

119TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Foreign Agents Registration Act of 1938, as amended, to clarify the exemption relating to commercial activities, to grant the Attorney General authority to issue civil investigative demands under that Act, and to create civil penalties for failure to meet the registration requirements under that Act, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. BLUMENTHAL introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Foreign Agents Registration Act of 1938, as amended, to clarify the exemption relating to commercial activities, to grant the Attorney General authority to issue civil investigative demands under that Act, and to create civil penalties for failure to meet the registration requirements under that Act, and for other purposes.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Sovereign Wealth  
5       Fund Transparency Act”.

1 **SEC. 2. CLARIFICATION OF COMMERCIAL EXEMPTION.**

2 Section 3 of the Foreign Agents Registration Act of  
3 1938, as amended (22 U.S.C. 613), is amended, in the  
4 matter preceding subsection (a), by inserting “, except  
5 that the exemptions under paragraphs (1) and (2) of sub-  
6 section (d) shall not apply to any agent of a foreign prin-  
7 cipal whose activities promote the public or political inter-  
8 ests of a government of a foreign country or a foreign po-  
9 litical party (including any and all activities undertaken  
10 on behalf of a sovereign wealth fund)” before the colon  
11 at the end.

12 **SEC. 3. AUTHORIZING THE ATTORNEY GENERAL TO ISSUE**  
13 **CIVIL INVESTIGATIVE DEMANDS TO PRO-**  
14 **MOTE ENFORCEMENT OF DISCLOSURE RE-**  
15 **QUIREMENTS FOR AGENTS OF FOREIGN**  
16 **PRINCIPALS.**

17 (a) CIVIL INVESTIGATIVE DEMANDS CONCERNING  
18 REGISTRATION OF AGENTS OF FOREIGN PRINCIPALS.—  
19 The Foreign Agents Registration Act of 1938, as amended  
20 (22 U.S.C. 611 et seq.) is amended—

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

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

1 **“SEC. 9. CIVIL INVESTIGATIVE DEMANDS CONCERNING**  
2 **REGISTRATION OF AGENTS OF FOREIGN**  
3 **PRINCIPALS.**

4 “(a) AUTHORITY OF THE ATTORNEY GENERAL.—

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

1       and notify the person to whom such demand is  
2       issued of the date on which such copy was served.

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

9               “(b) CONTENTS AND DEADLINES.—

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

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

16              “(B) if such demand is for the production  
17       of documentary material—

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

22              “(ii) prescribe a return date for each  
23       such class that will provide a reasonable  
24       period of time within which the material so  
25       demanded may be assembled and made

1 available for inspection and copying or re-  
2 production; and

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

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

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

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

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

14 “(D) if such demand is for the giving of  
15 oral testimony—

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

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

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

1                   “(iv) notify the person receiving the  
2                   demand of the right to be accompanied by  
3                   an attorney and any other representative;  
4                   and

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

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

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

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

8           “(c) PROTECTED MATERIAL OR INFORMATION.—

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

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

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

1           “(2) EFFECT ON OTHER ORDERS, RULES, AND  
2       LAWS.—Any such demand that is an express de-  
3       mand for any product of discovery supersedes any  
4       inconsistent order, rule, or provision of law (other  
5       than this Act) preventing or restraining disclosure of  
6       such product of discovery to any person. Disclosure  
7       of any product of discovery pursuant to any such ex-  
8       press demand does not constitute a waiver of any  
9       right or privilege, including without limitation any  
10      right or privilege which may be invoked to resist dis-  
11      covery of trial preparation materials, to which the  
12      person making such disclosure may be entitled.

13      “(d) SERVICE; JURISDICTION.—

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

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



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

9 “(e) SERVICE UPON LEGAL ENTITIES AND NATURAL  
10 PERSONS.—

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

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

24 “(B) delivering a duly executed copy of  
25 such demand or petition to the principal office

1 or place of business of the partnership, corpora-  
2 tion, association, or entity to be served; or

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

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

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

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

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

1   tified mail, such return shall be accompanied by the return  
2   post office receipt of delivery of such demand.

