

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5758

To provide requirements for the appropriate Federal banking agencies when requesting or ordering a depository institution to terminate a specific customer account, to provide for additional requirements related to subpoenas issued under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 20, 2014

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

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## A BILL

To provide requirements for the appropriate Federal banking agencies when requesting or ordering a depository institution to terminate a specific customer account, to provide for additional requirements related to subpoenas issued under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Financial Institution  
3 Customer Protection Act of 2014”.

4 **SEC. 2. REQUIREMENTS FOR DEPOSIT ACCOUNT TERMI-**  
5 **NATION REQUESTS AND ORDERS.**

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

8 (1) **IN GENERAL.—**An appropriate Federal  
9 banking agency may not suggest, request, or order  
10 a depository institution to terminate a specific cus-  
11 tomer account or to otherwise restrict or discourage  
12 a depository institution from entering into or main-  
13 taining a banking relationship with a specific cus-  
14 tomer unless—

15 (A) the agency has a material reason for  
16 such suggestion, request, or order; and

17 (B) such reason is not based solely on rep-  
18 utation risk.

19 (2) **TREATMENT OF NATIONAL SECURITY**  
20 **THREATS.—**If an appropriate Federal banking agen-  
21 cy believes a specific customer poses a threat to na-  
22 tional security, including any belief that such cus-  
23 tomer is involved in terrorist financing, such belief  
24 shall satisfy the materiality requirement under para-  
25 graph (1)(A).

1           (3) RULEMAKING.—Not later than the end of  
2 the 60-day period beginning on the date of the en-  
3 actment of this Act, the appropriate Federal bank-  
4 ing agencies shall, jointly, issue regulations defining  
5 the term “reputation risk” for purposes of this sec-  
6 tion.

7           (b) NOTICE REQUIREMENT.—

8           (1) IN GENERAL.—If an appropriate Federal  
9 banking agency suggests, requests, or orders a de-  
10 pository institution to terminate a specific customer  
11 account, the agency shall—

12                   (A) provide such suggestion, request, or  
13 order to the institution in writing; and

14                   (B) accompany such suggestion, request,  
15 or order with a justification for why such termi-  
16 nation is needed, including any specific laws or  
17 regulations the agency believes are being vio-  
18 lated by the customer, if any.

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

23           (c) CUSTOMER NOTICE.—

24           (1) NOTICE NOT REQUIRED.—Nothing in this  
25 section shall be construed as requiring a depository

1 institution or an appropriate Federal banking agen-  
2 cy to inform a customer of the justification for the  
3 customer's account termination described under sub-  
4 section (b).

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

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

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

21 (2) the legal authority under which the agency  
22 made such suggestions, requests, and orders.

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

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

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

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

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

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

14                   (B) an insured credit union.

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

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

21                   (1) in subsection (c)(2), by striking “affecting”  
22                   and inserting “by or against”; and

23                   (2) in subsection (g)—

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

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

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

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

16 “(ii) either personally or through dele-  
17 gation no lower than the Deputy Attorney  
18 General, issues and signs a subpoena for  
19 such actions and has reasonable grounds  
20 to believe that the information or testi-  
21 mony sought is relevant for conducting an  
22 investigation under this section.”.

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