

115TH CONGRESS  
2D SESSION

# H. R. 6249

To amend the Federal Election Campaign Act of 1971 to treat certain foreign-owned corporations and business organizations as foreign nationals for purposes of the ban on campaign activity, to prohibit foreign-affiliated section 501(c)(4) organizations from making contributions to super PACs or disbursing funds for independent expenditures or electioneering communications, to amend the Foreign Agents Registration Act of 1938 to reform the procedures for the registration of agents of foreign principals under such Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2018

Ms. KAPTUR (for herself, Mr. RASKIN, Ms. JAYAPAL, Mr. CARSON of Indiana, Ms. NORTON, Mr. POCAN, Ms. SHEA-PORTER, Mr. DEUTCH, Mr. JONES, Mr. RYAN of Ohio, Ms. MAXINE WATERS of California, Mr. MCNERNEY, and Ms. PINGREE) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Federal Election Campaign Act of 1971 to treat certain foreign-owned corporations and business organizations as foreign nationals for purposes of the ban on campaign activity, to prohibit foreign-affiliated section 501(c)(4) organizations from making contributions to super PACs or disbursing funds for independent expenditures or electioneering communications, to amend the Foreign Agents Registration Act of 1938 to reform the

procedures for the registration of agents of foreign principals under such Act, 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; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
 5       “Repelling Encroachment by Foreigners into U.S. Elec-  
 6       tions Act” or the “REFUSE Act”.

7       (b) TABLE OF CONTENTS.—The table of contents of  
 8       this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—RESTRICT FOREIGN AND DARK MONEY IN ELECTIONS

Sec. 101. Treatment of certain foreign-owned corporations and associations as foreign nationals for purposes of ban on campaign activity.

Sec. 102. Prohibiting foreign-affiliated section 501(c)(4) organizations from making certain election-related disbursements.

Sec. 103. Activities subject to ban.

Sec. 104. Requiring certain candidates to report contributions by lobbyists representing foreign clients.

Sec. 105. Effective date.

TITLE II—REFORM OF FOREIGN AGENTS REGISTRATION ACT OF 1938

Sec. 201. Repealing exemption from registration under Foreign Agents Registration Act of 1938 for persons filing disclosure reports under Lobbying Disclosure Act of 1995.

Sec. 202. Conditions for exemption for persons providing legal representation.

Sec. 203. Filing and labeling of political propaganda.

Sec. 204. Treatment of informational materials.

Sec. 205. Promoting enforcement of registration requirements for foreign agents by authorizing Attorney General to issue civil investigative demands.

Sec. 206. Authorizing imposition and collection of registration fees.

Sec. 207. Comprehensive strategy to improve enforcement and administration.

Sec. 208. Analysis by Government Accountability Office.

Sec. 209. Definition.

Sec. 210. Effective date.

1 **TITLE I—RESTRICT FOREIGN**  
2 **AND DARK MONEY IN ELEC-**  
3 **TIONS**

4 **SEC. 101. TREATMENT OF CERTAIN FOREIGN-OWNED COR-**  
5 **PORATIONS AND ASSOCIATIONS AS FOREIGN**  
6 **NATIONALS FOR PURPOSES OF BAN ON CAM-**  
7 **PAIGN ACTIVITY.**

8 Section 319(b) of the Federal Election Campaign Act  
9 of 1971 (52 U.S.C. 30121(b)) is amended to read as fol-  
10 lows:

11 “(b) DEFINITION.—

12 “(1) IN GENERAL.—As used in this section, the  
13 term ‘foreign national’ means—

14 “(A) an individual who is not a citizen of  
15 the United States or a national of the United  
16 States, as defined in section 101(a)(22) of the  
17 Immigration and Nationality Act (8 U.S.C.  
18 1101(a)(22)), and who is not lawfully admitted  
19 for permanent residence, as defined by section  
20 101(a)(20) of such Act (8 U.S.C. 1101(a)(20);

21 “(B) a person outside of the United  
22 States, unless it is established that such person  
23 is an individual who is a citizen of the United  
24 States, or that such person is not an individual  
25 and is organized under or created by the laws

1 of the United States or of any State or other  
2 place subject to the jurisdiction of the United  
3 States and has its principal place of business  
4 within the United States;

5 “(C) a government of a foreign country or  
6 an official of the government of a foreign coun-  
7 try, as defined in section 1(e) of the Foreign  
8 Agents Registration Act of 1938 (22 U.S.C.  
9 611(e)), a foreign political party, as defined in  
10 section 1(f) of such Act (22 U.S.C. 611(f)), or  
11 a corporation principally owned or controlled by  
12 the government of a foreign country or an offi-  
13 cial of the government of a foreign country, in-  
14 cluding a separate segregated fund of such a  
15 corporation under section 316;

16 “(D) a corporation (other than a corpora-  
17 tion described in subparagraph (C)), partner-  
18 ship, association, organization, or other com-  
19 bination of persons organized under the laws of  
20 or having its principal place of business in a  
21 foreign country, including a separate segregated  
22 fund of such a corporation under section 316;

23 “(E) a corporation in which one or more  
24 foreign nationals described in subparagraph (C)  
25 holds, owns, controls, or otherwise has directly

1 or indirectly acquired beneficial ownership of  
2 equity or voting shares in an aggregate amount  
3 equal to or greater than 5 percent of total equity  
4 or outstanding voting shares (as determined by excluding any equity or shares owned  
5 by a mutual fund), including a separate segregated  
6 fund of such a corporation under section  
7 316; or  
8

9 “(F) a corporation in which one or more  
10 foreign nationals (other than those described in  
11 subparagraph (C)) holds, owns, controls, or otherwise  
12 has directly or indirectly acquired beneficial  
13 ownership of equity or voting shares in an  
14 aggregate amount equal to or greater than 20  
15 percent of total equity or outstanding voting  
16 shares (as determined by excluding any equity  
17 or shares owned by a mutual fund), including  
18 a separate segregated fund of such a corporation.  
19

20 “(2) USE OF QUARTERLY SEC REPORTS.—In  
21 the case of a corporation which is required to file  
22 quarterly reports with the Securities and Exchange  
23 Commission under section 13 of the Securities Exchange  
24 Act of 1934 (15 U.S.C. 78m), the determination  
25 as to whether a corporation is described in

1        subparagraph (D), (E), or (F) shall be based on the  
 2        most recent such report.”.

3    **SEC. 102. PROHIBITING FOREIGN-AFFILIATED SECTION**  
 4                            **501(c)(4) ORGANIZATIONS FROM MAKING CER-**  
 5                            **TAIN ELECTION-RELATED DISBURSEMENTS.**

6        Title III of the Federal Election Campaign Act of  
 7    1971 (52 U.S.C. 30101 et seq.) is amended by adding at  
 8    the end the following new section:

9    **“SEC. 325. PROHIBITION ON CERTAIN ELECTION-RELATED**  
 10                            **DISBURSEMENTS BY FOREIGN-AFFILIATED**  
 11                            **SECTION 501(c)(4) ORGANIZATIONS.**

12        “(a) PROHIBITION.—It is unlawful for a foreign-af-  
 13    filiated section 501(c)(4) organization to make an election-  
 14    related disbursement described in subsection (b).

15        “(b) ELECTION-RELATED DISBURSEMENT DE-  
 16    SCRIBED.—An election-related disbursement described in  
 17    this subsection is any of the following:

18                    “(1) A contribution to a super PAC.

