

117TH CONGRESS
1ST SESSION

S. _____

To amend the Foreign Agents Registration Act of 1938 to provide the Attorney General with greater authority to promote enforcement of disclosure requirements for agents of foreign principals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. GRASSLEY (for himself, Mr. CORNYN, Mr. RUBIO, Mr. YOUNG, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Foreign Agents Registration Act of 1938 to provide the Attorney General with greater authority to promote enforcement of disclosure requirements for agents of foreign principals, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Foreign Agents Dislo-
5 sure and Registration Enhancement Act of 2021”.

1 **SEC. 2. AUTHORIZING THE ATTORNEY GENERAL TO ISSUE**
2 **CIVIL INVESTIGATIVE DEMANDS TO PRO-**
3 **MOTE ENFORCEMENT OF DISCLOSURE RE-**
4 **QUIREMENTS FOR AGENTS OF FOREIGN**
5 **PRINCIPALS.**

6 The Foreign Agents Registration Act of 1938 (22
7 U.S.C. 611 et seq.) is amended—

8 (1) by redesignating sections 9 through 14 as
9 sections 10 through 15; and

10 (2) by inserting after section 8 the following:

11 **“SEC. 9. CIVIL INVESTIGATIVE DEMANDS CONCERNING**
12 **REGISTRATION OF AGENTS OF FOREIGN**
13 **PRINCIPALS.**

14 “(a) **AUTHORITY OF THE ATTORNEY GENERAL.—**

15 “(1) **AUTHORITY DESCRIBED.—**Whenever the
16 Attorney General or the Attorney General’s designee
17 has reason to believe that any person may be in pos-
18 session, custody, or control of any documentary ma-
19 terial, or may have any information, relevant to an
20 investigation under this Act, the Attorney General or
21 designee may, prior to the institution of a civil or
22 criminal proceeding by the United States thereon,
23 issue in writing, and cause to be served upon such
24 person, a civil investigative demand requiring such
25 person to produce such documentary material for in-
26 spection and copying or reproduction, to answer in

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

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

19 “(b) CONTENTS AND DEADLINES.—

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

22 “(A) state the nature of the conduct con-
23 stituting the alleged violation of this Act that is
24 under investigation and the provision of this
25 Act alleged to be violated;

1 “(B) if such demand is for the production
2 of documentary material—

3 “(i) describe each class of documen-
4 tary material to be produced with such
5 definiteness and certainty as to permit
6 such material to be fairly identified;

7 “(ii) prescribe a return date for each
8 such class which will provide a reasonable
9 period of time within which the material so
10 demanded may be assembled and made
11 available for inspection and copying or re-
12 production; and

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

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

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

19 “(ii) prescribe dates at which time an-
20 swers to written interrogatories shall be
21 submitted; and

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

24 “(D) if such demand is for the giving of
25 oral testimony—

1 “(i) prescribe a date, time, and place
2 at which oral testimony shall be com-
3 menced;

4 “(ii) identify an investigator who shall
5 conduct the examination and the custodian
6 to whom the transcript of such examina-
7 tion shall be submitted;

8 “(iii) specify that such attendance and
9 testimony are necessary to the conduct of
10 the investigation;

11 “(iv) notify the person receiving the
12 demand of the right to be accompanied by
13 an attorney and any other representative;
14 and

15 “(v) describe the general purpose for
16 which the demand is being issued and the
17 general nature of the testimony, including
18 the primary areas of inquiry, which will be
19 taken pursuant to the demand.

20 “(2) PRODUCT OF DISCOVERY.—Any civil inves-
21 tigative demand issued under this section that is an
22 express demand for any product of discovery shall
23 not be returned or returnable until 20 days after a
24 copy of such demand has been served upon the per-
25 son from whom the discovery was obtained.

1 “(3) DATE.—The date prescribed for the com-
2 mencement of oral testimony pursuant to a civil in-
3 vestigative demand issued under subsection (a) shall
4 be a date that is not less than 7 days after the date
5 on which demand is received, unless the Attorney
6 General or the Attorney General’s designee deter-
7 mines that exceptional circumstances are present
8 which warrant the commencement of such testimony
9 within a lesser period of time.

10 “(4) NOTIFICATION.—The Attorney General
11 shall not authorize the issuance under this section of
12 more than 1 civil investigative demand for oral testi-
13 mony by the same person unless the person requests
14 otherwise or unless the Attorney General, after in-
15 vestigation, notifies that person in writing that an
16 additional demand for oral testimony is necessary.

