330 of this title] may be cited as the ‘Money Laundering Suppression Act of 1994’.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5304 of this title.

§ 5302. Stabilizing exchange rates and arrangements

(a)(1) The Department of the Treasury has a stabilization fund. The fund is available to carry out this section, section 18 of the Bretton Woods Agreement Act (22 U.S.C. 286e-3), and section 3 of the Special Drawing Rights Act (22 U.S.C. 286o), and for investing in obligations of the United States Government those amounts in the fund the Secretary of the Treasury, with the approval of the President, decides are not required at the time to carry out this section. Proceeds of sales and investments, earnings, and interest shall be paid into the fund and are available to carry out this section. However, the fund is not available to pay administrative expenses.

(2) Subject to approval by the President, the fund is under the exclusive control of the Secretary, and may not be used in a way that direct control and custody pass from the President and the Secretary. Decisions of the Secretary are final and may not be reviewed by another officer or employee of the Government.

(b) Consistent with the obligations of the Government in the International Monetary Fund on orderly exchange arrangements and a stable system of exchange rates, the Secretary or an agency designated by the Secretary, with the approval of the President, may deal in gold, foreign exchange, and other instruments of credit and securities the Secretary considers necessary. However, a loan or credit to a foreign entity or government of a foreign country may be made for more than 6 months in any 12-month period only if the President gives Congress a written statement that unique or emergency circumstances require the loan or credit be for more than 6 months.

(c)(1) By the 30th day after the end of each month, the Secretary shall give the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a detailed financial statement on the stabilization fund showing all agreements made or renewed, all transactions occurring during the month, and all projected liabilities.

(2) The Secretary shall report each year to the President and Congress on the operation of the fund.

(d) A repayment of any part of the first subscription payment of the Government to the International Monetary Fund, previously paid from the stabilization fund, shall be deposited in the Treasury as a miscellaneous receipt.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 994.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5302(a)	31:822a(b)(1).	Jan. 30, 1934, ch. 6, §10(a), (b)(1), (c), 48 Stat. 341, 342; Jan. 23, 1937, ch. 5, §1, 50 Stat. 4; July 6, 1939, ch. 260, §§1, 2, 53 Stat. 998; June 30, 1941, ch. 265, §1, 55 Stat. 395; Apr. 29, 1943, ch. 76, 57 Stat. 68; July 31, 1945, ch. 339, §7(a), 59 Stat. 514; Dec. 30, 1970, Pub. L. 91-599, §§41, 42, 84 Stat. 1659; Oct. 19, 1976, Pub. L. 94-564, §7, 90 Stat. 2661; Oct. 28, 1977, Pub. L. 95-147, §4(b), 91 Stat. 1229; Nov. 8, 1978, Pub. L. 95-612, §§1, 6, 92 Stat. 3091, 3092.
5302(b)	31:822a(a)(1st sentence).	
5302(c)(1)	31:822a(b)(2).	Jan. 30, 1934, ch. 6, 48 Stat. 337, §10(b)(2); added Nov. 8, 1978, Pub. L. 95-612, §6, 92 Stat. 3092.
5302(c)(2)	31:822a(a)(last sentence).	
5302(d)	31:822a(c).	

In subsection (a)(1), the words “The Department of the Treasury has a stabilization fund” are substituted for “there is appropriated, out of the receipts which are directed to be covered into the Treasury under section 408b of this title, the sum of \$2,000,000,000, which sum when available shall be deposited in the United States Treasury in a stabilization fund” because the fund has been established. The words “(hereinafter called the ‘fund’)” are omitted as unnecessary because of the re-statement. The words “To enable the Secretary of the

Treasury” and “The fund shall be available for expenditure, under the direction of the Secretary of the Treasury and in his discretion, for any purpose in connection with carrying out the provisions of this section” are omitted as surplus. The words “section 18 of the Bretton Woods Agreement Act (22 U.S.C. 286e-3), and section 3 of the Special Drawing Rights Act (22 U.S.C. 286o)” are added for clarity. The words “and reinvestment” and “direct” are omitted as surplus. The word “Government” is added for consistency. The words “acquiring under the operations of this section” are omitted as surplus. The words “to carry out this section” after “are available” are substituted for “for the purposes of the fund” for consistency.

