coinbase

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

Jennifer M. Jones
Deputy Executive Secretary
Attention: Comments—RIN 3064-AG12
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

December 29, 2025

Re: Response to OCC and FDIC Joint Notice of Proposed Rulemaking regarding the Prohibition of the Use of Reputation Risk by Regulators

Coinbase Global, Inc. (together with its subsidiaries, "**Coinbase**") appreciates the opportunity to respond to the Office of the Comptroller of the Currency ("**OCC**") and the Federal Deposit Insurance Corporation ("**FDIC**," and collectively with the OCC, "the agencies") notice of proposed rulemaking ("**NPR**") to codify the elimination of reputation risk from the agencies' supervisory programs.

Coinbase commends the agencies on a constructive start toward limiting the use of reputation risk as a basis for bank supervision and licensing actions. As Coinbase has experienced firsthand, reputation risk has been misused to discourage banks from providing core banking services to customers engaged in lawful businesses. This is entirely inconsistent with the Administration's goal of making banking decisions without regard for "political or religious beliefs, or on the basis of the customer's or potential customer's lawful business activities."

However, the NPR should go further to completely and comprehensively remove the use of reputation risk or equivalent concepts from the agencies' supervisory toolkits. We recommend several specific, affirmative measures the agencies should take in making it clear that reputation risk has no place as a standalone risk in bank supervision.

We look forward to working with the agencies on these issues.

Yours sincerely,

[redacted]

Faryar Shirzad
Chief Policy Officer
Coinbase

Introduction

Banks are not ordinary companies. They provide money creation and payment services that are central to our economy, and they are deeply supported by federal regulation and backstops. These services are necessary for individuals and businesses to pursue their economic goals and exercise their constitutional rights. The public relies on bank supervisors to ensure that banks are dealing with risks relevant to performing their functions while, at the same time, serving customers in accordance with applicable law.

The President's recent Executive Order correctly recognizes that reputation risk has been used to inappropriately discourage banks from providing core banking services to customers engaged in lawful businesses.[1] And, that doing so is fundamentally "incompatible with a free society and the principle that the provision of banking services should be based on material, measurable, and justifiable risks."[2] The Executive Order therefore directs the federal banking regulators to remove — not just limit — the use of reputation risk or equivalent concepts that could result in the politicized or unlawful denial of banking services.[3]

Coinbase commends the OCC and FDIC's efforts to end the use of reputation risk as a basis for bank supervision and licensing actions. However, as discussed below, we believe that the agencies should go further and ensure that reputation risk is never again used in bank supervision.

It is now well-known that reputation risk has been used as an excuse for agency actions to prohibit or discourage banks from serving businesses and customers in select segments of our economy.[4] As Coinbase directly experienced, this has resulted in the inappropriate denial of banking services for companies like our own, based not on factors that actually implicate bank safety and soundness, but instead on vague concepts that were little more than the recognition that our industry was politically disfavored at the time. Reputation risk has been weaponized against different industries, by different administrations, to accomplish policy objectives that could not survive legislative scrutiny. The agencies' final rule must more directly reckon with this record and clearly prohibit its usage and also provide enforceable protections against its recurrence.

---

[1] Exec. Order No. 14,331, Guaranteeing Fair Banking for All Americans, 90 Fed. Reg. 38925 (Aug. 12, 2025).
[2] *Id.*
[3] Prohibition on Use of Reputation Risk by Regulators, 90 Fed. Reg. 48825 (Oct. 30, 2025).
[4] *See generally*, Julie A. Hill, Regulating Bank Reputation Risk, 54 Ga. L. Rev. 523 (2019) (discussing the FDIC's use of reputation risk to pressure banks to end relationships with payday lenders, and the New York Department of Financial Services guidance instructing banks to consider reputation risk when providing banking services to gun rights groups).

Use of reputation risk is dangerous because it is a nebulous, subjective, and shifting concept that cannot be directly tied to a negative financial impact or a violation of law, which are the only factors that should be taken into account for supervisory purposes. Unquantifiable or vague reputational risks — which seem largely designed as a conduit for the sitting administration's political favor or disfavor — have no role to play in bank supervision.