19                    “(2) An independent expenditure.

20                    “(3) The disbursement of funds for the dissemi-  
 21    nation of an electioneering communication.

22        “(c) DEFINITION OF FOREIGN-AFFILIATED SECTION  
 23    501(c)(4) ORGANIZATION.—In this section, a ‘foreign-af-  
 24    filiated section 501(c)(4) organization’ is a section  
 25    501(c)(4) organization with respect to which—

1           “(1) the amount of contributions provided to  
2           the organization by foreign nationals described in  
3           subparagraph (C) of section 319(b)(1) was equal to  
4           or greater than 5 percent of the gross receipts of the  
5           organization, as determined on the basis of the most  
6           recent taxable year for which information on the  
7           gross receipts of the organization is available or, in  
8           the case of an organization which is required to file  
9           quarterly reports with the Securities and Exchange  
10          Commission under section 13 of the Securities Ex-  
11          change Act of 1934 (15 U.S.C. 78m), the most re-  
12          cent such report; or

13          “(2) the amount of contributions provided to  
14          the organization by all foreign nationals described in  
15          section 319(b) was equal to or greater than 20 per-  
16          cent of the gross receipts of the organization, as de-  
17          termined on the basis of the most recent taxable  
18          year for which information on the gross receipts of  
19          the organization is available or, in the case of an or-  
20          ganization which is required to file quarterly reports  
21          with the Securities and Exchange Commission under  
22          section 13 of the Securities Exchange Act of 1934  
23          (15 U.S.C. 78m), the most recent such report.

24          “(d) OTHER DEFINITIONS.—In this section—

1 “(1) the term ‘electioneering communication’  
 2 has the meaning given such term in section  
 3 304(f)(3);

4 “(2) the term ‘section 501(c)(4) organization’  
 5 means an organization described in section 501(c)(4)  
 6 of the Internal Revenue Code of 1986 and exempt  
 7 from taxation under section 501(a) of such Code;  
 8 and

9 “(3) term ‘super PAC’ means a political com-  
 10 mittee which accepts donations or contributions that  
 11 do not comply with the limitations and prohibitions  
 12 of this Act (or has an account which is established  
 13 for the purpose of accepting such donations or con-  
 14 tributions) and which makes only independent ex-  
 15 penditures (or has an account which is established  
 16 for the purpose of making only independent expendi-  
 17 tures).”.

18 **SEC. 103. ACTIVITIES SUBJECT TO BAN.**

19 (a) CONTRIBUTIONS AND DONATIONS IN CONNEC-  
 20 TION WITH BALLOT INITIATIVES AND REFERENDA.—  
 21 Section 319(a)(1)(A) of the Federal Election Campaign  
 22 Act of 1971 (52 U.S.C. 30121(a)(1)(A)) is amended by  
 23 striking “election;” and inserting the following: “election,  
 24 including a State or local ballot initiative or referendum;”.



1 (b) COVERAGE OF CERTAIN ELECTION-RELATED AC-  
 2 TIVITIES.—Section 319 of such Act (52 U.S.C. 30121) is  
 3 amended by adding at the end the following new sub-  
 4 section:

5 “(c) A foreign national shall not direct, dictate, con-  
 6 trol, or directly or indirectly participate in the decision-  
 7 making process of any person with regard to such person’s  
 8 Federal or non-Federal election-related activities, such as  
 9 decisions concerning the making of contributions or ex-  
 10 penditures in connection with elections for any local,  
 11 State, or Federal office or decisions concerning the admin-  
 12 istration of a political committee.”.

13 **SEC. 104. REQUIRING CERTAIN CANDIDATES TO REPORT**  
 14 **CONTRIBUTIONS BY LOBBYISTS REPRESENT-**  
 15 **ING FOREIGN CLIENTS.**

16 Section 304 of the Federal Election Campaign Act  
 17 of 1971 (52 U.S.C. 30104) is amended by adding at the  
 18 end the following new subsection:

19 “(j) SPECIAL REPORTS BY CANDIDATES RECEIVING  
 20 CONTRIBUTIONS FROM LOBBYISTS REPRESENTING FOR-  
 21 EIGN CLIENTS.—

22 “(1) REQUIREMENT TO REPORT.—If an author-  
 23 ized committee of a candidate described in para-  
 24 graph (3) receives a contribution from a registered  
 25 lobbyist under the Lobbying Disclosure Act of 1995

1 (2 U.S.C. 1601 et seq.) who had a covered foreign  
2 lobbying contact with the candidate during the 6-  
3 month period which ends on the date the committee  
4 receives the contribution, or who has a covered for-  
5 eign lobbying contact with the candidate during the  
6 6-month period which begins on the date the com-  
7 mittee receives the contribution, the committee shall  
8 file a report with the Commission which discloses the  
9 identification of the lobbyist, the amount of the con-  
10 tribution, and a description of the lobbying contact.

11 “(2) DEADLINE.—A committee shall file the re-  
12 port required under paragraph (1)—

13 “(A) in the case of a covered foreign lob-  
14 bying contact described in subparagraph (A) of  
15 paragraph (4), not later than 10 days after the  
16 date on which the committee receives the con-  
17 tribution; or

18 “(B) in the case of a covered foreign lob-  
19 bying contact described in subparagraph (B) of  
20 paragraph (4), not later than 10 days after the  
21 date on which the registered lobbyist had a cov-  
22 ered foreign lobbying contact with the can-  
23 didate.

24 “(3) CANDIDATES DESCRIBED.—A candidate  
25 described in this paragraph is a candidate who, dur-

1       ing either of the 6-month periods described in para-  
2       graph (1), is treated as a covered legislative branch  
3       official or a covered executive branch official for pur-  
4       poses of the Lobbying Disclosure Act of 1995 (2  
5       U.S.C. 1601 et seq.).

6               “(4) COVERED FOREIGN LOBBYING CONTACT.—  
7       In this subsection, a ‘covered foreign lobbying con-  
8       tact’ is, with respect to a contribution received by an  
9       authorized committee of a candidate, a lobbying con-  
10      tact under the Lobbying Disclosure Act of 1995  
11      which is made with the candidate on behalf of a for-  
12      eign entity—

13               “(A) during the 6-month period which  
14              ends on the date the committee receives the  
15              contribution; or

16               “(B) during the 6-month period which be-  
17              gins on the date the committee receives the con-  
18              tribution.”.

19   **SEC. 105. EFFECTIVE DATE.**

20       The amendments made by this title shall apply with  
21      respect to elections occurring after December 2018.

1 **TITLE II—REFORM OF FOREIGN**  
2 **AGENTS REGISTRATION ACT**  
3 **OF 1938**

4 **SEC. 201. REPEALING EXEMPTION FROM REGISTRATION**  
5 **UNDER FOREIGN AGENTS REGISTRATION**  
6 **ACT OF 1938 FOR PERSONS FILING DISCLO-**  
7 **SURE REPORTS UNDER LOBBYING DISCLO-**  
8 **SURE ACT OF 1995.**

9 (a) REPEAL OF EXEMPTION.—Section 3 of the For-  
10 eign Agents Registration Act of 1938 (22 U.S.C. 613) is  
11 amended by striking subsection (h).