17 “(c) PROTECTED MATERIAL OR INFORMATION.—

18 “(1) IN GENERAL.—A civil investigative de-
19 mand issued under subsection (a) may not require
20 the production of any documentary material, the
21 submission of any answers to written interrogatories,
22 or the giving of any oral testimony if such material,
23 answers, or testimony would be protected from dis-
24 closure under—

1 “(A) the standards applicable to subpoenas
2 or subpoenas duces tecum issued by a court of
3 the United States in aid of a grand jury inves-
4 tigation; or

5 “(B) the standards applicable to discovery
6 requests under the Federal Rules of Civil Pro-
7 cedure, to the extent that the application of
8 such standards to any such demand is appro-
9 priate and consistent with the provisions and
10 purposes of this Act.

11 “(2) EFFECT ON OTHER ORDERS, RULES, AND
12 LAWS.—Any such demand that is an express de-
13 mand for any product of discovery supersedes any
14 inconsistent order, rule, or provision of law (other
15 than this Act) preventing or restraining disclosure of
16 such product of discovery to any person. Disclosure
17 of any product of discovery pursuant to any such ex-
18 press demand does not constitute a waiver of any
19 right or privilege, including without limitation any
20 right or privilege which may be invoked to resist dis-
21 covery of trial preparation materials, to which the
22 person making such disclosure may be entitled.

23 “(d) SERVICE; JURISDICTION.—

24 “(1) BY WHOM SERVED.—Any civil investiga-
25 tive demand issued under subsection (a) may be

1 served by an appropriate investigator, or by a
2 United States marshal or deputy marshal, at any
3 place within the territorial jurisdiction of any court
4 of the United States.

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

19 “(e) SERVICE UPON LEGAL ENTITIES AND NATURAL
20 PERSONS.—

21 “(1) LEGAL ENTITIES.—Service of any civil in-
22 vestigative demand issued under subsection (a) or of
23 any petition filed under subsection (k) may be made
24 upon a partnership, corporation, association, or
25 other legal entity by—

1 “(A) delivering a duly executed copy of
2 such demand or petition to any partner, execu-
3 tive officer, managing agent, or general agent
4 of the partnership, corporation, association, or
5 entity, or to any agent thereof authorized by
6 appointment or by law to receive service of
7 process on behalf of such partnership, corpora-
8 tion, association, or entity;

9 “(B) delivering a duly executed copy of
10 such demand or petition to the principal office
11 or place of business of the partnership, corpora-
12 tion, association, or entity to be served; or

13 “(C) 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 partner-
17 ship, corporation, association, or entity at its
18 principal office or place of business.

19 “(2) NATURAL PERSONS.—Service of any such
20 demand or petition may be made upon any natural
21 person by—

22 “(A) delivering a duly executed copy of
23 such demand or petition to the person to be
24 served; or

1 “(B) 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 person
5 at the person’s residence or principal office or
6 place of business.

7 “(f) PROOF OF SERVICE.—A verified return by the
8 individual serving any civil investigative demand under
9 subsection (a) or any petition filed under subsection (k)
10 setting forth the manner of such service shall be proof of
11 such service. In the case of service by registered or cer-
12 tified mail, such return shall be accompanied by the return
13 post office receipt of delivery of such demand.

14 “(g) DOCUMENTARY MATERIAL.—

15 “(1) SWORN CERTIFICATES.—The production of
16 documentary material in response to a civil inves-
17 tigative demand served pursuant to this section shall
18 be made under a sworn certificate, in such form as
19 the demand designates, by—

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

22 “(B) in the case of a person other than a
23 natural person, a person having knowledge of
24 the facts and circumstances relating to such

1 production and authorized to act on behalf of
2 such person,
3 to the effect that all of the documentary material re-
4 quired by the demand and in the possession, cus-
5 tody, or control of the person to whom the demand
6 is directed has been produced and made available to
7 the custodian.

8 “(2) PRODUCTION OF MATERIALS.—Any person
9 upon whom any civil investigative demand for the
10 production of documentary material has been served
11 under this section shall make such material available
12 for inspection and copying to the investigator identi-
13 fied in such demand at the principal place of busi-
14 ness of such person, or at such other place as the
15 investigator and the person thereafter may agree
16 and prescribe in writing, or as the court may direct
17 under subsection (k)(1). Such material shall be
18 made so available on the return date specified in
19 such demand, or on such later date as the investi-
20 gator may prescribe in writing. Such person may,
21 upon written agreement between the person and the
22 investigator, substitute copies for originals of all or
23 any part of such material.