3       “(g) DOCUMENTARY MATERIAL.—

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

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

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

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

21           “(2) PRODUCTION OF MATERIALS.—Any person  
22   upon whom any civil investigative demand for the  
23   production of documentary material has been served  
24   under this section shall make such material available  
25   for inspection and copying to the investigator identi-

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

12      “(h) INTERROGATORIES.—

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

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

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

24      “(2) CONTENTS OF CERTIFICATES.—The cer-  
25      tificate submitted under paragraph (1) shall state

1       that all information required by the demand and in  
2       the possession, custody, control, or knowledge of the  
3       person to whom the demand is directed has been  
4       submitted. To the extent that any information is not  
5       furnished, the information shall be identified and  
6       reasons set forth with particularity regarding the  
7       reasons why the information was not furnished.

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

11      “(i) ORAL EXAMINATIONS.—

12              “(1) PROCEDURES.—The examination of any  
13      person pursuant to a civil investigative demand for  
14      oral testimony served under this section shall be  
15      taken before an officer authorized to administer  
16      oaths and affirmations by the laws of the United  
17      States or of the place where the examination is held.  
18      The officer before whom the testimony is to be taken  
19      shall put the witness on oath or affirmation and  
20      shall personally, or by someone acting under the di-  
21      rection of the officer and in the officer’s presence,  
22      record the testimony of the witness. The testimony  
23      shall be taken stenographically and transcribed.  
24      When the testimony is fully transcribed, the officer  
25      before whom the testimony is taken shall promptly

1 transmit a copy of the transcript of the testimony to  
2 the custodian. This subsection shall not preclude the  
3 taking of testimony by any means authorized by,  
4 and in a manner consistent with, the Federal Rules  
5 of Civil Procedure.

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

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

24 “(4) TRANSCRIPT OF TESTIMONY.—When the  
25 testimony is fully transcribed, the investigator or the

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

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

1 deliver it or send it by registered or certified mail to  
2 the custodian.

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

11 “(7) CONDUCT OF ORAL TESTIMONY.—

12 “(A) IN GENERAL.—Any person compelled  
13 to appear for oral testimony under a civil inves-  
14 tigative demand issued under subsection (a)  
15 may be accompanied, represented, and advised  
16 by counsel. Counsel may advise such person, in  
17 confidence, with respect to any question asked  
18 of such person. Such person or counsel may ob-  
19 ject on the record to any question, in whole or  
20 in part, and shall briefly state for the record  
21 the reason for the objection. An objection may  
22 be made, received, and entered upon the record  
23 when it is claimed that such person is entitled  
24 to refuse to answer the question on the grounds  
25 of any constitutional or other legal right or



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

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

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

23 “(j) CUSTODIANS OF DOCUMENTS, ANSWERS, AND  
24 TRANSCRIPTS.—

1           “(1) DESIGNATION.—The Attorney General, or  
2           designee in accordance with this Act, shall designate  
3           an investigator to serve as custodian of documentary  
4           material, answers to interrogatories, and transcripts  
5           of oral testimony received under this section, and  
6           shall designate such additional investigators as the  
7           Attorney General determines from time to time to be  
8           necessary to serve as deputies of the custodian.

9           “(2) RESPONSIBILITY FOR MATERIALS; DISCLO-  
10          SURE.—

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

20           “(B) PREPARATION.—The custodian may  
21           cause the preparation of such copies of such  
22           documentary material, answers to interroga-  
23           tories, or transcripts of oral testimony as may  
24           be required for official use by any investigator,  
25           or other officer or employee of the Department

1 of Justice. Such material, answers, and tran-  
2 scripts may be used by any such authorized in-  
3 vestigator or other officer or employee in con-  
4 nection with the taking of oral testimony under  
5 this section.

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

1           agency of the United States for use by such  
2           agency in furtherance of its statutory respon-  
3           sibilities.