In subsection (b), the words “directly . . . through” and “for the account of the fund established in this section” are omitted as surplus. The words “government of a foreign country” are substituted for “foreign government” for consistency in the revised title and with other titles of the United States Code. The words “by or through such fund” are omitted as surplus.

In subsection (c)(1), the word “calendar” is omitted as surplus. The words “beginning after the effective date of this paragraph” are omitted as executed. The words “to occur” are omitted as surplus.

In subsection (d), the words “any part of the first subscription payment of the Government to the International Monetary Fund, previously paid from the stabilization fund” are substituted for 31:822a(c)(words before semicolon) and “thereof” for clarity because the payment has been made.

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

MEXICAN DEBT DISCLOSURE

Pub. L. 104-6, title IV, Apr. 10, 1995, 109 Stat. 89, provided that:

“SEC. 401. SHORT TITLE.

“This title may be cited as the ‘Mexican Debt Disclosure Act of 1995’.

“SEC. 402. FINDINGS.

“The Congress finds that—

“(1) Mexico is an important neighbor and trading partner of the United States;

“(2) on January 31, 1995, the President approved a program of assistance to Mexico, in the form of swap facilities and securities guarantees in the amount of \$20,000,000,000, using the exchange stabilization fund;

“(3) the program of assistance involves the participation of the Board of Governors of the Federal Reserve System, the International Monetary Fund, the Bank for International Settlements, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Bank of Canada, and several Latin American countries;

“(4) the involvement of the exchange stabilization fund and the Board of Governors of the Federal Reserve System means that United States taxpayer funds will be used in the assistance effort to Mexico;

“(5) assistance provided by the International Monetary Fund, the International Bank for Reconstruction and Development, and the Inter-American Development Bank may require additional United States contributions of taxpayer funds to those entities;

“(6) the immediate use of taxpayer funds and the potential requirement for additional future United States contributions of taxpayer funds necessitates congressional oversight of the disbursement of funds; and

“(7) the efficacy of the assistance to Mexico is contingent on the pursuit of sound economic policy by the Government of Mexico.

“SEC. 403. PRESIDENTIAL REPORTS.

“(a) REPORTING REQUIREMENT.—Not later than June 30, 1995, and every 6 months thereafter, the President shall transmit to the appropriate congressional committees a report concerning all guarantees issued to, and short-term and long-term currency swaps with, the Government of Mexico by the United States Government, including the Board of Governors of the Federal Reserve System.

“(b) CONTENTS OF REPORTS.—Each report described in subsection (a) shall contain a description of the following actions taken, or economic situations existing, during the preceding 6-month period or, in the case of the initial report, during the period beginning on the date of enactment of this Act [Apr. 10, 1995]:

“(1) Changes in wage, price, and credit controls in the Mexican economy.

“(2) Changes in taxation policy of the Government of Mexico.

“(3) Specific actions taken by the Government of Mexico to further privatize the economy of Mexico.

“(4) Actions taken by the Government of Mexico in the development of regulatory policy that significantly affected the performance of the Mexican economy.

“(5) Consultations concerning the program approved by the President, including advice on economic, monetary, and fiscal policy, held between the Government of Mexico and the Secretary of the Treasury (including any designee of the Secretary) and the conclusions resulting from any periodic reviews undertaken by the International Monetary Fund pursuant to the Fund’s loan agreements with Mexico.

“(6) All outstanding loans, credits, and guarantees provided to the Government of Mexico, by the United States Government, including the Board of Governors of the Federal Reserve System, set forth by category of financing.

“(7) The progress the Government of Mexico has made in stabilizing the peso and establishing an independent central bank or currency board.