24 “(h) INTERROGATORIES.—

1 “(1) ANSWERS.—Each interrogatory in a civil
2 investigative demand served pursuant to this section
3 shall be answered separately and fully in writing
4 under oath, and it shall be submitted under a sworn
5 certificate, in such form as the demand designates,
6 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, the person or persons respon-
11 sible for answering each interrogatory.

12 “(2) CONTENTS OF CERTIFICATES.—The cer-
13 tificate submitted under paragraph (1) shall state
14 that all information required by the demand and in
15 the possession, custody, control, or knowledge of the
16 person to whom the demand is directed has been
17 submitted. To the extent that any information is not
18 furnished, the information shall be identified and
19 reasons set forth with particularity regarding the
20 reasons why the information was not furnished.

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

24 “(i) ORAL EXAMINATIONS.—

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

20 “(2) PERSONS PRESENT.—The investigator
21 conducting the examination shall exclude from the
22 place where the examination is held all persons ex-
23 cept the person giving the testimony, the attorney
24 for and any other representative of the person giving
25 the testimony, the attorney for the Government, any

1 person who may be agreed upon by the attorney for
2 the Government and the person giving the testi-
3 mony, the officer before whom the testimony is to be
4 taken, and any stenographer taking such testimony.

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

13 “(4) TRANSCRIPT OF TESTIMONY.—When the
14 testimony is fully transcribed, the investigator or the
15 officer before whom the testimony is taken shall af-
16 ford the witness (who may be accompanied by coun-
17 sel) a reasonable opportunity to examine and read
18 the transcript, unless such examination and reading
19 are waived by the witness. Any changes in form or
20 substance which the witness desires to make shall be
21 entered and identified upon the transcript by the of-
22 ficer or the investigator with a statement of the rea-
23 sons given by the witness for making such changes.
24 The transcript shall then be signed by the witness,
25 unless the witness in writing waives the signing, is

1 ill, cannot be found, or refuses to sign. If the tran-
2 script is not signed by the witness within 30 days
3 after being afforded a reasonable opportunity to ex-
4 amine it, the officer or the investigator shall sign it
5 and state on the record the fact of the waiver, ill-
6 ness, absence of the witness, or the refusal to sign,
7 together with the reason, if any, given therefor.

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

16 “(6) FURNISHING OR INSPECTION OF TRAN-
17 SCRIPT BY WITNESS.—Upon payment of reasonable
18 charges therefor, the investigator shall furnish a
19 copy of the transcript to the witness only, except
20 that the Attorney General, or the Attorney General’s
21 designee in accordance with this Act, may for good
22 cause limit such witness to inspection of the official
23 transcript of the witness’s testimony.

24 “(7) CONDUCT OF ORAL TESTIMONY.—

1 “(A) IN GENERAL.—Any person compelled
2 to appear for oral testimony under a civil inves-
3 tigative demand issued under subsection (a)
4 may be accompanied, represented, and advised
5 by counsel. Counsel may advise such person, in
6 confidence, with respect to any question asked
7 of such person. Such person or counsel may ob-
8 ject on the record to any question, in whole or
9 in part, and shall briefly state for the record
10 the reason for the objection. An objection may
11 be made, received, and entered upon the record
12 when it is claimed that such person is entitled
13 to refuse to answer the question on the grounds
14 of any constitutional or other legal right or
15 privilege, including the privilege against self-in-
16 crimination. Such person may not otherwise ob-
17 ject to or refuse to answer any question, and
18 may not directly or through counsel otherwise
19 interrupt the oral examination. If such person
20 refuses to answer any question, a petition may
21 be filed in the district court of the United
22 States under subsection (k)(1) for an order
23 compelling such person to answer such ques-
24 tion.

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

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

13 “(j) CUSTODIANS OF DOCUMENTS, ANSWERS, AND
14 TRANSCRIPTS.—

15 “(1) DESIGNATION.—The Attorney General, or
16 designee in accordance with this Act, shall designate
17 an investigator to serve as custodian of documentary
18 material, answers to interrogatories, and transcripts
19 of oral testimony received under this section, and
20 shall designate such additional investigators as the
21 Attorney General determines from time to time to be
22 necessary to serve as deputies of the custodian.

