

Union Calendar No. 305

114TH CONGRESS
2^D SESSION

H. R. 766

[Report No. 114-402]

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.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2015

Mr. LUETKEMEYER (for himself, Mr. HASTINGS, and Mr. STIVERS) introduced the following bill; which was referred to the Committee on Financial Services

JANUARY 28, 2016

Additional sponsors: Mr. MULVANEY, Mr. CÁRDENAS, Mr. MURPHY of Florida, Mr. GOSAR, Mrs. BLACKBURN, Mr. LATTA, Mr. ROSS, Mr. STUTZMAN, Mr. SESSIONS, Mr. FARENTHOLD, Mr. UPTON, Mr. CURBELO of Florida, Mr. FINCHER, Mr. NEUGEBAUER, Mr. EMMER of Minnesota, Mr. TIPTON, Mr. POSEY, Mr. WILLIAMS, Mr. BARR, Mr. ROTHFUS, Mr. HULTGREN, Mr. PEARCE, Ms. JENKINS of Kansas, Mr. JOLLY, Mr. DESJARLAIS, Mr. GRAVES of Missouri, Mr. RODNEY DAVIS of Illinois, and Mr. MESSER

JANUARY 28, 2016

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Financial Institution
5 Customer Protection Act of 2015”.

6 **SEC. 2. REQUIREMENTS FOR DEPOSIT ACCOUNT TERMI-**
7 **NATION REQUESTS AND ORDERS.**

8 (a) **TERMINATION REQUESTS OR ORDERS MUST BE**
9 **MATERIAL.—**

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

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

20 (B) such reason is not based solely on rep-
21 utation risk.

22 (2) **TREATMENT OF NATIONAL SECURITY**
23 **THREATS.—**If an appropriate Federal banking agen-
24 cy believes a specific customer or group of customers
25 poses a threat to national security, including any be-

1 lief that such customer or group of customers is in-
2 volved in terrorist financing, such belief shall satisfy
3 the materiality requirement under paragraph (1)(A).

4 (b) NOTICE REQUIREMENT.—

5 (1) IN GENERAL.—If an appropriate Federal
6 banking agency formally or informally requests or
7 orders a depository institution to terminate a spe-
8 cific customer account or a group of customer ac-
9 counts, the agency shall—

10 (A) provide such request or order to the
11 institution in writing; and

12 (B) accompany such request or order with
13 a written justification for why such termination
14 is needed, including any specific laws or regula-
15 tions the agency believes are being violated by
16 the customer or group of customers, if any.

17 (2) JUSTIFICATION REQUIREMENT.—A jus-
18 tification described under paragraph (1)(B) may not
19 be based solely on the reputation risk to the deposi-
20 tory institution.

21 (c) CUSTOMER NOTICE.—

22 (1) NOTICE NOT REQUIRED.—Nothing in this
23 section shall be construed as requiring a depository
24 institution or an appropriate Federal banking agen-
25 cy to inform a customer or customers of the jus-

1 tification for the customer’s account termination de-
2 scribed under subsection (b).

3 (2) NOTICE PROHIBITED IN CASES OF NA-
4 TIONAL SECURITY.—If an appropriate Federal bank-
5 ing agency requests or orders a depository institu-
6 tion to terminate a specific customer account or a
7 group of customer accounts based on a belief that
8 the customer or customers pose a threat to national
9 security, neither the depository institution nor the
10 appropriate Federal banking agency may inform the
11 customer or customers of the justification for the
12 customer’s account termination.

13 (d) REPORTING REQUIREMENT.—Each appropriate
14 Federal banking agency shall issue an annual report to
15 the Congress stating—

16 (1) the aggregate number of specific customer
17 accounts that the agency requested or ordered a de-
18 pository institution to terminate during the previous
19 year; and

20 (2) the legal authority on which the agency re-
21 lied in making such requests and orders and the fre-
22 quency on which the agency relied on each such au-
23 thority.

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

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

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

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

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

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

14 (B) an insured credit union.

15 **SEC. 3. AMENDMENTS TO THE FINANCIAL INSTITUTIONS**
16 **REFORM, RECOVERY, AND ENFORCEMENT**
17 **ACT OF 1989.**

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

21 (1) in subsection (c)(2), by striking “affecting
22 a federally insured financial institution” and insert-
23 ing “against a federally insured financial institution
24 or by a federally insured financial institution against
25 an unaffiliated third person”; and

1 (2) in subsection (g)—

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

4 (B) by amending paragraph (1)(C) to read
5 as follows:

6 “(C) summon witnesses and require the
7 production of any books, papers, correspond-
8 ence, memoranda, or other records which the
9 Attorney General deems relevant or material to
10 the inquiry, if the Attorney General—

11 “(i) requests a court order from a
12 court of competent jurisdiction for such ac-
13 tions and offers specific and articulable
14 facts showing that there are reasonable
15 grounds to believe that the information or
16 testimony sought is relevant and material
17 for conducting an investigation under this
18 section; or

19 “(ii) either personally or through dele-
20 gation no lower than the Deputy Attorney
21 General, issues and signs a subpoena for
22 such actions and such subpoena is sup-
23 ported by specific and articulable facts
24 showing that there are reasonable grounds
25 to believe that the information or testi-

1 mony sought is relevant for conducting an
2 investigation under this section.”.

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