December 29, 2025

Jennifer M. Jones
Deputy Executive Secretary
Attention: Comments—RIN 3064-AG12
Federal Deposit Insurance Corporation 550
17th Street NW Washington, D.C. 20429
Submitted via email: Comments@fdic.gov

Re: Request for Public Comments Regarding Prohibition on Use of Reputation Risk by Regulators. Comments to Docket ID: OCC–2025–0142. RIN 1557–AF34. RIN 3064-AG12

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW
Suite 3E-218
Washington, DC 20219.
Submitted via website: regulations.gov

Dear Deputy Executive Secretary Jones and Chief Counsel's Office:

America First Policy Institute (AFPI) is pleased to submit its comments on the Federal Deposit Insurance Corporation's (FDIC) and Office of Comptroller of the Currency (OCC), collectively referred to here as "the agencies," proposed rule that would prohibit the use of reputation risk from their supervisory programs. AFPI supports the agencies proposed rule as it will ensure that regulators are prohibited from pressuring financial institutions to deny or terminate banking privileges for political, religious, or other non-pecuniary reasons. Accordingly, removing reputation risk will strengthen the safety and soundness of the financial system by protecting financial institutions and their customers from regulatory overreach.

Introduction to AFPI

AFPI is a 501 (c)(3) nonprofit, non-partisan research institute that exists to advance policies that put the American people first. In the realm of economic policy, AFPI is guided by the principles of liberty, free enterprise, national greatness, and the primacy of American workers, families, and communities. Too often, public policy is crafted based on what feels or sounds good to the American people, only to produce unintended consequences that harms those it aims to help. For any given issue, AFPI uses a rigorous, evidenced-based research approach, steered by the organization's core principles to craft policy solutions that seek to advance the interests of all Americans.

Reputation Risk as a Vehicle for Political Debanking

The Capital Adequacy, Asset Quality, Management, Earnings, Liquidity, and Sensitivity to Market Risk ('CAMELS') is a supervisory rating system that the agencies use to evaluate a bank's overall health. Under CAMELS, banks are subject to periodic on-site examinations followed by agency issued ratings that determine whether enhanced supervision, activity restrictions or remedial measures are required. While regulators have some discretion to consider qualitative, non-financial factors under the Management ("M") element of the CAMELS framework, M ratings are principally focused on assessing whether a bank's governance, risk-management practices, internal controls, and operating policies effectively support the institution's safety and soundness.

But, in recent years, regulators have shoehorned arbitrary factors such as the political and religious affiliations of banks' customers into the scope of M evaluations.[1] Couched as an assessment of a bank's "reputation risk," regulators have employed such factors with the intent of limiting or terminating services to customers that a given administration is politically opposed to, i.e. "debanking." The banking services offered to these customers did not jeopardize the capital quality, asset quality, earnings generating capacity, liquidity, or risk sensitivity of these financial institutions; else it would have been covered by one of the other CAMELS criteria. Thus, "reputation risk" that was qualitative, subjective, and nowhere found in statute was created as a justification to discriminate against lawful customers and businesses.

In 2013, for instance, the Obama Administration pressured several financial institutions to debank political opponents and politically disfavored industries under a program called "Operation Choke Point." The first Trump Administration made an effort to bar such practices, namely under its proposed "Fair Access to Financial Services" rule. However, the Biden Administration adopted key features of Operation Choke Point in its efforts to target political opponents in the digital assets industry.[2]

Time to End Debanking

As former Deputy Treasury Secretary Michael Faulkender has stated, "[o]ur financial regulatory agenda must include a fundamental refocusing of supervisors' priorities... that focuses on material risk taking, rather than box checking or subjective reputational issues. There is perhaps no better recent case study for this point than the bank failures in spring 2023. A careful review of those bank failures underscores how centering supervision on management and other governance matters can distract examiners and banks' risk managers from the real risks to safety and soundness. The associated mission drift can lend itself to political ends, as we saw with the focus on climate risk and the debanking of disfavored industries."[3]

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[1] AFPI, "Debanked: When Political Bias Trumps Financial Judgment," July 30, 2025.
[2] U.S. House Committee on Financial Services. (2025, November 30). Operation Choke Point 2.0: Biden's debanking of digital assets (Final staff report).
[3] U.S. Department of Treasury, "Deputy Secretary Michael Faulkender's Remarks Before U.S. Bancorp Fly-In Meeting," May 13, 2025.

Under Executive Order (EO) 14331, President Trump took action to prevent denial of financial services based on customers' "constitutionally or statutorily protected beliefs, affiliations, or political views, and to ensure that politicized or unlawful debanking is not used as a tool to inhibit such beliefs, affiliations, or political views."[4] More to the point, the EO expressly calls for the removal of "reputation risk and politicized or unlawful debanking,"[5] which is consistent with AFPI's recommendations.[6] The removal of such an ambiguous and weaponized term will provide clarity to financial institutions and protect the financial rights of all Americans.

AFPI's Comments and Answers to Questions Posed by the Proposal

In this section, AFPI comments on and provides answers to certain questions posed by the OCC and FDIC in its Proposal on the Prohibition on Use of Reputation Risk by Regulators (the proposal). This section follows the order of the questions outlined in the proposal, and AFPI has not addressed every question of the proposal.

FDIC Question 1: Do commenters believe the enumerated prohibitions capture the types of actions that add undue subjectivity to bank supervision? If there are other prohibitions that would be warranted, please identify such prohibitions and explain.

<u>AFPI's Answer:</u> In addition to implementing the proposed rule, AFPI strongly supports the removal of M from the CAMELS framework. Under the M element, which is inherently a subjective evaluation of a bank's management competency, agencies have unfettered discretion to issue adverse ratings based on politically charged factors. Alternatively, AFPI recommends to change M to a new standard evaluating "Market Risk," or to limit M to objective, quantitative criteria just as the others are.

Moreover, because debanking is a practical consequence of regulators' informal *verbal* guidance to financial institutions, AFPI recommends FDIC consider imposing strict limits, or a complete prohibition, on non-written supervisory direction, not to increase regulatory costs but instead to increase regulatory certainty and accountability. Consonantly, banks should be required to provide written notice when terminating or materially modifying customer relationships, including a statement of the reasons for such actions, unless otherwise prohibited by law enforcement.

FDIC Question 12: Have the agencies organized the material to suit your needs? If not, how could the agencies present the proposed rule more clearly?

<u>AFPI Answer:</u> AFPI thanks the OCC and FDIC in addressing the need to end debanking.

By removing reputational risk, the OCC and FDIC are removing ambiguity and the potential for political bias in the evaluation process. Such a removal will increase the safety and soundness of the financial system as it is more diversified and has greater engagement with all industries in our economy. AFPI fully supports the OCC's and FDIC's effort to end politicized debanking and strengthen the financial system. Lastly, AFPI looks forward to seeing the proposed rule adopted and going into effect as soon as possible.

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4 Executive Order 14331, "Guaranteeing Fair Banking for All Americans," August 7, 2025.

5 Executive Order 14331.

6 AFPI, July 30, 2025.

AFPI appreciates the opportunity to submit this comment letter on the proposal. If the staff has any questions on the foregoing, please email [redacted] or call [redacted].

America First, *Always*.

[redacted]

Jeffrey Schlagenhauf

Director, Economy & Trade

America First Policy Institute