23 “(2) RESPONSIBILITY FOR MATERIALS; DISCLO-
24 SURE.—

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

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

21 “(C) NO EXAMINATION.—Except as other-
22 wise provided in this subsection, no documen-
23 tary material, answers to interrogatories, or
24 transcripts of oral testimony, or copies thereof,
25 while in the possession of the custodian, shall

1 be available for examination by any individual
2 other than an investigator or other officer or
3 employee of the Department of Justice author-
4 ized under subparagraph (B). The prohibition
5 in the preceding sentence on the availability of
6 material, answers, or transcripts shall not apply
7 if consent is given by the person who produced
8 such material, answers, or transcripts, or, in
9 the case of any product of discovery produced
10 pursuant to an express demand for such mate-
11 rial, consent is given by the person from whom
12 the discovery was obtained. Nothing in this sub-
13 paragraph is intended to prevent disclosure to
14 the Congress, including any committee or sub-
15 committee of the Congress, or to any other
16 agency of the United States for use by such
17 agency in furtherance of its statutory respon-
18 sibilities.

19 “(D) EXAMINATION BY CERTAIN PER-
20 SONS.—While in the possession of the custodian
21 and under such reasonable terms and conditions
22 as the Attorney General shall prescribe—

23 “(i) documentary material and an-
24 swers to interrogatories shall be available
25 for examination by the person who pro-

1 duced such material or answers, or by a
2 representative of that person authorized by
3 that person to examine such material and
4 answers; and

5 “(ii) transcripts of oral testimony
6 shall be available for examination by the
7 person who produced such testimony, or by
8 a representative of that person authorized
9 by that person to examine such transcripts.

10 “(3) USE OF MATERIAL, ANSWERS, OR TRAN-
11 SCRIPTS IN OTHER PROCEEDINGS.—Whenever any
12 attorney of the Department of Justice has been des-
13 ignated to appear before any court, grand jury, or
14 Federal agency in any case or proceeding, the custo-
15 dian of any documentary material, answers to inter-
16 rogatories, or transcripts of oral testimony received
17 under this section may deliver to such attorney such
18 material, answers, or transcripts for official use in
19 connection with any such case or proceeding as such
20 attorney determines to be required. Upon the com-
21 pletion of any such case or proceeding, such attorney
22 shall return to the custodian any such material, an-
23 swers, or transcripts so delivered that have not
24 passed into the control of such court, grand jury, or

1 agency through the introduction thereof into the
2 record of such case or proceeding.

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

8 “(A) any case or proceeding before the
9 court or grand jury arising out of such inves-
10 tigation, or any proceeding before any Federal
11 agency involving such material, has been com-
12 pleted; or

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

19 the custodian shall, upon written request of the per-
20 son who produced such material, return to such per-
21 son any such material (other than copies furnished
22 to the investigator under subsection (g)(2) or made
23 for the Department of Justice under paragraph
24 (2)(B) of this subsection) that has not passed into
25 the control of any court, grand jury, or agency

1 through introduction into the record of such case or
2 proceeding.

3 “(5) APPOINTMENT OF SUCCESSOR
4 CUSTODIANS.—

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

17 “(i) designate another investigator to
18 serve as custodian of such material, an-
19 swers, or transcripts; and

20 “(ii) transmit in writing to the person
21 who produced such material, answers, or
22 testimony notice of the identity and ad-
23 dress of the successor so designated.

24 “(B) SUCCESSOR.—Any person who is des-
25 ignated to be a successor under this paragraph

1 shall have, with regard to such material, an-
2 swers, or transcripts, the same duties and re-
3 sponsibilities as were imposed by this section
4 upon the predecessor in office of that person,
5 except that the successor shall not be held re-
6 sponsible for any default or dereliction that oc-
7 curred before that designation.

8 “(k) JUDICIAL PROCEEDINGS.—

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

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

23 “(A) IN GENERAL.—Any person who has
24 received a civil investigative demand issued
25 under subsection (a) may file, in the district

1 court of the United States for the judicial dis-
2 trict in which such person resides, is found, or
3 transacts business, and serve upon the investi-
4 gator identified in such demand a petition for
5 an order of the court to modify or set aside
6 such demand. In the case of a petition ad-
7 dressed to an express demand for any product
8 of discovery, a petition to modify or set aside
9 such demand may be brought only in the dis-
10 trict court of the United States for the judicial
11 district in which the proceeding in which such
12 discovery was obtained is or was last pending.
13 Any petition under this subparagraph must be
14 filed—

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

20 “(ii) within such longer period as may
21 be prescribed in writing by any investigator
22 identified in the demand.