12 (b) TIMING OF FILING OF REGISTRATION STATE-  
13 MENTS.—Section 2 of the Foreign Agents Registration  
14 Act of 1938 (22 U.S.C. 612) is amended—

15 (1) in subsection (a), in the matter preceding  
16 paragraph (1), in the fourth sentence, by striking  
17 “The registration statement shall include” and in-  
18 serting “Except as provided in subsection (h), the  
19 registration statement shall include”; and

20 (2) by adding at the end the following:

21 “(h) TIMING FOR FILING OF STATEMENTS BY PER-  
22 SONS REGISTERED UNDER LOBBYING DISCLOSURE ACT  
23 OF 1995.—In the case of an agent of a person described  
24 in section 1(b)(2) or an entity described in section 1(b)(3)  
25 who has registered under the Lobbying Disclosure Act of

1 1995 (2 U.S.C. 1601 et seq.), after the agent files the  
 2 first registration required under subsection (a) in connec-  
 3 tion with the agent’s representation of such person or enti-  
 4 ty, the agent shall file all subsequent statements required  
 5 under this section at the same time, and in the same fre-  
 6 quency, as the reports filed with the Clerk of the House  
 7 of Representatives or the Secretary of the Senate (as the  
 8 case may be) under section 5 of the Lobbying Disclosure  
 9 Act of 1995 (2 U.S.C. 1604) in connection with the  
 10 agent’s representation of such person or entity.”.

11 **SEC. 202. CONDITIONS FOR EXEMPTION FOR PERSONS**  
 12 **PROVIDING LEGAL REPRESENTATION.**

13 Section 3(g) of the Foreign Agents Registration Act  
 14 of 1938 (22 U.S.C. 613(g)) is amended by adding at the  
 15 end the following: “A person may be exempt under this  
 16 subsection only if the person files with the Attorney Gen-  
 17 eral a request for such exemption and the Attorney Gen-  
 18 eral approves the request.”.

19 **SEC. 203. FILING AND LABELING OF POLITICAL PROPAGANDA.**  
 20

21 Section 4 of the Foreign Agents Registration Act of  
 22 1938 (22 U.S.C. 614) is amended—

23 (1) in subsection (a), by striking “or circulated  
 24 among two or more persons” and inserting “to any  
 25 other person”; and

1 (2) by adding at the end the following:

2 “(g) ADDITIONAL INFORMATION REQUIRED WITH  
3 FILING.—It shall be unlawful for any person within the  
4 United States who is an agent of a foreign principal and  
5 required to register under the provisions of this Act to  
6 transmit or cause to be transmitted in the United States  
7 mails or by any means or instrumentality of interstate or  
8 foreign commerce any informational materials for or in the  
9 interests of such foreign principal without filing with the  
10 Attorney General a statement that includes—

11 “(1) the name of each original recipient of the  
12 materials; and

13 “(2) the original date on which the materials  
14 will be distributed.”.

15 **SEC. 204. TREATMENT OF INFORMATIONAL MATERIALS.**

16 (a) DEFINITION.—Section 1 of the Foreign Agents  
17 Registration Act of 1938 (22 U.S.C. 611) is amended—

18 (1) in subsection (c), in the matter preceding  
19 paragraph (1), by striking “Expect” and inserting  
20 “Except”; and

21 (2) by inserting after subsection (i) the fol-  
22 lowing:

23 “(j) The term ‘informational materials’ means any  
24 oral, visual, graphic, written, or pictorial information or  
25 matter of any kind, including matter published by means

1 of advertising, books, periodicals, newspapers, lectures,  
2 broadcasts, motion pictures, social media, or any means  
3 or instrumentality of interstate or foreign commerce or  
4 otherwise.”.

5 (b) CONFORMING AMENDMENT RELATING TO FILING  
6 OF INFORMATIONAL MATERIALS WITH ATTORNEY GEN-  
7 ERAL.—Section 4(a) of such Act (22 U.S.C. 614(a)) is  
8 amended by striking “or foreign commerce” and inserting  
9 “or foreign commerce, including electronic mail and social  
10 media,”.

11 (c) WAIVER OF FILING REQUIREMENT FOR UNRE-  
12 LATED MATERIALS.—Section 4(a) of such Act (22 U.S.C.  
13 614(a)) is amended—

14 (1) by striking “Every person” and inserting  
15 “(1) Every person”; and

16 (2) by adding at the end the following new  
17 paragraph:

18 “(2) Paragraph (1) does not apply with respect to  
19 any informational material which is disseminated by an  
20 agent of a foreign principal as part of an activity that is  
21 exempt from registration under this Act, or as part of an  
22 activity which by itself would not require registration  
23 under this Act.”.

24 (d) INCLUSION OF IDENTIFICATION STATEMENTS.—  
25 Section 4(b) of such Act (22 U.S.C. 614(b)) is amended—

1 (1) by striking “It shall” and inserting “(1)  
2 Except as provided in paragraph (2), it shall”; and

3 (2) by adding at the end the following new  
4 paragraph:

5 “(2) An agent of a foreign principal may omit the  
6 statement required under paragraph (1) in individual mes-  
7 sages, posts, or transmissions on social media with respect  
8 to a foreign principal if the social media account or profile  
9 from which the information is sent includes a conspicuous  
10 statement that—

11 “(A) the account is operated by, and distributes  
12 information on behalf of, the agent; and

13 “(B) additional information about the account  
14 is on file with the Department of Justice in Wash-  
15 ington, District of Columbia.”.

16 **SEC. 205. PROMOTING ENFORCEMENT OF REGISTRATION**  
17 **REQUIREMENTS FOR FOREIGN AGENTS BY**  
18 **AUTHORIZING ATTORNEY GENERAL TO ISSUE**  
19 **CIVIL INVESTIGATIVE DEMANDS.**

20 The Foreign Agents Registration Act of 1938 (22  
21 U.S.C. 611 et seq.) is amended by redesignating sections  
22 12 through 14 as sections 13 through 15 and by inserting  
23 after section 11 the following new section:

24 **“SEC. 12. CIVIL INVESTIGATIVE DEMANDS.**

25 **“(a) AUTHORITY OF ATTORNEY GENERAL.—**



1           “(1) AUTHORITY DESCRIBED.—Whenever the  
2       Attorney General or the Attorney General’s designee  
3       has reason to believe that any person may be in pos-  
4       session, custody, or control of any documentary ma-  
5       terial, or may have any information, relevant to an  
6       investigation under this Act, the Attorney General or  
7       designee may, prior to the institution of a civil or  
8       criminal proceeding by the United States thereon,  
9       issue in writing, and cause to be served upon such  
10      person, a civil investigative demand requiring such  
11      person to produce such documentary material for in-  
12      spection and copying or reproduction, to answer in  
13      writing written interrogatories with respect to such  
14      documentary material or information, to give oral  
15      testimony concerning such documentary material or  
16      information, or to furnish any combination of such  
17      material, answers, or testimony. Whenever a civil in-  
18      vestigative demand is an express demand for any  
19      product of discovery, the Attorney General or des-  
20      ignee shall cause to be served, in any manner au-  
21      thorized by this section, a copy of such demand upon  
22      the person from whom the discovery was obtained  
23      and notify the person to whom such demand is  
24      issued of the date on which such copy was served.

1           “(2) LIMITING INDIVIDUALS WHO MAY SERVE  
2 AS DESIGNEES.—The Attorney General may not des-  
3 ignate any individual other than the Assistant Attor-  
4 ney General for National Security or a Deputy At-  
5 torney General to carry out the authority provided  
6 under this section.

