

114TH CONGRESS  
2D SESSION

# H. R. 766

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 8, 2016

Received; read twice and referred to the Committee on Banking, Housing, and  
Urban Affairs

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## AN ACT

To provide requirements for the appropriate Federal banking agencies when requesting or ordering a depository institution to terminate a specific customer account, to provide for additional requirements related to subpoenas issued under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 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,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Financial Institution  
3 Customer Protection Act of 2016”.

4 **SEC. 2. REQUIREMENTS FOR DEPOSIT ACCOUNT TERMINATION REQUESTS AND ORDERS.**

6       (a) **TERMINATION REQUESTS OR ORDERS MUST BE**  
7 **MATERIAL.—**

8           (1) **IN GENERAL.**—An appropriate Federal  
9 banking agency may not formally or informally re-  
10 quest or order a depository institution to terminate  
11 a specific customer account or group of customer ac-  
12 counts or to otherwise restrict or discourage a de-  
13 pository institution from entering into or maintain-  
14 ing a banking relationship with a specific customer  
15 or group of customers unless—

16           (A) the agency has a material reason for  
17 such request or order; and

18           (B) such reason is not based solely on rep-  
19 utation risk.

20       (2) **TREATMENT OF NATIONAL SECURITY**  
21 **THREATS.**—If an appropriate Federal banking agen-  
22 cy believes a specific customer or group of customers  
23 is, or is acting as a conduit for, an entity which—

24           (A) poses a threat to national security;

25           (B) is involved in terrorist financing;

1 (C) is an agency of the government of  
2 Iran, North Korea, Syria, or any country listed  
3 from time to time on the State Sponsors of  
4 Terrorism list;

5 (D) is located in, or is subject to the juris-  
6 diction of, any country specified in subpara-  
7 graph (C); or

8 (E) does business with any entity described  
9 in subparagraph (C) or (D), unless the appro-  
10 priate Federal banking agency determines that  
11 the customer or group of customers has used  
12 due diligence to avoid doing business with any  
13 entity described in subparagraph (C) or (D),  
14 such belief shall satisfy the requirement under para-  
15 graph (1).

16 (b) NOTICE REQUIREMENT.—

17 (1) IN GENERAL.—If an appropriate Federal  
18 banking agency formally or informally requests or  
19 orders a depository institution to terminate a spe-  
20 cific customer account or a group of customer ac-  
21 counts, the agency shall—

22 (A) provide such request or order to the  
23 institution in writing; and

24 (B) accompany such request or order with  
25 a written justification for why such termination

1 is needed, including any specific laws or regula-  
2 tions the agency believes are being violated by  
3 the customer or group of customers, if any.

4 (2) JUSTIFICATION REQUIREMENT.—A jus-  
5 tification described under paragraph (1)(B) may not  
6 be based solely on the reputation risk to the deposi-  
7 tory institution.

8 (c) CUSTOMER NOTICE.—

9 (1) NOTICE REQUIRED.—Except as provided  
10 under paragraph (2), if an appropriate Federal  
11 banking agency orders a depository institution to  
12 terminate a specific customer account or a group of  
13 customer accounts, the depository institution shall  
14 inform the customer or customers of the justification  
15 for the customer's account termination described  
16 under subsection (b).

17 (2) NOTICE PROHIBITED IN CASES OF NA-  
18 TIONAL SECURITY.—If an appropriate Federal bank-  
19 ing agency requests or orders a depository institu-  
20 tion to terminate a specific customer account or a  
21 group of customer accounts based on a belief that  
22 the customer or customers pose a threat to national  
23 security, or are otherwise described under subsection  
24 (a)(2), neither the depository institution nor the ap-  
25 propriate Federal banking agency may inform the

1 customer or customers of the justification for the  
2 customer's account termination.

3 (d) REPORTING REQUIREMENT.—Each appropriate  
4 Federal banking agency shall issue an annual report to  
5 the Congress stating—

6 (1) the aggregate number of specific customer  
7 accounts that the agency requested or ordered a de-  
8 pository institution to terminate during the previous  
9 year; and

10 (2) the legal authority on which the agency re-  
11 lied in making such requests and orders and the fre-  
12 quency on which the agency relied on each such au-  
13 thority.

14 (e) DEFINITIONS.—For purposes of this section:

15 (1) APPROPRIATE FEDERAL BANKING AGEN-  
16 CY.—The term “appropriate Federal banking agen-  
17 cy” means—

18 (A) the appropriate Federal banking agen-  
19 cy, as defined under section 3 of the Federal  
20 Deposit Insurance Act (12 U.S.C. 1813); and

21 (B) the National Credit Union Administra-  
22 tion, in the case of an insured credit union.

23 (2) DEPOSITORY INSTITUTION.—The term “de-  
24 pository institution” means—

1 (A) a depository institution, as defined  
2 under section 3 of the Federal Deposit Insur-  
3 ance Act (12 U.S.C. 1813); and

4 (B) an insured credit union.

5 **SEC. 3. AMENDMENTS TO THE FINANCIAL INSTITUTIONS**  
6 **REFORM, RECOVERY, AND ENFORCEMENT**  
7 **ACT OF 1989.**

8 Section 951 of the Financial Institutions Reform, Re-  
9 covery, and Enforcement Act of 1989 (12 U.S.C. 1833a)  
10 is amended—

11 (1) in subsection (c)(2), by striking “affecting  
12 a federally insured financial institution” and insert-  
13 ing “against a federally insured financial institution  
14 or by a federally insured financial institution against  
15 an unaffiliated third person”; and

16 (2) in subsection (g)—

17 (A) in the header, by striking “SUB-  
18 POENAS” and inserting “INVESTIGATIONS”; and

19 (B) by amending paragraph (1)(C) to read  
20 as follows:

21 “(C) summon witnesses and require the  
22 production of any books, papers, correspond-  
23 ence, memoranda, or other records which the  
24 Attorney General deems relevant or material to  
25 the inquiry, if the Attorney General—

1           “(i) requests a court order from a  
2           court of competent jurisdiction for such ac-  
3           tions and offers specific and articulable  
4           facts showing that there are reasonable  
5           grounds to believe that the information or  
6           testimony sought is relevant and material  
7           for conducting an investigation under this  
8           section; or

9           “(ii) either personally or through dele-  
10          gation no lower than the Deputy Attorney  
11          General, issues and signs a subpoena for  
12          such actions and such subpoena is sup-  
13          ported by specific and articulable facts  
14          showing that there are reasonable grounds  
15          to believe that the information or testi-  
16          mony sought is relevant for conducting an  
17          investigation under this section.”.

Passed the House of Representatives February 4,  
2016.

Attest:

KAREN L. HAAS,  
*Clerk.*