

106TH CONGRESS  
1ST SESSION

# S. 466

To provide that “Know Your Customer” regulations proposed by the Federal banking agencies may not take effect unless such regulations are specifically authorized by a subsequent Act of Congress, to require a comprehensive study and report to the Congress on various economic and privacy issues raised by the proposed regulations, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 1999

Mr. JEFFORDS introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To provide that “Know Your Customer” regulations proposed by the Federal banking agencies may not take effect unless such regulations are specifically authorized by a subsequent Act of Congress, to require a comprehensive study and report to the Congress on various economic and privacy issues raised by the proposed regulations, 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 “American Financial  
5       Institutions Privacy Act of 1999”.

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act, the following definitions  
3 shall apply:

4 (1) DEPOSITORY INSTITUTION; FEDERAL BANK-  
5 ING AGENCIES.—The terms “depository institution”  
6 and “Federal banking agencies” have the same  
7 meanings as in section 3 of the Federal Deposit In-  
8 surance Act.

9 (2) “KNOW YOUR CUSTOMER” REGULATION.—

10 (A) IN GENERAL.—The term “‘Know Your  
11 Customer’ regulation” means any regulation  
12 prescribed by the Secretary or any Federal  
13 banking agency which requires any depository  
14 institution to establish a program to—

15 (i) determine the identity of the cus-  
16 tomers or prospective customers of the de-  
17 pository institution;

18 (ii) determine the sources of funds of  
19 the customers of the institution;

20 (iii) determine the normal and ex-  
21 pected transactions of the customers of the  
22 institution; and

23 (iv) monitor the account activity of  
24 each customer for transactions that are in-  
25 consistent with the normal and expected  
26 transaction of such customer.

1           (B) INCLUSIVE OF FLEXIBLE PRO-  
2 GRAMS.—A regulation meets the definition de-  
3 scribed in subparagraph (A) if the purposes of  
4 the requirements of the regulation are described  
5 in such subparagraph, whether or not the regu-  
6 lation provides depository institutions some  
7 flexibility in designing a program to meet such  
8 requirements on the basis of the type, size, and  
9 complexity of the institution, the types of cus-  
10 tomers served by the institution, the nature and  
11 extent of the financial activities of the cus-  
12 tomers of the institution, and the risk of illegal  
13 activities involving such institution or customer.

14 (3) SECRETARY.—The term “Secretary”—

15           (A) means the Secretary of the Treasury;  
16 and

17           (B) includes any entity established by the  
18 Secretary, such as the Financial Crimes En-  
19 forcement Network, to exercise the rights, pow-  
20 ers, and duties delegated to such entity by the  
21 Secretary.

1 **SEC. 3. PROHIBITION ON “KNOW YOUR CUSTOMER” REGU-**  
2 **LATIONS UNLESS SPECIFICALLY AUTHOR-**  
3 **IZED BY A SUBSEQUENT ACT OF CONGRESS.**

4 Any “Know Your Customer” regulation prescribed by  
5 the Secretary or any Federal banking agency shall not  
6 have any force or effect after the date of enactment of  
7 this Act, unless the Secretary or such agency is authorized  
8 to prescribe such regulation by a specific provision in an  
9 Act of Congress enacted after the date of enactment of  
10 this Act.

11 **SEC. 4. COMPREHENSIVE STUDY REQUIRED.**

12 (a) IN GENERAL.—The Secretary and the Federal  
13 banking agencies shall jointly conduct a comprehensive  
14 study of—

15 (1) the extent to which any “Know Your Cus-  
16 tomer” regulation prescribed by the Secretary or any  
17 such agency would—

18 (A) invade the privacy of individual law  
19 abiding Americans and their families; and

20 (B) impinge on the freedom of association  
21 and other rights protected under the first 10  
22 Amendments to the Constitution of the United  
23 States;

24 (2) the effect that any such “Know Your Cus-  
25 tomer” regulation would likely have on traditional

1 banking relationships of individuals and their fami-  
2 lies;

3 (3) the extent of the economic burden of any  
4 “Know Your Customer” regulation on small deposi-  
5 tory institutions; and

6 (4) practical alternatives to “Know Your Cus-  
7 tomer” regulations.

8 (b) REPORT TO CONGRESS.—Not later than 180 days  
9 after the date of enactment of this Act, the Secretary and  
10 the Federal banking agencies shall submit to the Congress  
11 a detailed report of the findings and conclusions of the  
12 Secretary and such agencies in connection with the study  
13 conducted pursuant to subsection (a), together with such  
14 recommendations for legislative or administrative action  
15 as the Secretary and such agencies may determine to be  
16 appropriate.

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