23 “(B) GROUNDS FOR RELIEF.—The petition
24 shall specify each ground upon which the peti-
25 tioner relies in seeking relief under subpara-

1 graph (A), and may be based upon any failure
2 of the demand to comply with the provisions of
3 this section or upon any constitutional or other
4 legal right or privilege of such person. During
5 the pendency of the petition in the court, the
6 court may stay, as it deems proper, the running
7 of the time allowed for compliance with the de-
8 mand, in whole or in part, except that the per-
9 son filing the petition shall comply with any
10 portions of the demand not sought to be modi-
11 fied or set aside.

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

14 “(A) IN GENERAL.—In the case of any
15 civil investigative demand issued under sub-
16 section (a) that is an express demand for any
17 product of discovery, the person from whom
18 such discovery was obtained may file, in the dis-
19 trict court of the United States for the judicial
20 district in which the proceeding in which such
21 discovery was obtained is or was last pending,
22 and serve upon any investigator identified in
23 the demand and upon the recipient of the de-
24 mand, a petition for an order of such court to
25 modify or set aside those portions of the de-

1 mand requiring production of any such product
2 of discovery. Any petition under this subpara-
3 graph must be filed—

4 “(i) within 20 days after the date of
5 service of the civil investigative demand, or
6 at any time before the return date speci-
7 fied in the demand, whichever date is ear-
8 lier; or

9 “(ii) within such longer period as may
10 be prescribed in writing by any investigator
11 identified in the demand.

12 “(B) GROUNDS FOR RELIEF.—The petition
13 shall specify each ground upon which the peti-
14 tioner relies in seeking relief under subpara-
15 graph (A), and may be based upon any failure
16 of the portions of the demand from which relief
17 is sought to comply with the provisions of this
18 section, or upon any constitutional or other
19 legal right or privilege of the petitioner. During
20 the pendency of the petition, the court may
21 stay, as it deems proper, compliance with the
22 demand and the running of the time allowed for
23 compliance with the demand.

24 “(4) PETITION TO REQUIRE PERFORMANCE BY
25 CUSTODIAN OF DUTIES.—At any time during which

1 any custodian is in custody or control of any docu-
2 mentary material or answers to interrogatories pro-
3 duced, or transcripts of oral testimony given, by any
4 person in compliance with any civil investigative de-
5 mand issued under subsection (a), such person, and
6 in the case of an express demand for any product of
7 discovery, the person from whom such discovery was
8 obtained, may file, in the district court of the United
9 States for the judicial district in which the office of
10 such custodian is situated, and serve upon such cus-
11 todian, a petition for an order of such court to re-
12 quire the performance by the custodian of any duty
13 imposed upon the custodian by this section.

14 “(5) JURISDICTION.—Whenever any petition is
15 filed in any district court of the United States under
16 this subsection, such court shall have jurisdiction to
17 hear and determine the matter so presented, and to
18 enter such order or orders as may be required to
19 carry out the provisions of this section. Any final
20 order so entered shall be subject to appeal under
21 section 1291 of title 28, United States Code. Any
22 disobedience of any final order entered under this
23 section by any court shall be punished as a contempt
24 of the court.

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

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

12 “(m) DEFINITIONS.—In this section—

13 “(1) the term ‘custodian’ means the custodian,
14 or any deputy custodian, designated by the Attorney
15 General under subsection (j)(1);

16 “(2) the term ‘documentary material’ includes
17 the original or any copy of any book, record, report,
18 memorandum, paper, communication, tabulation,
19 chart, or other document, or data compilations
20 stored in or accessible through computer or other in-
21 formation retrieval systems, together with instruc-
22 tions and all other materials necessary to use or in-
23 terpret such data compilations, and any product of
24 discovery;

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

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

12 “(5) the term ‘official use’ means any use that
13 is consistent with the law, and the regulations and
14 policies of the Department of Justice, including use
15 in connection with internal Department of Justice
16 memoranda and reports; communications between
17 the Department of Justice and a Federal, State, or
18 local government agency, or a contractor of a Fed-
19 eral, State, or local government agency, undertaken
20 in furtherance of a Department of Justice investiga-
21 tion or prosecution of a case; oral examinations;
22 depositions; preparation for and response to civil dis-
23 covery requests; introduction into the record of a
24 case or proceeding; applications, motions, memo-
25 randa and briefs submitted to a court or other tri-

1 bunal; and communications with Government inves-
2 tigators, auditors, consultants and experts, the coun-
3 sel of other parties, arbitrators and mediators, con-
4 cerning an investigation, case or proceeding; and

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

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

12 “(B) any digest, analysis, selection, com-
13 pilation, or derivation of any item listed in sub-
14 paragraph (A); and

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

17 “(n) SUNSET.—The authority of the Attorney Gen-
18 eral to issue a civil investigative demand under this section
19 shall expire upon the expiration of the 5-year period that
20 begins on the date of enactment of this section.”.

