

115TH CONGRESS
1ST SESSION

S. 2039

To amend the Foreign Agents Registration Act of 1938 to promote greater transparency in the registration of persons serving as the agents of foreign principals, to provide the Attorney General with greater authority to investigate alleged violations of such Act and bring criminal and civil actions against persons who commit such violations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 31, 2017

Mr. GRASSLEY introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To amend the Foreign Agents Registration Act of 1938 to promote greater transparency in the registration of persons serving as the agents of foreign principals, to provide the Attorney General with greater authority to investigate alleged violations of such Act and bring criminal and civil actions against persons who commit such violations, 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 “Disclosing Foreign In-
3 fluence Act”.

4 **SEC. 2. 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
26 1995 (2 U.S.C. 1601 et seq.), after the agent files the

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

10 **SEC. 3. PROMOTING ENFORCEMENT OF REGISTRATION RE-**
 11 **QUIREMENTS FOR FOREIGN AGENTS BY AU-**
 12 **THORIZING ATTORNEY GENERAL TO ISSUE**
 13 **CIVIL INVESTIGATIVE DEMANDS.**

14 The Foreign Agents Registration Act of 1938 (22
 15 U.S.C. 611 et seq.) is amended by adding at the end the
 16 following:

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

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

19 **“(1) AUTHORITY DESCRIBED.—**Whenever the
 20 Attorney General or the Attorney General’s designee
 21 has reason to believe that any person may be in pos-
 22 session, custody, or control of any documentary ma-
 23 terial, or may have any information, relevant to an
 24 investigation under this Act, the Attorney General or
 25 designee may, prior to the institution of a civil or

1 criminal proceeding by the United States thereon,
2 issue in writing, and cause to be served upon such
3 person, a civil investigative demand requiring such
4 person to produce such documentary material for in-
5 spection and copying or reproduction, to answer in
6 writing written interrogatories with respect to such
7 documentary material or information, to give oral
8 testimony concerning such documentary material or
9 information, or to furnish any combination of such
10 material, answers, or testimony. Whenever a civil in-
11 vestigative demand is an express demand for any
12 product of discovery, the Attorney General or des-
13 ignee shall cause to be served, in any manner au-
14 thorized by this section, a copy of such demand upon
15 the person from whom the discovery was obtained
16 and notify the person to whom such demand is
17 issued of the date on which such copy was served.

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

24 “(b) CONTENTS AND DEADLINES.—

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

3 “(A) state the nature of the conduct con-
4 stituting the alleged violation of this Act which
5 is under investigation and the provision of this
6 Act alleged to be violated;

7 “(B) if such demand is for the production
8 of documentary material—

9 “(i) describe each class of documen-
10 tary material to be produced with such
11 definiteness and certainty as to permit
12 such material to be fairly identified;

13 “(ii) prescribe a return date for each
14 such class which will provide a reasonable
15 period of time within which the material so
16 demanded may be assembled and made
17 available for inspection and copying or re-
18 production; and

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

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

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

1 “(ii) prescribe dates at which time an-
2 swers to written interrogatories shall be
3 submitted; and

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

6 “(D) if such demand is for the giving of
7 oral testimony—

8 “(i) prescribe a date, time, and place
9 at which oral testimony shall be com-
10 menced;

11 “(ii) identify an investigator who shall
12 conduct the examination and the custodian
13 to whom the transcript of such examina-
14 tion shall be submitted;

15 “(iii) specify that such attendance and
16 testimony are necessary to the conduct of
17 the investigation;

18 “(iv) notify the person receiving the
19 demand of the right to be accompanied by
20 an attorney and any other representative;
21 and

22 “(v) describe the general purpose for
23 which the demand is being issued and the
24 general nature of the testimony, including

1 the primary areas of inquiry, which will be
2 taken pursuant to the demand.

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

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

18 “(4) NOTIFICATION.—The Attorney General
19 shall not authorize the issuance under this section of
20 more than one civil investigative demand for oral
21 testimony by the same person unless the person re-
22 quests otherwise or unless the Attorney General,
23 after investigation, notifies that person in writing
24 that an additional demand for oral testimony is nec-
25 essary.

1 “(c) PROTECTED MATERIAL OR INFORMATION.—

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

9 “(A) the standards applicable to subpoenas
 10 or subpoenas duces tecum issued by a court of
 11 the United States in aid of a grand jury inves-
 12 tigation; or

13 “(B) the standards applicable to discovery
 14 requests under the Federal Rules of Civil Pro-
 15 cedure, to the extent that the application of
 16 such standards to any such demand is appro-
 17 priate and consistent with the provisions and
 18 purposes of this Act.

19 “(2) EFFECT ON OTHER ORDERS, RULES, AND
 20 LAWS.—Any such demand which is an express de-
 21 mand for any product of discovery supersedes any
 22 inconsistent order, rule, or provision of law (other
 23 than this Act) preventing or restraining disclosure of
 24 such product of discovery to any person. Disclosure
 25 of any product of discovery pursuant to any such ex-

1 press demand does not constitute a waiver of any
2 right or privilege, including without limitation any
3 right or privilege which may be invoked to resist dis-
4 covery of trial preparation materials, to which the
5 person making such disclosure may be entitled.