7           “(b) CONTENTS AND DEADLINES.—

8           “(1) IN GENERAL.—Each demand issued under  
9 subsection (a) shall—

10               “(A) state the nature of the conduct con-  
11 stituting the alleged violation of this Act which  
12 is under investigation and the provision of this  
13 Act alleged to be violated;

14               “(B) if such demand is for the production  
15 of documentary material—

16                   “(i) describe each class of documen-  
17 tary material to be produced with such  
18 definiteness and certainty as to permit  
19 such material to be fairly identified;

20                   “(ii) prescribe a return date for each  
21 such class which will provide a reasonable  
22 period of time within which the material so  
23 demanded may be assembled and made  
24 available for inspection and copying or re-  
25 production; and

1 “(iii) identify the custodian to whom  
2 such material shall be made available;

3 “(C) if such demand is for answers to writ-  
4 ten interrogatories—

5 “(i) set forth with specificity the writ-  
6 ten interrogatories to be answered;

7 “(ii) prescribe dates at which time an-  
8 swers to written interrogatories shall be  
9 submitted; and

10 “(iii) identify the custodian to whom  
11 such answers shall be submitted; and

12 “(D) if such demand is for the giving of  
13 oral testimony—

14 “(i) prescribe a date, time, and place  
15 at which oral testimony shall be com-  
16 menced;

17 “(ii) identify an investigator who shall  
18 conduct the examination and the custodian  
19 to whom the transcript of such examina-  
20 tion shall be submitted;

21 “(iii) specify that such attendance and  
22 testimony are necessary to the conduct of  
23 the investigation;

24 “(iv) notify the person receiving the  
25 demand of the right to be accompanied by

1 an attorney and any other representative;

2 and

3 “(v) describe the general purpose for  
4 which the demand is being issued and the  
5 general nature of the testimony, including  
6 the primary areas of inquiry, which will be  
7 taken pursuant to the demand.

8 “(2) PRODUCT OF DISCOVERY.—Any civil inves-  
9 tigative demand issued under this section which is  
10 an express demand for any product of discovery  
11 shall not be returned or returnable until 20 days  
12 after a copy of such demand has been served upon  
13 the person from whom the discovery was obtained.

14 “(3) DATE.—The date prescribed for the com-  
15 mencement of oral testimony pursuant to a civil in-  
16 vestigative demand issued under subsection (a) shall  
17 be a date which is not less than 7 days after the  
18 date on which demand is received, unless the Attor-  
19 ney General or the Attorney General’s designee de-  
20 termines that exceptional circumstances are present  
21 which warrant the commencement of such testimony  
22 within a lesser period of time.

23 “(4) NOTIFICATION.—The Attorney General  
24 shall not authorize the issuance under this section of  
25 more than one civil investigative demand for oral

1 testimony by the same person unless the person re-  
2 quests otherwise or unless the Attorney General,  
3 after investigation, notifies that person in writing  
4 that an additional demand for oral testimony is nec-  
5 essary.

6 “(c) PROTECTED MATERIAL OR INFORMATION.—

7 “(1) IN GENERAL.—A civil investigative de-  
8 mand issued under subsection (a) may not require  
9 the production of any documentary material, the  
10 submission of any answers to written interrogatories,  
11 or the giving of any oral testimony if such material,  
12 answers, or testimony would be protected from dis-  
13 closure under—

14 “(A) the standards applicable to subpoenas  
15 or subpoenas duces tecum issued by a court of  
16 the United States in aid of a grand jury inves-  
17 tigation; or

18 “(B) the standards applicable to discovery  
19 requests under the Federal Rules of Civil Pro-  
20 cedure, to the extent that the application of  
21 such standards to any such demand is appro-  
22 priate and consistent with the provisions and  
23 purposes of this Act.

24 “(2) EFFECT ON OTHER ORDERS, RULES, AND  
25 LAWS.—Any such demand which is an express de-

1       mand for any product of discovery supersedes any  
2       inconsistent order, rule, or provision of law (other  
3       than this Act) preventing or restraining disclosure of  
4       such product of discovery to any person. Disclosure  
5       of any product of discovery pursuant to any such ex-  
6       press demand does not constitute a waiver of any  
7       right or privilege, including without limitation any  
8       right or privilege which may be invoked to resist dis-  
9       covery of trial preparation materials, to which the  
10      person making such disclosure may be entitled.

11      “(d) SERVICE; JURISDICTION.—

12           “(1) BY WHOM SERVED.—Any civil investiga-  
13      tive demand issued under subsection (a) may be  
14      served by an appropriate investigator, or by a  
15      United States marshal or deputy marshal, at any  
16      place within the territorial jurisdiction of any court  
17      of the United States.

18           “(2) SERVICE IN FOREIGN NATIONS.—Any such  
19      demand or petition filed under subsection (k) may  
20      be served upon any person who is not to be found  
21      within the territorial jurisdiction of any court of the  
22      United States, in such manner as the Federal Rules  
23      of Civil Procedure prescribe for service in a foreign  
24      country. To the extent that the courts of the United  
25      States can assert jurisdiction over any such person

1 consistent with due process, the United States Dis-  
2 trict Court for the District of Columbia shall have  
3 the same jurisdiction to take any action respecting  
4 compliance with this Act by any such person that  
5 such court would have if such person were personally  
6 within the jurisdiction of such court.

7 “(e) SERVICE UPON LEGAL ENTITIES AND NATURAL  
8 PERSONS.—

9 “(1) LEGAL ENTITIES.—Service of any civil in-  
10 vestigative demand issued under subsection (a) or of  
11 any petition filed under subsection (k) may be made  
12 upon a partnership, corporation, association, or  
13 other legal entity by—

14 “(A) delivering a duly executed copy of  
15 such demand or petition to any partner, execu-  
16 tive officer, managing agent, or general agent  
17 of the partnership, corporation, association, or  
18 entity, or to any agent thereof authorized by  
19 appointment or by law to receive service of  
20 process on behalf of such partnership, corpora-  
21 tion, association, or entity;

22 “(B) delivering a duly executed copy of  
23 such demand or petition to the principal office  
24 or place of business of the partnership, corpora-  
25 tion, association, or entity to be served; or

1           “(C) depositing an executed copy of such  
2           demand or petition in the United States mails  
3           by registered or certified mail, with a return re-  
4           ceipt requested, duly addressed to such partner-  
5           ship, corporation, association, or entity at its  
6           principal office or place of business.

7           “(2) NATURAL PERSONS.—Service of any such  
8           demand or petition may be made upon any natural  
9           person by—

10           “(A) delivering a duly executed copy of  
11           such demand or petition to the person to be  
12           served; or

13           “(B) depositing an executed copy of such  
14           demand or petition in the United States mails  
15           by registered or certified mail, with a return re-  
16           ceipt requested, duly addressed to such person  
17           at the person’s residence or principal office or  
18           place of business.

19           “(f) PROOF OF SERVICE.—A verified return by the  
20           individual serving any civil investigative demand under  
21           subsection (a) or any petition filed under subsection (k)  
22           setting forth the manner of such service shall be proof of  
23           such service. In the case of service by registered or cer-  
24           tified mail, such return shall be accompanied by the return  
25           post office receipt of delivery of such demand.