21 **SEC. 3. FOREIGN AGENTS REGISTRATION CRIMINAL EN-**
22 **FORCEMENT.**

23 (a) INCREASED CRIMINAL PENALTIES.—Section 8 of
24 the Foreign Agents Registration Act of 1938 (22 U.S.C.
25 618) is amended—

1 (1) in subsection (a)(2)—

2 (A) by striking “\$10,000” and inserting
3 “\$200,000”;

4 (B) by striking “five” and inserting “5”;

5 (C) by striking “(g) or (h)” and inserting
6 “(g), (h), or (i)”;

7 (D) by striking “\$5,000” and inserting
8 “\$15,000”; and

9 (E) by striking “six” and inserting “6”;

10 and

11 (2) by adding at the end the following new sub-
12 section:

13 “(i) CONGRESSIONAL NOTIFICATION.—

14 “(1) OFFENSE.—It shall be unlawful for any
15 agent of a foreign principal registered under this Act
16 to willfully fail to disclose before or during any meet-
17 ing with a Member of Congress or a member of the
18 staff of a Member or committee of Congress that the
19 agent of the foreign principal is registered under
20 this Act.

21 “(2) DEFINITION.—In this subsection, the term
22 ‘Member of Congress’ has the meaning given the
23 term in section 3 of the Lobbying and Disclosure
24 Act of 1995 (2 U.S.C. 1602).”.

1 **SEC. 4. FOREIGN AGENTS REGISTRATION CIVIL ENFORCE-**
2 **MENT.**

3 Section 8 of the Foreign Agents Registration Act of
4 1938 (22 U.S.C. 618), as amended by section 3 of this
5 Act, is amended by adding at the end the following:

6 “(j) CIVIL ENFORCEMENT.—

7 “(1) CIVIL PENALTIES.—

8 “(A) REGISTRATION STATEMENTS.—

9 “(i) IN GENERAL.—Any person who is
10 required to register under this Act and
11 fails to file a timely or complete registra-
12 tion statement required under section 2(a)
13 shall be subject to a civil fine of not more
14 than \$10,000 for each violation, without
15 regard to the state of mind of the person.

16 “(ii) NO FINES PAID BY FOREIGN
17 PRINCIPALS.—If a person is subject to a
18 civil fine under clause (i), the civil fine
19 may not be paid, directly or indirectly, by
20 a foreign principal.

21 “(B) SUPPLEMENTS.—Any person who is
22 required to file a supplement to a registration
23 statement under section 2(b) and fails to file a
24 timely or complete supplement required under
25 that section shall be subject to a civil fine of

1 not more than \$1,000 for each violation, with-
2 out regard to the state of mind of the person.

3 “(C) FAILURE TO REMEDY DEFICIENT FIL-
4 INGS.—Any person who is required to file a reg-
5 istration statement under this Act, receives no-
6 tice under subsection (g) that the registration
7 statement filed by the person is deficient, and
8 knowingly fails to remedy the deficiency within
9 60 days after receiving the notice shall, upon
10 proof by a preponderance of the evidence of
11 such knowing failure to remedy the deficiency,
12 be subject to a civil fine of not more than
13 \$200,000, depending on the extent and gravity
14 of the violation.

15 “(D) OTHER VIOLATIONS.—Any person
16 who knowingly fails to comply with any other
17 provision of this Act shall, upon proof by a pre-
18 ponderance of the evidence of such knowing
19 failure to comply, be subject to a civil fine of
20 not more than \$200,000, depending on the ex-
21 tent and gravity of the violation.

22 “(2) USE OF FINES.—All fines collected under
23 this subsection shall be used to defray the cost of
24 enforcing this Act.”