6 “(d) SERVICE; JURISDICTION.—

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

13 “(2) SERVICE IN FOREIGN NATIONS.—Any such
14 demand or petition filed under subsection (k) may
15 be served upon any person who is not to be found
16 within the territorial jurisdiction of any court of the
17 United States, in such manner as the Federal Rules
18 of Civil Procedure prescribe for service in a foreign
19 country. To the extent that the courts of the United
20 States can assert jurisdiction over any such person
21 consistent with due process, the United States Dis-
22 trict Court for the District of Columbia shall have
23 the same jurisdiction to take any action respecting
24 compliance with this Act by any such person that

1 such court would have if such person were personally
2 within the jurisdiction of such court.

3 “(e) SERVICE UPON LEGAL ENTITIES AND NATURAL
4 PERSONS.—

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

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

18 “(B) delivering a duly executed copy of
19 such demand or petition to the principal office
20 or place of business of the partnership, corpora-
21 tion, association, or entity to be served; or

22 “(C) depositing an executed copy of such
23 demand or petition in the United States mails
24 by registered or certified mail, with a return re-
25 ceipt requested, duly addressed to such partner-

1 ship, corporation, association, or entity at its
2 principal office or place of business.

3 “(2) NATURAL PERSONS.—Service of any such
4 demand or petition may be made upon any natural
5 person by—

6 “(A) delivering a duly executed copy of
7 such demand or petition to the person to be
8 served; or

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

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

22 “(g) DOCUMENTARY MATERIAL.—

23 “(1) SWORN CERTIFICATES.—The production of
24 documentary material in response to a civil inves-
25 tigative demand served pursuant to this section shall

1 be made under a sworn certificate, in such form as
2 the demand designates, by—

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

5 “(B) in the case of a person other than a
6 natural person, a person having knowledge of
7 the facts and circumstances relating to such
8 production and authorized to act on behalf of
9 such person,

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

15 “(2) PRODUCTION OF MATERIALS.—Any person
16 upon whom any civil investigative demand for the
17 production of documentary material has been served
18 under this section shall make such material available
19 for inspection and copying to the investigator identi-
20 fied in such demand at the principal place of busi-
21 ness of such person, or at such other place as the
22 investigator and the person thereafter may agree
23 and prescribe in writing, or as the court may direct
24 under subsection (k)(1). Such material shall be
25 made so available on the return date specified in

1 such demand, or on such later date as the investi-
2 gator may prescribe in writing. Such person may,
3 upon written agreement between the person and the
4 investigator, substitute copies for originals of all or
5 any part of such material.

6 “(h) INTERROGATORIES.—

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

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

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

18 “(2) CONTENTS OF CERTIFICATES.—The cer-
19 tificate submitted under paragraph (1) shall state
20 that all information required by the demand and in
21 the possession, custody, control, or knowledge of the
22 person to whom the demand is directed has been
23 submitted. To the extent that any information is not
24 furnished, the information shall be identified and

1 reasons set forth with particularity regarding the
2 reasons why the information was not furnished.

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

6 “(i) ORAL EXAMINATIONS.—

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

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

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

19 “(4) TRANSCRIPT OF TESTIMONY.—When the
20 testimony is fully transcribed, the investigator or the
21 officer before whom the testimony is taken shall af-
22 ford the witness (who may be accompanied by coun-
23 sel) a reasonable opportunity to examine and read
24 the transcript, unless such examination and reading
25 are waived by the witness. Any changes in form or

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

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

22 “(6) FURNISHING OR INSPECTION OF TRAN-
23 SCRIPT BY WITNESS.—Upon payment of reasonable
24 charges therefor, the investigator shall furnish a
25 copy of the transcript to the witness only, except

1 that the Attorney General, or the Attorney General's
2 designee in accordance with this Act, may for good
3 cause limit such witness to inspection of the official
4 transcript of the witness's testimony.

5 “(7) CONDUCT OF ORAL TESTIMONY.—

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

1 be filed in the district court of the United
2 States under subsection (k)(1) for an order
3 compelling such person to answer such ques-
4 tion.

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

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

17 “(j) CUSTODIANS OF DOCUMENTS, ANSWERS, AND
18 TRANSCRIPTS.—

19 “(1) DESIGNATION.—The Attorney General, or
20 designee in accordance with this Act, shall designate
21 an investigator to serve as custodian of documentary
22 material, answers to interrogatories, and transcripts
23 of oral testimony received under this section, and
24 shall designate such additional investigators as the

1 Attorney General determines from time to time to be
2 necessary to serve as deputies of the custodian.

3 “(2) RESPONSIBILITY FOR MATERIALS; DISCLO-
4 SURE.—

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

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

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

24 “(D) EXAMINATION BY CERTAIN PER-
25 SONS.—While in the possession of the custodian

1 and under such reasonable terms and conditions
2 as the Attorney General shall prescribe—

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

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

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

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

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

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

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

23 the custodian shall, upon written request of the per-
24 son who produced such material, return to such per-
25 son any such material (other than copies furnished

1 to the investigator under subsection (g)(2) or made
 2 for the Department of Justice under paragraph
 3 (2)(B)) which has not passed into the control of any
 4 court, grand jury, or agency through introduction
 5 into the record of such case or proceeding.