“(c) SUMMARY OF TREASURY DEPARTMENT REPORTS.—In addition to the information required to be included under subsection (b), each report required under this section shall contain a summary of the information contained in all reports submitted under section 404 during the period covered by the report required under this section.

“SEC. 404. REPORTS BY THE SECRETARY OF THE TREASURY.

“(a) REPORTING REQUIREMENT.—Beginning on the last day of the first month which begins after the date of enactment of this Act [Apr. 10, 1995], and on the last day of every month thereafter, the Secretary of the Treasury shall submit to the appropriate congressional committees a report concerning all guarantees issued to, and short-term and long-term currency swaps with, the Government of Mexico by the United States Government, including the Board of Governors of the Federal Reserve System.

“(b) CONTENTS OF REPORTS.—Each report described in subsection (a) shall include a description of the following actions taken, or economic situations existing, during the month in which the report is required to be submitted:

“(1) The current condition of the Mexican economy.

“(2) The reserve positions of the central bank of Mexico and data relating to the functioning of Mexican monetary policy.

“(3) The amount of any funds disbursed from the exchange stabilization fund pursuant to the program of assistance to the Government of Mexico approved by the President on January 31, 1995.

“(4) The amount of any funds disbursed by the Board of Governors of the Federal Reserve System pursuant to the program of assistance referred to in paragraph (3).

“(5) Financial transactions, both inside and outside of Mexico, made during the reporting period involv-

ing funds disbursed to Mexico from the exchange stabilization fund or proceeds of Mexican Government securities guaranteed by the exchange stabilization fund.

“(6) All outstanding guarantees issued to, and short-term and medium-term currency swaps with, the Government of Mexico by the Secretary of the Treasury, set forth by category of financing.

“(7) All outstanding currency swaps with the central bank of Mexico by the Board of Governors of the Federal Reserve System and the rationale for, and any expected costs of, such transactions.

“(8) The amount of payments made by customers of Mexican petroleum companies that have been deposited in the account at the Federal Reserve Bank of New York established to ensure repayment of any payment by the United States Government, including the Board of Governors of the Federal Reserve System, in connection with any guarantee issued to, or any swap with, the Government of Mexico.

“(9) Any setoff by the Federal Reserve Bank of New York against funds in the account described in paragraph (8).

“(10) To the extent such information is available, once there has been a setoff by the Federal Reserve Bank of New York, any interruption in deliveries of petroleum products to existing customers whose payments were setoff.

“(11) The interest rates and fees charged to compensate the Secretary of the Treasury for the risk of providing financing.

“SEC. 405. TERMINATION OF REPORTING REQUIREMENTS.

“The requirements of sections 403 and 404 shall terminate on the date that the Government of Mexico has paid all obligations with respect to swap facilities and guarantees of securities made available under the program approved by the President on January 31, 1995.

“SEC. 406. PRESIDENTIAL CERTIFICATION REGARDING SWAP OF CURRENCIES TO MEXICO THROUGH EXCHANGE STABILIZATION FUND OR FEDERAL RESERVE.

“(a) IN GENERAL.—Notwithstanding any other provision of law, no loan, credit, guarantee, or arrangement for a swap of currencies to Mexico through the exchange stabilization fund or by the Board of Governors of the Federal Reserve System may be extended or (if already extended) further utilized, unless and until the President submits to the appropriate congressional committees a certification that—

“(1) there is no projected cost (as defined in the Credit Reform Act of 1990 [probably means the Federal Credit Reform Act of 1990, 2 U.S.C. 661 et seq.] to the United States from the proposed loan, credit, guarantee, or currency swap;

“(2) all loans, credits, guarantees, and currency swaps are adequately backed to ensure that all United States funds are repaid;

“(3) the Government of Mexico is making progress in ensuring an independent central bank or an independent currency control mechanism;

“(4) Mexico has in effect a significant economic reform effort; and

“(5) the President has provided the documents described in paragraphs (1) through (28) of House Resolution 80, adopted March 1, 1995.