1 **SEC. 5. COMPREHENSIVE STRATEGY TO IMPROVE EN-**
2 **FORCEMENT AND ADMINISTRATION.**

3 (a) DEVELOPMENT OF COMPREHENSIVE STRAT-
4 EGY.—Not later than 120 days after the date of enact-
5 ment of this Act, the Attorney General shall develop and
6 implement a comprehensive strategy to improve the en-
7 forcement and administration of the Foreign Agents Reg-
8 istration Act of 1938 (22 U.S.C. 611 et seq.), as amended
9 by this Act, that addresses the following issues:

10 (1) The coordination and integration of the
11 work of the agencies that perform investigations and
12 bring actions (including criminal prosecutions) to en-
13 force the Foreign Agents Registration Act of 1938
14 with the overall national security efforts of the De-
15 partment of Justice.

16 (2) A formal cost-benefit analysis of the appro-
17 priateness of the fee structure under the Foreign
18 Agents Registration Act of 1938.

19 (3) An assessment of the appropriateness of the
20 exemptions under section 3 of the Foreign Agents
21 Registration Act of 1938 (22 U.S.C. 613) that per-
22 mit persons who represent the interests of foreign
23 principals to avoid registering under that Act.

24 (4) Ensuring regular and ongoing proactive
25 public access to advisory opinions as an informa-
26 tional and oversight resource.

1 (b) REVIEW AND REPORT BY THE INSPECTOR GEN-
2 ERAL.—Not later than 1 year after the date on which the
3 Attorney General implements the comprehensive strategy,
4 the Inspector General of the Department of Justice shall
5 carry out a review of and submit a report to the appro-
6 priate committees of Congress on—

7 (1) the extent to which the Attorney General
8 has developed and implemented the comprehensive
9 strategy; and

10 (2) the usage, effectiveness, and any potential
11 abuse of the authority granted to the Attorney Gen-
12 eral to issue civil investigative demands under sec-
13 tion 9 of the Foreign Agents Registration Act of
14 1938, as added by section 2 of this Act.

15 (c) ANNUAL REPORTS BY THE ATTORNEY GEN-
16 ERAL.—

17 (1) IN GENERAL.—Not later than 1 year after
18 the date of enactment of this Act, and annually
19 thereafter, the Attorney General, in consultation
20 with the Assistant Attorney General for National Se-
21 curity, shall submit a report to the appropriate com-
22 mittees of Congress detailing the usage, during the
23 year preceding the date on which the report is sub-
24 mitted, of the authority granted to the Attorney
25 General to issue civil investigative demands under

1 section 9 of the Foreign Agents Registration Act of
2 1938, as added by section 2 of this Act, including,
3 with respect to the year for which the report is sub-
4 mitted—

5 (A) the number of civil investigative de-
6 mands issued by the Attorney General;

7 (B) with respect to each civil investigative
8 demand issued by the Attorney General, a de-
9 scription of—

10 (i) the nature of the conduct consti-
11 tuting the alleged violation of the Foreign
12 Agents Registration Act of 1938 that was
13 under investigation;

14 (ii) the provision of that Act alleged
15 to have been violated;

16 (iii) the nature of any documentary
17 material, answers to interrogatories, or
18 oral testimony sought through the civil in-
19 vestigative demand; and

20 (iv) a description of the results of the
21 civil investigative demand, including wheth-
22 er, after the Attorney General issued the
23 civil investigative demand and as a result
24 of the civil investigative demand, the Attor-
25 ney General filed charges against any per-

1 son relating to an alleged violation of that
2 Act, regardless of whether the charges
3 were filed against the person to whom the
4 civil investigative demand was issued;

5 (C) with respect to petitions for orders for
6 the enforcement of civil investigative demands
7 under section 9(k)(1) of the Foreign Agents
8 Registration Act of 1938—

9 (i) the number of petitions that the
10 Attorney General filed in district courts of
11 the United States; and

12 (ii) with respect to each petition, a de-
13 tailed description of the circumstances that
14 led the Attorney General to file the peti-
15 tion; and

16 (D) any other information relating to the
17 use of such authority that the Attorney General
18 determines to be relevant.

19 (2) INTERESTS OF UNCHARGED THIRD PAR-
20 TIES.—In preparing each report under paragraph
21 (1), with respect to reporting information described
22 in clauses (i) and (ii) of paragraph (1)(B), the At-
23 torney General shall give due regard to protecting
24 the interests of uncharged third parties.