6 “(5) APPOINTMENT OF SUCCESSOR
 7 CUSTODIANS.—

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

20 “(i) designate another investigator to
 21 serve as custodian of such material, an-
 22 swers, or transcripts; and

23 “(ii) transmit in writing to the person
 24 who produced such material, answers, or

1 testimony notice of the identity and ad-
2 dress of the successor so designated.

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

12 “(k) JUDICIAL PROCEEDINGS.—

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

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

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

20 “(i) within 20 days after the date of
21 service of the civil investigative demand, or
22 at any time before the return date speci-
23 fied in the demand, whichever date is ear-
24 lier, or

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

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

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

20 “(A) IN GENERAL.—In the case of any
21 civil investigative demand issued under sub-
22 section (a) which is an express demand for any
23 product of discovery, the person from whom
24 such discovery was obtained may file, in the dis-
25 trict court of the United States for the judicial

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

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

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

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

1 the pendency of the petition, the court may
2 stay, as it deems proper, compliance with the
3 demand and the running of the time allowed for
4 compliance with the demand.

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

20 “(5) JURISDICTION.—Whenever any petition is
21 filed in any district court of the United States under
22 this subsection, such court shall have jurisdiction to
23 hear and determine the matter so presented, and to
24 enter such order or orders as may be required to
25 carry out the provisions of this section. Any final

1 order so entered shall be subject to appeal under
 2 section 1291 of title 28, United States Code. Any
 3 disobedience of any final order entered under this
 4 section by any court shall be punished as a contempt
 5 of the court.

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

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

17 “(m) DEFINITIONS.—In this section—

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

21 “(2) the term ‘documentary material’ includes
 22 the original or any copy of any book, record, report,
 23 memorandum, paper, communication, tabulation,
 24 chart, or other document, or data compilations
 25 stored in or accessible through computer or other in-

1 formation retrieval systems, together with instruc-
2 tions and all other materials necessary to use or in-
3 terpret such data compilations, and any product of
4 discovery;

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

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

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

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

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

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

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

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

21 “(n) SUNSET.—The authority of the Attorney Gen-
 22 eral to issue a civil investigative demand under this section
 23 shall expire upon the expiration of the 5-year period which
 24 begins on the date of the enactment of this section.”.

1 **SEC. 4. COMPREHENSIVE STRATEGY TO IMPROVE EN-**
2 **FORCEMENT AND ADMINISTRATION.**

3 (a) DEVELOPMENT OF STRATEGY.—The Attorney
4 General shall develop and implement a comprehensive
5 strategy to improve the enforcement and administration
6 of the Foreign Agents Registration Act of 1938 (22
7 U.S.C. 611 et seq.) that addresses the following issues:

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

14 (2) An assessment of the appropriateness of the
15 exemptions provided under the Act that permit per-
16 sons who represent the interests of foreign principals
17 to avoid registering under the Act.

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

20 (4) An assessment of the value of making advi-
21 sory opinions under the Act available in whole as an
22 informational resource.

23 (b) REVIEW BY INSPECTOR GENERAL; REPORTS TO
24 CONGRESS.—

1 (1) REVIEW.—The Inspector General of the De-
2 partment of Justice shall carry out a regular, ongoing review of—
3

4 (A) the extent to which the Attorney Gen-
5 eral has developed and implemented the com-
6 prehensive strategy described in subsection (a);
7 and

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

12 (2) REPORTS TO CONGRESS.—The Inspector
13 General of the Department of Justice shall submit
14 a report to the appropriate committees of Congress
15 on the results of the review carried out under para-
16 graph (1) not later than 1 year after the date of en-
17 actment of this Act and annually thereafter.

18 **SEC. 5. ANALYSIS BY GOVERNMENT ACCOUNTABILITY OF-**
19 **FICE.**

20 Not later than 3 years after the date of enactment
21 of this Act, the Comptroller General of the United States
22 shall—

23 (1) carry out an analysis of the effectiveness of
24 the enforcement and administration of the Foreign
25 Agents Registration Act of 1938 (22 U.S.C. 611 et

1 seq.), including the extent to which the amendments
2 made by this Act have improved the enforcement
3 and administration of such Act, and taking into ac-
4 count the comprehensive strategy developed and im-
5 plemented under section 4; and

6 (2) submit the analysis to the Attorney General,
7 the Inspector General of the Department of Justice,
8 and the appropriate committees of Congress.

9 **SEC. 6. DEFINITION.**

10 In this Act, the term “appropriate committees of
11 Congress” means—

12 (1) the Committees on the Judiciary and For-
13 eign Relations of the Senate; and

14 (2) the Committee on the Judiciary of the
15 House of Representatives.

16 **SEC. 7. EFFECTIVE DATE.**

17 The amendments made by this Act shall take effect
18 180 days after the date of the enactment of this Act.

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