“(b) TREATMENT OF CLASSIFIED OR PRIVILEGED MATERIAL.—For purposes of the certification required by subsection (a)(5), the President shall specify, in the case of any document that is classified or subject to applicable privileges, that, while such document may not have been produced to the House of Representatives, in lieu thereof it has been produced to specified Members of Congress or their designees by mutual agreement among the President, the Speaker of the House, and the chairmen and ranking members of the Committee on Banking and Financial Services, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House.

“SEC. 407. DEFINITIONS.

“For purposes of this title, the following definitions shall apply:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the Committees on International Relations and Banking and Financial Services of the House of Representatives, the Committees on Foreign Relations and Banking, Housing, and Urban Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate.

“(2) EXCHANGE STABILIZATION FUND.—The term ‘exchange stabilization fund’ means the stabilization fund referred to in section 5302(a)(1) of title 31, United States Code.”

CERTIFICATION REGARDING USE OF EXCHANGE STABILIZATION FUND AND FEDERAL RESERVE IN RELATION TO ECONOMIC CRISIS IN MEXICO

Memorandum of President of the United States, June 29, 1995, 60 F.R. 35113, provided:

Memorandum for the Secretary of the Treasury

On January 31, 1995, I approved a program of assistance to Mexico, in the form of swap facilities and securities guarantees in an amount not to exceed \$20 billion, using the Exchange Stabilization Fund (the “ESF program”).

By virtue of the authority vested in me by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, and section 406 of the Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 (Public Law 104-6) [set out above], I hereby certify that:

(1) There is no projected cost (as defined in the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.]) to the United States from the proposed swap transaction.

(2) All loans, credits, guarantees, and currency swaps to Mexico from the Exchange Stabilization Fund or the Federal Reserve System are adequately backed to ensure that all United States funds are repaid.

(3) The Government of Mexico is making progress in ensuring an independent central bank.

(4) Mexico has in effect a significant economic reform effort.

(5) The Executive Branch has provided the documents requested by House Resolution 80 adopted March 1, 1995, and described in paragraphs (1) through (28) of that Resolution. All documents identified as responsive to the Resolution have been provided to the entire House of Representatives. Pursuant to the terms of the Resolution, the Executive Branch has not provided those documents as to which the Executive Branch has informed the House that it would be inconsistent with the public interest to provide the documents to the House. Pursuant to arrangements for safekeeping of classified materials in House facilities, classified documents have been provided to the House by making them available either at designated, secure House facilities or at Executive Branch facilities. Each agency, including the Federal Reserve Board, has advised the House of the procedures employed by that agency to provide the documents requested by House Resolution 80.

I have been informed that the Board of Governors of the Federal Reserve System has provided the documents requested by House Resolution 80 and described in paragraphs (1) through (28) of that Resolution.

I hereby delegate to you the reporting requirement contained in section 406 of Public Law 104-6 [set out above]. You are authorized and requested to report this certification immediately to the Speaker of the House and appropriate congressional committees, as defined in section 407 of Public Law 104-6 [set out above].

I also hereby delegate to you the reporting requirement contained in section 403 of Public Law 104-6 [set out above].

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

Prior certifications were contained in the following:
 Memorandum of President of the United States, May 17, 1995, 60 F.R. 27395.
 Memorandum of President of the United States, Apr. 14, 1995, 60 F.R. 19485.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5304 of this title; title 22 sections 262r-3, 286e-3, 286e-7, 286o, 5411.

§ 5303. Reserved coins and currencies of foreign countries

An agency may use coins and currencies of a foreign country the United States Government holds that are or may be reserved for a specific program or activity of an agency. The agency shall reimburse the Treasury from appropriations and shall replace the coins and currencies when they are needed for the program or activity for which they were reserved originally.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 994.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5303	31:938.	Oct. 15, 1966, Pub. L. 89-677, 80 Stat. 955.