1 “(g) DOCUMENTARY MATERIAL.—

2 “(1) SWORN CERTIFICATES.—The production of  
3 documentary material in response to a civil inves-  
4 tigative demand served pursuant to this section shall  
5 be made under a sworn certificate, in such form as  
6 the demand designates, by—

7 “(A) in the case of a natural person, the  
8 person to whom the demand is directed; or

9 “(B) in the case of a person other than a  
10 natural person, a person having knowledge of  
11 the facts and circumstances relating to such  
12 production and authorized to act on behalf of  
13 such person,

14 to the effect that all of the documentary material re-  
15 quired by the demand and in the possession, cus-  
16 tody, or control of the person to whom the demand  
17 is directed has been produced and made available to  
18 the custodian.

19 “(2) PRODUCTION OF MATERIALS.—Any person  
20 upon whom any civil investigative demand for the  
21 production of documentary material has been served  
22 under this section shall make such material available  
23 for inspection and copying to the investigator identi-  
24 fied in such demand at the principal place of busi-  
25 ness of such person, or at such other place as the

1 investigator and the person thereafter may agree  
2 and prescribe in writing, or as the court may direct  
3 under subsection (k)(1). Such material shall be  
4 made so available on the return date specified in  
5 such demand, or on such later date as the investi-  
6 gator may prescribe in writing. Such person may,  
7 upon written agreement between the person and the  
8 investigator, substitute copies for originals of all or  
9 any part of such material.

10 “(h) INTERROGATORIES.—

11 “(1) ANSWERS.—Each interrogatory in a civil  
12 investigative demand served pursuant to this section  
13 shall be answered separately and fully in writing  
14 under oath, and it shall be submitted under a sworn  
15 certificate, in such form as the demand designates,  
16 by—

17 “(A) in the case of a natural person, the  
18 person to whom the demand is directed; or

19 “(B) in the case of a person other than a  
20 natural person, the person or persons respon-  
21 sible for answering each interrogatory.

22 “(2) CONTENTS OF CERTIFICATES.—The cer-  
23 tificate submitted under paragraph (1) shall state  
24 that all information required by the demand and in  
25 the possession, custody, control, or knowledge of the

1 person to whom the demand is directed has been  
2 submitted. To the extent that any information is not  
3 furnished, the information shall be identified and  
4 reasons set forth with particularity regarding the  
5 reasons why the information was not furnished.

6 “(3) OBJECTIONS.—If any interrogatory is ob-  
7 jected to, the reasons for the objection shall be stat-  
8 ed in the certificate instead of an answer.

9 “(i) ORAL EXAMINATIONS.—

10 “(1) PROCEDURES.—The examination of any  
11 person pursuant to a civil investigative demand for  
12 oral testimony served under this section shall be  
13 taken before an officer authorized to administer  
14 oaths and affirmations by the laws of the United  
15 States or of the place where the examination is held.  
16 The officer before whom the testimony is to be taken  
17 shall put the witness on oath or affirmation and  
18 shall personally, or by someone acting under the di-  
19 rection of the officer and in the officer’s presence,  
20 record the testimony of the witness. The testimony  
21 shall be taken stenographically and transcribed.  
22 When the testimony is fully transcribed, the officer  
23 before whom the testimony is taken shall promptly  
24 transmit a copy of the transcript of the testimony to  
25 the custodian. This subsection shall not preclude the

1 taking of testimony by any means authorized by,  
2 and in a manner consistent with, the Federal Rules  
3 of Civil Procedure.

4 “(2) PERSONS PRESENT.—The investigator  
5 conducting the examination shall exclude from the  
6 place where the examination is held all persons ex-  
7 cept the person giving the testimony, the attorney  
8 for and any other representative of the person giving  
9 the testimony, the attorney for the Government, any  
10 person who may be agreed upon by the attorney for  
11 the Government and the person giving the testi-  
12 mony, the officer before whom the testimony is to be  
13 taken, and any stenographer taking such testimony.

14 “(3) WHERE TESTIMONY TAKEN.—The oral  
15 testimony of any person taken pursuant to a civil in-  
16 vestigative demand served under this section shall be  
17 taken in the judicial district of the United States  
18 within which such person resides, is found, or trans-  
19 acts business, or in such other place as may be  
20 agreed upon by the investigator conducting the ex-  
21 amination and such person.

22 “(4) TRANSCRIPT OF TESTIMONY.—When the  
23 testimony is fully transcribed, the investigator or the  
24 officer before whom the testimony is taken shall af-  
25 ford the witness (who may be accompanied by coun-

1        sel) a reasonable opportunity to examine and read  
2        the transcript, unless such examination and reading  
3        are waived by the witness. Any changes in form or  
4        substance which the witness desires to make shall be  
5        entered and identified upon the transcript by the of-  
6        ficer or the investigator with a statement of the rea-  
7        sons given by the witness for making such changes.  
8        The transcript shall then be signed by the witness,  
9        unless the witness in writing waives the signing, is  
10       ill, cannot be found, or refuses to sign. If the tran-  
11       script is not signed by the witness within 30 days  
12       after being afforded a reasonable opportunity to ex-  
13       amine it, the officer or the investigator shall sign it  
14       and state on the record the fact of the waiver, ill-  
15       ness, absence of the witness, or the refusal to sign,  
16       together with the reason, if any, given therefor.

17            “(5) CERTIFICATION AND DELIVERY TO CUSTO-  
18       DIAN.—The officer before whom the testimony is  
19       taken shall certify on the transcript that the witness  
20       was duly sworn by the officer and that the transcript  
21       is a true record of the testimony given by the wit-  
22       ness, and the officer or investigator shall promptly  
23       deliver it or send it by registered or certified mail to  
24       the custodian.

1           “(6) FURNISHING OR INSPECTION OF TRAN-  
2       SCRIPT BY WITNESS.—Upon payment of reasonable  
3       charges therefor, the investigator shall furnish a  
4       copy of the transcript to the witness only, except  
5       that the Attorney General, or the Attorney General’s  
6       designee in accordance with this Act, may for good  
7       cause limit such witness to inspection of the official  
8       transcript of the witness’s testimony.

9           “(7) CONDUCT OF ORAL TESTIMONY.—

10           “(A) IN GENERAL.—Any person compelled  
11       to appear for oral testimony under a civil inves-  
12       tigative demand issued under subsection (a)  
13       may be accompanied, represented, and advised  
14       by counsel. Counsel may advise such person, in  
15       confidence, with respect to any question asked  
16       of such person. Such person or counsel may ob-  
17       ject on the record to any question, in whole or  
18       in part, and shall briefly state for the record  
19       the reason for the objection. An objection may  
20       be made, received, and entered upon the record  
21       when it is claimed that such person is entitled  
22       to refuse to answer the question on the grounds  
23       of any constitutional or other legal right or  
24       privilege, including the privilege against self-in-  
25       crimination. Such person may not otherwise ob-

1           ject to or refuse to answer any question, and  
2           may not directly or through counsel otherwise  
3           interrupt the oral examination. If such person  
4           refuses to answer any question, a petition may  
5           be filed in the district court of the United  
6           States under subsection (k)(1) for an order  
7           compelling such person to answer such ques-  
8           tion.

9           “(B) COMPELLED TESTIMONY.—If such  
10          person refuses to answer any question on the  
11          grounds of the privilege against self-incrimina-  
12          tion, the testimony of such person may be com-  
13          pelled in accordance with the provisions of part  
14          V of title 18, United States Code.