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

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

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

20          “(3) USE OF MATERIAL, ANSWERS, OR TRAN-  
21          SCRIPTS IN OTHER PROCEEDINGS.—Whenever any  
22          attorney of the Department of Justice has been des-  
23          ignated to appear before any court, grand jury, or  
24          Federal agency in any case or proceeding, the custo-  
25          dian of any documentary material, answers to inter-

1       rogatories, or transcripts of oral testimony received  
2       under this section may deliver to such attorney such  
3       material, answers, or transcripts for official use in  
4       connection with any such case or proceeding as such  
5       attorney determines to be required. Upon the com-  
6       pletion of any such case or proceeding, such attorney  
7       shall return to the custodian any such material, an-  
8       swers, or transcripts so delivered that have not  
9       passed into the control of such court, grand jury, or  
10      agency through the introduction thereof into the  
11      record of such case or proceeding.

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

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

22           “(B) no case or proceeding in which such  
23      material may be used has been commenced  
24      within a reasonable time after completion of the  
25      examination and analysis of all documentary

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

12 “(5) APPOINTMENT OF SUCCESSOR  
13 CUSTODIANS.—

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

1 “(i) designate another investigator to  
2 serve as custodian of such material, an-  
3 swers, or transcripts; and

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

8 “(B) SUCCESSOR.—Any person who is des-  
9 ignated to be a successor under this paragraph  
10 shall have, with regard to such material, an-  
11 swers, or transcripts, the same duties and re-  
12 sponsibilities as were imposed by this section  
13 upon the predecessor in office of that person,  
14 except that the successor shall not be held re-  
15 sponsible for any default or dereliction that oc-  
16 curred before that designation.

17 “(k) JUDICIAL PROCEEDINGS.—

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

1       such person resides, is found, or transacts business,  
2       and serve upon such person a petition for an order  
3       of such court for the enforcement of the civil inves-  
4       tigative demand.

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

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

24                   “(i) within 20 days after the date of  
25                   service of the civil investigative demand, or



1 at any time before the return date speci-  
2 fied in the demand, whichever date is ear-  
3 lier; or

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

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

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

23 “(A) IN GENERAL.—In the case of any  
24 civil investigative demand issued under sub-  
25 section (a) that is an express demand for any

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

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

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

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

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

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

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

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

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

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

20       “(m) DEFINITIONS.—In this section—

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (b) ANNUAL REPORTS BY THE ATTORNEY GEN-  
4 ERAL.—

5 (1) DEFINITIONS.—For purposes of this sub-  
6 section:

7 (A) APPROPRIATE COMMITTEES OF CON-  
8 GRESS.—The term “appropriate committees of  
9 Congress” means—

10 (i) the Committees on the Judiciary  
11 and Foreign Relations of the Senate; and

12 (ii) the Committee on the Judiciary of  
13 the House of Representatives.

14 (B) DOCUMENTARY MATERIAL; INVESTIGA-  
15 TION.—The terms “documentary material” and  
16 “investigation” have the meanings given those  
17 terms in section 9 of the Foreign Agents Reg-  
18 istration Act of 1938, as added by subsection  
19 (a) of this section.

20 (C) FOREIGN AGENTS REGISTRATION ACT  
21 OF 1938.—The term “Foreign Agents Registra-  
22 tion Act of 1938” means the Foreign Agents  
23 Registration Act of 1938, as amended (22  
24 U.S.C. 611 et seq.).

1 (D) FOREIGN PRINCIPAL.—The term “for-  
2 eign principal” has the meaning given the term  
3 in section 1 of the Foreign Agents Registration  
4 Act of 1938 (22 U.S.C. 611).