The word “Federal” is omitted as unnecessary because of the definition of “agency” in section 101 of the revised title. The words “coins and” and “Government” are added for consistency. The words “or set aside” and “of the Government” are omitted as surplus. The words “The agency shall reimburse . . . shall replace” are substituted for “except (1) that reimbursement shall be made . . . (2) . . . shall be replaced” for clarity. The words “applicable . . . of the agency concerned” are omitted as surplus. The words “program or activity” are substituted for “purpose” for clarity and consistency.

§ 5304. Regulations

With the approval of the President, the Secretary of the Treasury may prescribe regulations—

- (1) to carry out section 5301 of this title; and
- (2) the Secretary considers necessary to carry out section 5302 of this title.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 994.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5304	31:822.	May 12, 1933, ch. 25, §44, 48 Stat. 53.
	31:822b.	Jan. 30, 1934, ch. 6, §11, 48 Stat. 342.

Before clause (1), the words “prescribe regulations” are substituted for “make and promulgate rules and regulations” in 31:822 and “issue . . . such rules and regulations” in 31:822b for consistency. In clause (1), the words “to carry out” are substituted for “covering any action taken or to be taken by the President under” in 31:822 to eliminate unnecessary words. In clause (2), the words “or proper” in 31:822b and “the purposes of” are omitted as surplus. Reference to 31:821 is omitted as obsolete because silver is no longer coined. Reference to 31:824 is omitted as obsolete because 31:824 is executed and is not part of the revised title.

SUBCHAPTER II—RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 12 sections 1464, 1786, 1817, 1818, 1829b, 3401, 3413; title 15 sections 78q, 6802; title 18 sections 1952, 1956, 1961; title 22 section 2714.

§ 5311. Declaration of purpose

It is the purpose of this subchapter (except section 5315) to require certain reports or records where they have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 995.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5311	31:1051.	Oct. 26, 1970, Pub. L. 91-508, §202, 84 Stat. 1118.

UNIFORM STATE LICENSING AND REGULATION OF CHECK CASHING, CURRENCY EXCHANGE, AND MONEY TRANSMITTING BUSINESSES

Pub. L. 103-325, title IV, §407, Sept. 23, 1994, 108 Stat. 2247, provided that:

“(a) UNIFORM LAWS AND ENFORCEMENT.—For purposes of preventing money laundering and protecting the payment system from fraud and abuse, it is the sense of the Congress that the several States should—

“(1) establish uniform laws for licensing and regulating businesses which—

“(A) provide check cashing, currency exchange, or money transmitting or remittance services, or issue or redeem money orders, travelers’ checks, and other similar instruments; and

“(B) are not depository institutions (as defined in section 5313(g) of title 31, United States Code); and

“(2) provide sufficient resources to the appropriate State agency to enforce such laws and regulations prescribed pursuant to such laws.

“(b) MODEL STATUTE.—It is the sense of the Congress that the several States should develop, through the auspices of the National Conference of Commissioners on Uniform State Laws, the American Law Institute, or such other forum as the States may determine to be appropriate, a model statute to carry out the goals described in subsection (a) which would include the following:

“(1) LICENSING REQUIREMENTS.—A requirement that any business described in subsection (a)(1) be licensed and regulated by an appropriate State agency in order to engage in any such activity within the State.

“(2) LICENSING STANDARDS.—A requirement that—

“(A) in order for any business described in subsection (a)(1) to be licensed in the State, the appropriate State agency shall review and approve—

“(i) the business record and the capital adequacy of the business seeking the license; and

“(ii) the competence, experience, integrity, and financial ability of any individual who—

“(I) is a director, officer, or supervisory employee of such business; or

“(II) owns or controls such business; and

“(B) any record, on the part of any business seeking the license or any person referred to in subparagraph (A)(ii), of—

“(i) any criminal activity;

“(ii) any fraud or other act of personal dishonesty;

“(iii) any act, omission, or practice which constitutes a breach of a fiduciary duty; or