15          “(8) WITNESS FEES AND ALLOWANCES.—Any  
16          person appearing for oral testimony under a civil in-  
17          vestigative demand issued under subsection (a) shall  
18          be entitled to the same fees and allowances which  
19          are paid to witnesses in the district courts of the  
20          United States.

21          “(j) CUSTODIANS OF DOCUMENTS, ANSWERS, AND  
22          TRANSCRIPTS.—

23          “(1) DESIGNATION.—The Attorney General, or  
24          designee in accordance with this Act, shall designate  
25          an investigator to serve as custodian of documentary

1 material, answers to interrogatories, and transcripts  
2 of oral testimony received under this section, and  
3 shall designate such additional investigators as the  
4 Attorney General determines from time to time to be  
5 necessary to serve as deputies of the custodian.

6 “(2) RESPONSIBILITY FOR MATERIALS; DISCLO-  
7 SURE.—

8 “(A) IN GENERAL.—An investigator who  
9 receives any documentary material, answers to  
10 interrogatories, or transcripts of oral testimony  
11 under this section shall transmit them to the  
12 custodian. The custodian shall take physical  
13 possession of such material, answers, or tran-  
14 scripts and shall be responsible for the use  
15 made of them and for the return of documen-  
16 tary material under paragraph (4).

17 “(B) PREPARATION.—The custodian may  
18 cause the preparation of such copies of such  
19 documentary material, answers to interroga-  
20 tories, or transcripts of oral testimony as may  
21 be required for official use by any investigator,  
22 or other officer or employee of the Department  
23 of Justice. Such material, answers, and tran-  
24 scripts may be used by any such authorized in-  
25 vestigator or other officer or employee in con-



1 nection with the taking of oral testimony under  
2 this section.

3 “(C) NO EXAMINATION.—Except as other-  
4 wise provided in this subsection, no documen-  
5 tary material, answers to interrogatories, or  
6 transcripts of oral testimony, or copies thereof,  
7 while in the possession of the custodian, shall  
8 be available for examination by any individual  
9 other than an investigator or other officer or  
10 employee of the Department of Justice author-  
11 ized under subparagraph (B). The prohibition  
12 in the preceding sentence on the availability of  
13 material, answers, or transcripts shall not apply  
14 if consent is given by the person who produced  
15 such material, answers, or transcripts, or, in  
16 the case of any product of discovery produced  
17 pursuant to an express demand for such mate-  
18 rial, consent is given by the person from whom  
19 the discovery was obtained. Nothing in this sub-  
20 paragraph is intended to prevent disclosure to  
21 the Congress, including any committee or sub-  
22 committee of the Congress, or to any other  
23 agency of the United States for use by such  
24 agency in furtherance of its statutory respon-  
25 sibilities.

1           “(D) EXAMINATION BY CERTAIN PER-  
2           SONS.—While in the possession of the custodian  
3           and under such reasonable terms and conditions  
4           as the Attorney General shall prescribe—

5                   “(i) documentary material and an-  
6                   swers to interrogatories shall be available  
7                   for examination by the person who pro-  
8                   duced such material or answers, or by a  
9                   representative of that person authorized by  
10                  that person to examine such material and  
11                  answers; and

12                   “(ii) transcripts of oral testimony  
13                   shall be available for examination by the  
14                   person who produced such testimony, or by  
15                   a representative of that person authorized  
16                   by that person to examine such transcripts.

17           “(3) USE OF MATERIAL, ANSWERS, OR TRAN-  
18           SCRIPTS IN OTHER PROCEEDINGS.—Whenever any  
19           attorney of the Department of Justice has been des-  
20           ignated to appear before any court, grand jury, or  
21           Federal agency in any case or proceeding, the custo-  
22           dian of any documentary material, answers to inter-  
23           rogatories, or transcripts of oral testimony received  
24           under this section may deliver to such attorney such  
25           material, answers, or transcripts for official use in

1 connection with any such case or proceeding as such  
2 attorney determines to be required. Upon the com-  
3 pletion of any such case or proceeding, such attorney  
4 shall return to the custodian any such material, an-  
5 swers, or transcripts so delivered which have not  
6 passed into the control of such court, grand jury, or  
7 agency through the introduction thereof into the  
8 record of such case or proceeding.

9 “(4) CONDITIONS FOR RETURN OF MATE-  
10 RIAL.—If any documentary material has been pro-  
11 duced by any person in the course of any investiga-  
12 tion pursuant to a civil investigative demand under  
13 this section, and—

14 “(A) any case or proceeding before the  
15 court or grand jury arising out of such inves-  
16 tigation, or any proceeding before any Federal  
17 agency involving such material, has been com-  
18 pleted; or

19 “(B) no case or proceeding in which such  
20 material may be used has been commenced  
21 within a reasonable time after completion of the  
22 examination and analysis of all documentary  
23 material and other information assembled in  
24 the course of such investigation,

1 the custodian shall, upon written request of the per-  
2 son who produced such material, return to such per-  
3 son any such material (other than copies furnished  
4 to the investigator under subsection (g)(2) or made  
5 for the Department of Justice under paragraph  
6 (2)(B)) which has not passed into the control of any  
7 court, grand jury, or agency through introduction  
8 into the record of such case or proceeding.

9 “(5) APPOINTMENT OF SUCCESSOR  
10 CUSTODIANS.—

11 “(A) IN GENERAL.—In the event of the  
12 death, disability, or separation from service in  
13 the Department of Justice of the custodian of  
14 any documentary material, answers to interrog-  
15 atories, or transcripts of oral testimony pro-  
16 duced pursuant to a civil investigative demand  
17 under this section, or in the event of the official  
18 relief of such custodian from responsibility for  
19 the custody and control of such material, an-  
20 swers, or transcripts, the Attorney General or  
21 the Attorney General’s designee in accordance  
22 with this Act shall promptly—

23 “(i) designate another investigator to  
24 serve as custodian of such material, an-  
25 swers, or transcripts; and

1                   “(ii) transmit in writing to the person  
2                   who produced such material, answers, or  
3                   testimony notice of the identity and ad-  
4                   dress of the successor so designated.

5                   “(B) SUCCESSOR.—Any person who is des-  
6                   ignated to be a successor under this paragraph  
7                   shall have, with regard to such material, an-  
8                   swers, or transcripts, the same duties and re-  
9                   sponsibilities as were imposed by this section  
10                  upon that person’s predecessor in office, except  
11                  that the successor shall not be held responsible  
12                  for any default or dereliction which occurred be-  
13                  fore that designation.

14                  “(k) JUDICIAL PROCEEDINGS.—

15                  “(1) PETITION FOR ENFORCEMENT.—Whenever  
16                  any person fails to comply with any civil investiga-  
17                  tive demand issued under subsection (a), or when-  
18                  ever satisfactory copying or reproduction of any ma-  
19                  terial requested in such demand cannot be done and  
20                  such person refuses to surrender such material, the  
21                  Attorney General may file, in the district court of  
22                  the United States for any judicial district in which  
23                  such person resides, is found, or transacts business,  
24                  and serve upon such person a petition for an order

1 of such court for the enforcement of the civil inves-  
2 tigative demand.

