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.

IN THE SENATE OF THE UNITED STATES

Mr. CRUZ (for himself and Mr. LEE) introduced the following bill; which was read twice and referred to the Committee on _________________

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Financial Institution Customer Protection Act of 2016”.

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

(a) DEFINITIONS.—In this section—

(1) the term “appropriate Federal banking agency”—

(A) has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); and

(B) in the case of an insured credit union, means the National Credit Union Administration;

(2) the term “depository institution”—

(A) has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); and

(B) includes an insured credit union; and

(3) the term “insured credit union” has the meaning given the term in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

(b) TERMINATION REQUESTS OR ORDERS MUST BE MATERIAL.—

(1) IN GENERAL.—The appropriate Federal banking agency may not formally or informally request or order a depository institution to terminate a specific customer account or group of customer accounts or to otherwise restrict or discourage a de-
pository institution from entering into or maintaining a banking relationship with a specific customer or group of customers unless—

(A) the agency has a material reason for the request or order; and

(B) that reason is not based solely on reputation risk to the depository institution.

(2) Treatment of National Security Threats.—The appropriate Federal banking agency shall satisfy the requirement under paragraph (1) if the agency believes a specific customer or group of customers is, or is acting as a conduit for, an entity which—

(A) poses a threat to national security;

(B) is involved in terrorist financing;

(C) is an agency of the Government of Iran, North Korea, Syria, or any country listed from time to time on the state sponsor of terrorism list;

(D) is located in, or is subject to the jurisdiction of, any country described in subparagraph (C); or

(E) does business with any entity described in subparagraph (C) or (D), unless the appropriate Federal banking agency determines that
the customer or group of customers has used
due diligence to avoid doing business with any
entity described in subparagraph (C) or (D).

(c) Notice Requirement.—

(1) In general.—If the appropriate Federal
banking agency formally or informally requests or
orders a depository institution to terminate a spe-
cific customer account or a group of customer ac-
counts, the agency shall—

(A) provide the request or order to the in-
stitution in writing; and

(B) include with the request or order a
written justification for why the termination is
necessary, including any specific laws or regula-
tions, if any, the agency believes that the cus-
tomer or group of customers are violating.

(2) Justification Requirement.—A written
justification under paragraph (1)(B) may not be
based solely on the reputation risk to the depository
institution.

(d) Customer Notice.—

(1) Notice Required.—Except as provided
under paragraph (2), if the appropriate Federal
banking agency orders a depository institution to
terminate a specific customer account or a group of
customer accounts, the depository institution shall inform the customer or customers of the justification for the termination of the account or accounts under subsection (c)(1)(B).

(2) Notice prohibited in cases of national security.—If the appropriate Federal banking agency requests or orders a depository institution to terminate a specific customer account or a group of customer accounts based on a belief that the customer or customers pose a threat to national security, or are otherwise described in subsection (b)(2), neither the depository institution nor the appropriate Federal banking agency may inform the customer or customers of the justification for the termination of the account or accounts.

(e) Reporting requirement.—Each appropriate Federal banking agency shall issue an annual report to Congress stating—

(1) the aggregate number of specific customer accounts that the agency requested or ordered a depository institution to terminate during the 1-year period preceding the issuance of the report;

(2) the legal authority on which the agency relied in making the requests and orders described in paragraph (1); and
(3) the frequency with which the agency relied
on each authority described in paragraph (2).

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

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

(1) in subsection (e)(2), by striking “affecting
a federally insured financial institution” and insert-
ing “against a federally insured financial institution
or by a federally insured financial institution against
an unaffiliated third person”; and

(2) in subsection (g)—

(A) in the subsection heading, by striking
“SUBPOENAS” and inserting “INVESTIGA-
tIONS”; and

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

“(C) summon witnesses and require the
production of any books, papers, correspond-
ence, memoranda, or other records which the
Attorney General deems relevant or material to
the inquiry, if the Attorney General—
“(i) requests a court order from a court of competent jurisdiction for such actions and offers specific and articulable facts showing that there are reasonable grounds to believe that the information or testimony sought is relevant and material for conducting an investigation under this section; or

“(ii) either personally or through delegation no lower than the Deputy Attorney General, issues and signs a subpoena for such actions and such subpoena is supported by specific and articulable facts showing that there are reasonable grounds to believe that the information or testimony sought is relevant for conducting an investigation under this section.”.