December 23, 2025

Adam Cohen

Deputy Comptroller and Chief Counsel

Office of the Comptroller of the Currency

400 7th Street SW, Suite 3E-218

Washington, DC 20219

Docket ID: OCC-2025-0142

Re: Prohibition on Use of Reputation Risk by Regulators

To whom it may concern,

Axos Bank supports codifying the elimination of “reputation risk” as a standalone supervisory concept and the associated prohibitions on supervisory criticism or adverse action based on a customer’s political, social, cultural, or religious views, constitutionally protected speech, or lawful business activities. The conforming amendments (OCC parts 1/4/30; FDIC parts 302/364) appropriately align the regulations with this policy.

Key Points (support with clarifications):

1. **Objective, risk-based supervision.** Removing reputation risk promotes consistent, data-driven safety-and-soundness examinations and reduces subjective outcomes that can affect access to financial services. (Internal Consumer Lending leadership concurs.)
2. **Institution discretion over lawful business lines.** Please confirm in the final rule or guidance that institutions retain Board-approved discretion to avoid certain lawful industries for safety-and-soundness or compliance reasons (e.g., BSA/AML, OFAC), and that the rule does not compel onboarding contrary to risk appetite.
3. **Guardrails on forward-looking findings.** Where exam findings hinge on activities “if continued,” require objective evidence of likely (not merely possible) material harm

under current or reasonably foreseeable conditions—and document why proposed mitigants are insufficient—so examiner preferences do not override legitimate business judgment. (Senior leadership recommendation.)

4. **No pretext for reputation-based actions.** Provide examples in guidance distinguishing legitimate BSA/AML or OFAC concerns from reputation-risk pretext, especially for lawful but higher-friction sectors (e.g., gaming).
5. **Exit demands.** These require independent fact-based justification showing that management's proposed risk mitigation measures would be insufficient to address the identified material risk

In conclusion, Axos Bank supports the NPRM and the conforming CFR changes. With the clarifications above, the final rule will better ensure objective, evidence-based supervision while preserving institutions' legitimate discretion and robust compliance programs.

Your time and consideration are greatly appreciated.

Warm regards,
Axos Bank Compliance Department

Date: December 19, 2025

Chief Counsel's Office
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219

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Re: Prohibition on Use of Reputation Risk by Regulators

Dear OCC Chief Counsel:

Axos Bank appreciates the opportunity to comment on the proposal and provide the OCC with its perspective. Axos has operated as a digital bank for over 20 years and serves communities and customers nationwide. Axos Bank supports the proposed rule to codify elimination of "reputation risk" from supervisory programs and the related conforming amendments (OCC parts 1/4/30; FDIC parts 302/364). We agree the rule should prohibit supervisory criticism or adverse action based on reputation risk and should bar agencies from requiring or encouraging institutions to close or deny services due to political, social, cultural, or religious views, constitutionally protected speech, or lawful but politically disfavored business activities.

Key Points:

1. **Objective, risk-based supervision.**
   Removing reputation risk promotes consistent, data-driven safety-and-soundness exams and reduces subjective outcomes affecting access to financial services.
2. **Institution discretion over lawful business lines.**
   Please confirm in the final rule/guidance that institutions retain Board-approved discretion to avoid certain lawful industries for safety-and-soundness or compliance reasons (e.g., BSA/AML, OFAC). The NPRM states the rule does not alter actions related to OFAC or BSA/AML, and it should be clear these compliance frameworks cannot be used as pretexts for reputation-based outcomes.
3. **Guardrails on forward-looking supervisory language ("if continued").**
   To prevent supervisory overreach, clarify that any "if continued" assessment must rely on objective evidence of likely material harm under current or reasonably

foreseeable conditions—not speculative scenarios or examiner preferences—and that exit demands require independent justification showing management's mitigants are insufficient.

Conclusion

We support the NPRM and CFR revisions. With the clarifications above, the final rule will ensure objective, evidence-based supervision while preserving institutions' legitimate discretion and robust compliance programs. Thank you for the opportunity to comment.

Sincerely,
Axos Bank