3 “(2) PETITION TO MODIFY OR SET ASIDE DE-  
4 MAND.—

5 “(A) IN GENERAL.—Any person who has  
6 received a civil investigative demand issued  
7 under subsection (a) may file, in the district  
8 court of the United States for the judicial dis-  
9 trict within which such person resides, is found,  
10 or transacts business, and serve upon the inves-  
11 tigator identified in such demand a petition for  
12 an order of the court to modify or set aside  
13 such demand. In the case of a petition ad-  
14 dressed to an express demand for any product  
15 of discovery, a petition to modify or set aside  
16 such demand may be brought only in the dis-  
17 trict court of the United States for the judicial  
18 district in which the proceeding in which such  
19 discovery was obtained is or was last pending.  
20 Any petition under this subparagraph must be  
21 filed—

22 “(i) within 20 days after the date of  
23 service of the civil investigative demand, or  
24 at any time before the return date speci-

1           fied in the demand, whichever date is ear-  
2           lier; or

3           “(ii) within such longer period as may  
4           be prescribed in writing by any investigator  
5           identified in the demand.

6           “(B) GROUNDS FOR RELIEF.—The petition  
7           shall specify each ground upon which the peti-  
8           tioner relies in seeking relief under subpara-  
9           graph (A), and may be based upon any failure  
10          of the demand to comply with the provisions of  
11          this section or upon any constitutional or other  
12          legal right or privilege of such person. During  
13          the pendency of the petition in the court, the  
14          court may stay, as it deems proper, the running  
15          of the time allowed for compliance with the de-  
16          mand, in whole or in part, except that the per-  
17          son filing the petition shall comply with any  
18          portions of the demand not sought to be modi-  
19          fied or set aside.

20          “(3) PETITION TO MODIFY OR SET ASIDE DE-  
21          MAND FOR PRODUCT OF DISCOVERY.—

22          “(A) IN GENERAL.—In the case of any  
23          civil investigative demand issued under sub-  
24          section (a) which is an express demand for any  
25          product of discovery, the person from whom

1 such discovery was obtained may file, in the dis-  
2 trict court of the United States for the judicial  
3 district in which the proceeding in which such  
4 discovery was obtained is or was last pending,  
5 and serve upon any investigator identified in  
6 the demand and upon the recipient of the de-  
7 mand, a petition for an order of such court to  
8 modify or set aside those portions of the de-  
9 mand requiring production of any such product  
10 of discovery. Any petition under this subpara-  
11 graph must be filed—

12 “(i) within 20 days after the date of  
13 service of the civil investigative demand, or  
14 at any time before the return date speci-  
15 fied in the demand, whichever date is ear-  
16 lier; or

17 “(ii) within such longer period as may  
18 be prescribed in writing by any investigator  
19 identified in the demand.

20 “(B) GROUNDS FOR RELIEF.—The petition  
21 shall specify each ground upon which the peti-  
22 tioner relies in seeking relief under subpara-  
23 graph (A), and may be based upon any failure  
24 of the portions of the demand from which relief  
25 is sought to comply with the provisions of this



1 section, or upon any constitutional or other  
2 legal right or privilege of the petitioner. During  
3 the pendency of the petition, the court may  
4 stay, as it deems proper, compliance with the  
5 demand and the running of the time allowed for  
6 compliance with the demand.

7 “(4) PETITION TO REQUIRE PERFORMANCE BY  
8 CUSTODIAN OF DUTIES.—At any time during which  
9 any custodian is in custody or control of any docu-  
10 mentary material or answers to interrogatories pro-  
11 duced, or transcripts of oral testimony given, by any  
12 person in compliance with any civil investigative de-  
13 mand issued under subsection (a), such person, and  
14 in the case of an express demand for any product of  
15 discovery, the person from whom such discovery was  
16 obtained, may file, in the district court of the United  
17 States for the judicial district within which the office  
18 of such custodian is situated, and serve upon such  
19 custodian, a petition for an order of such court to  
20 require the performance by the custodian of any  
21 duty imposed upon the custodian by this section.

22 “(5) JURISDICTION.—Whenever any petition is  
23 filed in any district court of the United States under  
24 this subsection, such court shall have jurisdiction to  
25 hear and determine the matter so presented, and to

1 enter such order or orders as may be required to  
2 carry out the provisions of this section. Any final  
3 order so entered shall be subject to appeal under  
4 section 1291 of title 28, United States Code. Any  
5 disobedience of any final order entered under this  
6 section by any court shall be punished as a contempt  
7 of the court.

8 “(6) APPLICABILITY OF FEDERAL RULES OF  
9 CIVIL PROCEDURE.—The Federal Rules of Civil Pro-  
10 cedure shall apply to any petition under this sub-  
11 section, to the extent that such rules are not incon-  
12 sistent with the provisions of this section.

13 “(l) DISCLOSURE EXEMPTION.—Any documentary  
14 material, answers to written interrogatories, or oral testi-  
15 mony provided under any civil investigative demand issued  
16 under subsection (a) shall be exempt from disclosure  
17 under section 552 of title 5, United States Code, as de-  
18 scribed in subsection (b)(3) of such section.

19 “(m) DEFINITIONS.—In this section—

20 “(1) the term ‘custodian’ means the custodian,  
21 or any deputy custodian, designated by the Attorney  
22 General under subsection (j)(1);

23 “(2) the term ‘documentary material’ includes  
24 the original or any copy of any book, record, report,  
25 memorandum, paper, communication, tabulation,

1 chart, or other document, or data compilations  
2 stored in or accessible through computer or other in-  
3 formation retrieval systems, together with instruc-  
4 tions and all other materials necessary to use or in-  
5 terpret such data compilations, and any product of  
6 discovery;

7 “(3) the term ‘investigation’ means any inquiry  
8 conducted for the purpose of ascertaining whether  
9 any person is or has been engaged in any violation  
10 of this Act;

11 “(4) the term ‘investigator’ means any attorney  
12 or investigator employed by the Department of Jus-  
13 tice who is charged with the duty of enforcing or  
14 carrying into effect this Act, or any officer or em-  
15 ployee of the United States acting under the direc-  
16 tion and supervision of such attorney or investigator  
17 in connection with an investigation;

18 “(5) the term ‘official use’ means any use that  
19 is consistent with the law, and the regulations and  
20 policies of the Department of Justice, including use  
21 in connection with internal Department of Justice  
22 memoranda and reports; communications between  
23 the Department of Justice and a Federal, State, or  
24 local government agency, or a contractor of a Fed-  
25 eral, State, or local government agency, undertaken

1 in furtherance of a Department of Justice investiga-  
2 tion or prosecution of a case; oral examinations;  
3 depositions; preparation for and response to civil dis-  
4 covery requests; introduction into the record of a  
5 case or proceeding; applications, motions, memo-  
6 randa and briefs submitted to a court or other tri-  
7 bunal; and communications with Government inves-  
8 tigators, auditors, consultants and experts, the coun-  
9 sel of other parties, arbitrators and mediators, con-  
10 cerning an investigation, case or proceeding; and

11 “(6) the term ‘product of discovery’ includes—

12 “(A) the original or duplicate of any depo-  
13 sition, interrogatory, document, thing, result of  
14 the inspection of land or other property, exam-  
15 ination, or admission, which is obtained by any  
16 method of discovery in any judicial or adminis-  
17 trative proceeding of an adversarial nature;

18 “(B) any digest, analysis, selection, com-  
19 pilation, or derivation of any item listed in sub-  
20 paragraph (A); and

21 “(C) any index or other manner of access  
22 to any item listed in subparagraph (A).

