

115TH CONGRESS
1ST SESSION

H. R. 2706

IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 2017

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

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 2017”.

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

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

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 valid reason for such
17 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) or as otherwise prohibited from
11 being disclosed by law, if an appropriate Federal
12 banking agency orders a depository institution to
13 terminate a specific customer account or a group of
14 customer accounts, the depository institution shall
15 inform the specific customer or group of customers
16 of the justification for the customer's account termi-
17 nation described under subsection (b).

18 (2) NOTICE PROHIBITED.—

19 (A) NOTICE PROHIBITED IN CASES OF NA-
20 TIONAL SECURITY.—If an appropriate Federal
21 banking agency requests or orders a depository
22 institution to terminate a specific customer ac-
23 count or a group of customer accounts based on
24 a belief that the customer or customers pose a
25 threat to national security, or are otherwise de-

scribed under subsection (a)(2), neither the depository institution nor the appropriate Federal banking agency may inform the customer or customers of the justification for the customer's account termination.

(B) NOTICE PROHIBITED IN OTHER CASES.—If an appropriate Federal banking agency determines that the notice required under paragraph (1) may interfere with an authorized criminal investigation, neither the depository institution nor the appropriate Federal banking agency may inform the specific customer or group of customers of the justification for the customer's account termination.

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

(1) the aggregate number of specific customer accounts that the agency requested or ordered a depository institution to terminate during the previous year; and

(2) the legal authority on which the agency relied in making such requests and orders and the frequency on which the agency relied on each such authority.

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

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

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

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

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

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

15 (B) an insured credit union.

Passed the House of Representatives December 11,
2017.

Attest:

KAREN L. HAAS,

Clerk.