5 (2) REPORTS.—Not later than 1 year after the  
6 date of enactment of this Act, and annually there-  
7 after, the Attorney General, in consultation with the  
8 Assistant Attorney General for National Security,  
9 shall submit a report to the appropriate committees  
10 of Congress detailing the usage, during the year pre-  
11 ceding the date on which the report is submitted, of  
12 the authority granted to the Attorney General to  
13 issue civil investigative demands under section 9 of  
14 the Foreign Agents Registration Act of 1938, as  
15 added by subsection (a) of this section, including,  
16 with respect to the year for which the report is sub-  
17 mitted—

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

20 (B) with respect to each civil investigative  
21 demand issued by the Attorney General, a de-  
22 scription of—

23 (i) the nature of the conduct consti-  
24 tuting the alleged violation of the Foreign



1 Agents Registration Act of 1938 that was  
2 under investigation;

3 (ii) the provision of that Act alleged  
4 to have been violated;

5 (iii) the nature of any documentary  
6 material, answers to interrogatories, or  
7 oral testimony sought through the civil in-  
8 vestigative demand; and

9 (iv) a description of the results of the  
10 civil investigative demand, including wheth-  
11 er, after the Attorney General issued the  
12 civil investigative demand and as a result  
13 of the civil investigative demand, the Attor-  
14 ney General filed charges against any per-  
15 son relating to an alleged violation of that  
16 Act, regardless of whether the charges  
17 were filed against the person to whom the  
18 civil investigative demand was issued;

19 (C) with respect to petitions for orders for  
20 the enforcement of civil investigative demands  
21 under section 9(k)(1) of the Foreign Agents  
22 Registration Act of 1938—

23 (i) the number of petitions that the  
24 Attorney General filed in district courts of  
25 the United States; and

1 (ii) with respect to each petition, a de-  
2 tailed description of the circumstances that  
3 led the Attorney General to file the peti-  
4 tion;

5 (D) the number of registrations filed pur-  
6 suant to the Foreign Agents Registration Act of  
7 1938 and the name of each such registrant; and

8 (E) any other information relating to the  
9 use of such authority that the Attorney General  
10 determines to be relevant.

11 (3) INTERESTS OF UNCHARGED THIRD PAR-  
12 TIES.—In preparing each report under paragraph  
13 (2), with respect to reporting information described  
14 in clauses (i) and (ii) of paragraph (2)(B), the At-  
15 torney General shall give due regard to protecting  
16 the interests of uncharged third parties.

17 **SEC. 4. FOREIGN AGENTS REGISTRATION CIVIL ENFORCE-**  
18 **MENT.**

19 Section 8 of the Foreign Agents Registration Act of  
20 1938, as amended (22 U.S.C. 618) is amended by adding  
21 at the end the following:

22 “(i) CIVIL ENFORCEMENT.—

23 “(1) CIVIL PENALTIES.—

24 “(A) REGISTRATION STATEMENTS.—

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

8                   “(ii) NO FINES PAID BY FOREIGN  
9                   PRINCIPALS.—If a person is subject to a  
10                  civil fine under clause (i), the civil fine  
11                  may not be paid, directly or indirectly, by  
12                  a foreign principal.

13                  “(B) SUPPLEMENTS.—Any person who is  
14                  required to file a supplement to a registration  
15                  statement under section 2(b) and fails to file a  
16                  timely or complete supplement required under  
17                  that section shall be subject to a civil fine of  
18                  not more than \$1,000 for each violation, with-  
19                  out regard to the state of mind of the person.

20                  “(C) FAILURE TO REMEDY DEFICIENT FIL-  
21                  INGS.—Any person who is required to file a reg-  
22                  istration statement under this Act, receives no-  
23                  tice under subsection (g) that the registration  
24                  statement filed by the person is deficient, and  
25                  knowingly fails to remedy the deficiency within

1           60 days after receiving the notice shall, upon  
2           proof by a preponderance of the evidence of  
3           such knowing failure to remedy the deficiency,  
4           be subject to a civil fine of not more than  
5           \$200,000, depending on the extent and gravity  
6           of the violation.

7           “(D) OTHER VIOLATIONS.—Any person  
8           who knowingly fails to comply with any other  
9           provision of this Act shall, upon proof by a pre-  
10          ponderance of the evidence of such knowing  
11          failure to comply, be subject to a civil fine of  
12          not more than \$200,000, depending on the ex-  
13          tent and gravity of the violation.

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