23 “(n) SUNSET.—The authority of the Attorney Gen-  
24 eral to issue a civil investigative demand under this section

1 shall expire upon the expiration of the 5-year period which  
2 begins on the date of the enactment of this section.”.

3 **SEC. 206. AUTHORIZING IMPOSITION AND COLLECTION OF**  
4 **REGISTRATION FEES.**

5 (a) AUTHORIZATION.—The Foreign Agents Registra-  
6 tion Act of 1938 (22 U.S.C. 611 et seq.), as amended by  
7 section 205, is further amended by adding at the end the  
8 following new section:

9 **“SEC. 16. FEES.**

10 “The Attorney General shall establish and collect a  
11 registration fee, as part of the initial filing requirement  
12 and at no other time, to help defray the expenses of the  
13 Registration Unit, and shall credit such fees to this appro-  
14 priation, to remain available until expended.”.

15 (b) CONFORMING AMENDMENT TO REPEAL EXIST-  
16 ING AUTHORITY.—The Department of Justice and Re-  
17 lated Agencies Appropriations Act, 1993 (title I of Public  
18 Law 102–395) is amended, under the heading “SALARIES  
19 AND EXPENSES, GENERAL LEGAL ACTIVITIES”, by striking  
20 “In addition, notwithstanding 31 U.S.C. 3302, for fiscal  
21 year 1993 and thereafter, the Attorney General shall es-  
22 tablish and collect fees to recover necessary expenses of  
23 the Registration Unit (to include salaries, supplies, equip-  
24 ment and training) pursuant to the Foreign Agents Reg-

1 istration Act, and shall credit such fees to this appropria-  
2 tion, to remain available until expended.”.

3 **SEC. 207. COMPREHENSIVE STRATEGY TO IMPROVE EN-**  
4 **FORCEMENT AND ADMINISTRATION.**

5 (a) IMPLEMENTATION OF STRATEGY.—Not later  
6 than 120 days after the date of the enactment of this Act,  
7 the Attorney General shall promulgate final regulations  
8 for the implementation of a comprehensive strategy to im-  
9 prove the enforcement and administration of the Foreign  
10 Agents Registration Act of 1938 (22 U.S.C. 611 et seq.)  
11 that addresses the following issues:

12 (1) The coordination and integration of the  
13 work of the agencies that perform investigations of  
14 alleged violations of the Act and bring actions (in-  
15 cluding criminal prosecutions) to enforce the Act  
16 with the overall national security efforts of the De-  
17 partment of Justice.

18 (2) An assessment of the appropriateness of the  
19 exemptions provided under the Act that permit per-  
20 sons who represent the interests of foreign principals  
21 to avoid registering under the Act.

22 (3) A formal cost-benefit analysis of the appro-  
23 priateness of the fee structure under the Act.

1           (4) An assessment of the value of making advi-  
2       sory opinions under the Act available in whole as an  
3       informational resource.

4       (b) REVIEW BY INSPECTOR GENERAL; REPORTS TO  
5 CONGRESS.—

6           (1) REVIEW.—The Inspector General of the De-  
7       partment of Justice shall carry out a review of—

8           (A) the extent to which the Attorney Gen-  
9       eral has implemented the comprehensive strat-  
10      egy described in subsection (a); and

11          (B) the usage, effectiveness, and any po-  
12      tential abuse of the authority granted to the At-  
13      torney General by this Act to issue civil inves-  
14      tigative demands.

15          (2) REPORTS TO CONGRESS.—The Inspector  
16      General of the Department of Justice shall submit  
17      a report to the appropriate committees of Congress  
18      on the results of the review carried out under para-  
19      graph (1) not later than 1 year after the date upon  
20      which the comprehensive strategy described in sub-  
21      section (a) is implemented by the Attorney General.

22          (c) ANNUAL REPORTS TO CONGRESS.—Not later  
23      than 1 year after the date of the enactment of this Act,  
24      and annually thereafter, the Attorney General, in con-  
25      sultation with the Assistant Attorney General for National

1 Security, shall submit a report to the appropriate commit-  
2 tees of Congress detailing the usage over the preceding  
3 year of the authority granted to the Attorney General by  
4 this Act and the amendments made by this title to issue  
5 civil investigative demands, including—

6 (1) the number of civil investigative demands  
7 issued;

8 (2) a description of the nature of the conduct  
9 constituting the alleged violation of the Foreign  
10 Agents Registration Act of 1938 (22 U.S.C. 611 et  
11 seq.) which was under investigation and the provi-  
12 sion alleged to be violated;

13 (3) a description of the nature of the documen-  
14 tary materials, interrogatories, or oral testimony  
15 sought by the civil investigative demand;

16 (4) the number of times the Attorney General  
17 filed in a district court of the United States a peti-  
18 tion for an order for the enforcement of a civil inves-  
19 tigative demand and a detailed description of the cir-  
20 cumstances that led the Attorney General to seek  
21 such an order;

22 (5) a description of the results of civil investiga-  
23 tive demands issued, including whether the Attorney  
24 General subsequently filed charges for an alleged  
25 violation of the Foreign Agents Registration Act of



1       1938 (22 U.S.C. 611 et seq.), regardless of whether  
2       such charges were filed against the recipient of the  
3       civil investigative demand or another legal entity or  
4       natural person; and

5           (6) any other information regarding the use of  
6       such authority that the Attorney General deems rel-  
7       evant.

8       (d) ENSURING ELECTRONIC ACCESS TO REPORTS  
9 THROUGH SEARCHABLE WEBSITE.—

10           (1) REPORT TO CONGRESS.—The Attorney  
11       General, in consultation with the Assistant Attorney  
12       General for National Security, shall include in the  
13       second annual report submitted to the appropriate  
14       committees of Congress under subsection (c) a de-  
15       tailed description of methods to ensure that reports  
16       filed under the Foreign Agents Registration Act are  
17       filed electronically in a digitized format which will  
18       enable the Foreign Agents Registration Unit website  
19       database to be fully searchable, machine-readable,  
20       sortable, and downloadable.

21           (2) IMPLEMENTATION.—After submitting the  
22       report containing the information described in para-  
23       graph (1), the Attorney General shall implement the  
24       methods described in the report.

1 **SEC. 208. ANALYSIS BY GOVERNMENT ACCOUNTABILITY**  
2 **OFFICE.**

3 Not later than 3 years after the date of enactment  
4 of this Act, the Comptroller General of the United States  
5 shall—

6 (1) carry out an analysis of the effectiveness of  
7 the enforcement and administration of the Foreign  
8 Agents Registration Act of 1938 (22 U.S.C. 611 et  
9 seq.), including the extent to which the amendments  
10 made by this title have improved the enforcement  
11 and administration of such Act, and taking into ac-  
12 count the comprehensive strategy developed and im-  
13 plemented under section 207; and

14 (2) submit the analysis to the Attorney General,  
15 the Inspector General of the Department of Justice,  
16 and the appropriate committees of Congress.

17 **SEC. 209. DEFINITION.**

18 In this title, the term “appropriate committees of  
19 Congress” means—

20 (1) the Committees on the Judiciary and For-  
21 eign Relations of the Senate; and

22 (2) the Committee on the Judiciary of the  
23 House of Representatives.

1 **SEC. 210. EFFECTIVE DATE.**

2       The amendments made by this title shall take effect  
3 180 days after the date of the enactment of this Act.

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