1 (d) REPORT RELATING TO ELECTRONIC FILING.—
2 In the annual report submitted by the Attorney General
3 under subsection (c) for the year that is 2 years after the
4 date of enactment of this Act, the Attorney General, in
5 consultation with the Assistant Attorney General for Na-
6 tional Security, shall include information relating to steps
7 that can be taken in order to permit electronic filing by
8 registrants of all information required to be filed under
9 the Foreign Agent Registration Act of 1938 (22 U.S.C.
10 611 et seq.) in order to convert the website database that
11 contains that information and is maintained by the For-
12 eign Agents Registration Unit of the Counterintelligence
13 and Export Control Section in the National Security Divi-
14 sion of the Department of Justice to a fully searchable,
15 sortable, and downloadable format.

16 **SEC. 6. ANALYSIS BY THE GOVERNMENT ACCOUNTABILITY**
17 **OFFICE.**

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

21 (1) carry out an analysis of the effectiveness of
22 the enforcement and administration of the Foreign
23 Agents Registration Act of 1938 (22 U.S.C. 611 et
24 seq.), as amended by this Act—

1 (A) including the extent to which the
2 amendments made by this Act have improved
3 the enforcement and administration of the For-
4 eign Agents Registration Act of 1938; and

5 (B) taking into consideration the com-
6 prehensive strategy; and

7 (2) submit the analysis carried out under para-
8 graph (1) to—

9 (A) the Attorney General;

10 (B) the Inspector General of the Depart-
11 ment of Justice; and

12 (C) the appropriate committees of Con-
13 gress.

14 **SEC. 7. AUDIT OF THE LOBBYING DISCLOSURE ACT EXEMP-**
15 **TION UNDER THE FOREIGN AGENTS REG-**
16 **ISTRATION ACT OF 1938.**

17 Not later than 1 year after the date of enactment
18 of this Act, the Comptroller General of the United States,
19 in consultation with the Attorney General and the Inspec-
20 tor General of the Department of Justice, shall—

21 (1) conduct a comprehensive audit of the use of
22 the Lobbying Disclosure Act exemption, which shall
23 include, at minimum, an examination of—

24 (A) whether the Lobbying Disclosure Act
25 exemption is operating as the Lobbying Dislo-

1 sure Act exemption was originally intended to
2 operate;

3 (B) whether, since the date of enactment
4 of the Lobbying Disclosure Act of 1995, the
5 Lobbying Disclosure Act exemption has contrib-
6 uted to—

7 (i) a decline in the number of reg-
8 istrations filed under the Foreign Agents
9 Registration Act of 1938 (22 U.S.C. 611
10 et seq.); or

11 (ii) a decline in public awareness of
12 the lobbying activities carried out on behalf
13 of foreign principals; and

14 (C) whether the Lobbying Disclosure Act
15 exemption creates or increases opportunities for
16 the knowing misuse or abuse of, or the neg-
17 ligent failure to comply with, Federal lobbying
18 registration and disclosure requirements;

19 (2) develop policy recommendations to improve
20 oversight of and compliance with Federal lobbying
21 registration and disclosure requirements; and

22 (3) submit a report to the appropriate commit-
23 tees of Congress that contains—

24 (A) the results of the audit conducted
25 under paragraph (1); and

1 (B) the recommendations developed under
2 paragraph (2).

3 **SEC. 8. DEFINITIONS.**

4 In this Act—

5 (1) the term “appropriate committees of Con-
6 gress” means—

7 (A) the Committees on the Judiciary and
8 Foreign Relations of the Senate; and

9 (B) the Committee on the Judiciary of the
10 House of Representatives;

11 (2) the term “comprehensive strategy” means
12 the comprehensive strategy to improve the enforce-
13 ment and administration of the Foreign Agents Reg-
14 istration Act of 1938 (22 U.S.C. 611 et seq.) devel-
15 oped and implemented by the Attorney General
16 under section 5(a);

17 (3) the terms “documentary material” and “in-
18 vestigation” have the meanings given those terms in
19 section 9 of the Foreign Agents Registration Act of
20 1938, as added by section 2 of this Act;

21 (4) the term “Foreign Agents Registration Act
22 of 1938” means the Foreign Agents Registration
23 Act of 1938, as amended (22 U.S.C. 611 et seq.);

24 (5) the term “foreign principal” has the mean-
25 ing given the term in section 1 of the Foreign

1 Agents Registration Act of 1938 (22 U.S.C. 611);
2 and

3 (6) the term “Lobbying Disclosure Act exemp-
4 tion” means the exemption under section 3(h) of the
5 Foreign Agents Registration Act of 1938 (22 U.S.C.
6 613(h)).

7 **SEC. 9. EFFECTIVE DATE.**

8 The amendments made by this Act shall take effect
9 on the date that is 180 days after the date of enactment
10 of this Act.