The NPR's approach is generally consistent with this idea. It helpfully recognizes the OCC's specific statutory mission: to assure that the institutions it supervises operate in a safe and sound manner, comply with applicable laws and regulations, and provide fair access to financial services and fair treatment of customers.[5] The FDIC likewise describes its mission to involve examining and supervising financial institutions for safety, soundness, and consumer protection.[6] Supervising based on reputational issues — essentially supervision in anticipation of or reacting to forms of public or political perception — is not the authorized role of bank supervisors and, at best, distracts from their essential responsibilities to assure safety and soundness and compliance with the law of our Nation's banking system.

Coinbase, like many other crypto companies, understands well the result of reputation risk-driven supervision firsthand. We experienced the pressures and our employees have been denied banking services. Using the Freedom of Information Act ("**FOIA**") we uncovered the unjust regulatory actions that targeted the crypto industry behind closed doors.[7] This secret singling-out of crypto firms like Coinbase threatened our business, our service to millions of investors, and the financial security of our employees. We are unfortunately part of a growing number of firms and individuals who can attest to the profound and far-reaching impacts of such practices on legal businesses and lives.

While the proposal's approach to limiting the use of reputation risk is a good step, half-measures will not solve this problem. Former FDIC Chairman William Isaac warned that reputation risk has been "a major factor in shifting the banking agencies from their primary role as guardians of the safety and soundness and stability of the financial system to amorphous financial social welfare agencies."[8] If the agencies retain any discretion to consider "perception" or "public opinion" as supervisory factors, regardless of what label is applied, the abuses will return. The only durable solution is complete excision. Otherwise, this tool will resurrect once again in a future Choke Point 3.0.

Our recommendations for strengthening the rule to end that threat are set out below.

---

[5] *See* 12 U.S.C. § 1(a).
[6] FDIC, "FDIC Mission, Vision, and Values" (last updated Feb. 5, 2025), https://www.fdic.gov/strategic-plans/fdic-mission-vision-and-values.
[7] *See* Coinbase's FOIA Reading Room, https://www.coinbase.com/legal/foia.
[8] *See* Regulating Bank Reputation Risk at 594.

1. Provide an Affirmative Limiting Principle for Bank Supervision

While the proposal is right to address past practices of what bank supervision should not be, the core tenet of a final rule should be an affirmative statement of what supervision should be. Specifically, the final rule should include a statement that the purpose of bank supervision is to assure banks' financially safe and sound operations and compliance with applicable laws. Such an affirmative statement would provide a grounding and limiting principle — one that appropriately focuses bank supervision on financial risks that could pose a risk to bank safety and soundness and on compliance with law[9] — and provides a basis for the important prohibitions set out in the NPR.

This principle would ground the final rule in the fundamental purpose of bank supervision and make more clear that any effort to supervise based on reputation risk, whether that term is used or not, would not be authorized. By providing an affirmative and binding principle for the agencies focused on financial and legal risks, the rule would provide a needed foundation for addressing past problems and serve as a crucial building block in preventing a new Choke Point 3.0 going forward.[10]

2. Prohibit Any Use of Reputation Risk as a Basis for Agency Adverse Action

As stated above, supervising based on reputational issues, in anticipation of or reacting to forms of public or political perception, is not the authorized role of bank supervisors and distracts from their essential responsibilities to assure safety and soundness and compliance with the law of our Nation's banking system. The NPR suggests that eliminating reputation risk from the agencies' supervisory frameworks or re-interpreting the definition of "reputation risk" will solve this issue. While this is a good step, it is not enough to prevent reputation risk from coming back through other means in the future. An explicit, outright prohibition on the use of reputation risk is a much stronger protection.

The agencies' final rule should prohibit ***any*** use of reputation risk in supervision or adverse action, not only where action is taken "***solely*** on the basis of the [customer's] involvement in politically disfavored but lawful business activities perceived to present reputation risk,"[11] as suggested by Question 5 of the NPR. The term "solely" unhelpfully

---

[9] The focus of bank supervision on material financial risks is an approach on which we agree with key bank trade associations. *See* Austin Anton, BPI Response to OCC's Decision to Cease Examinations for Reputation Risk, Bank Policy Institute (Mar. 20, 2025), https://bpi.com/bpi-response-to-occs-decision-to-cease-examinations-for-reputation-risk/; *see also* Independent Community Bankers of America (ICBA), FDIC, OCC announce proposals to streamline regulatory oversight, ICBA.org (Oct. 8, 2025), https://www.icba.org/w/fdic-occ-announce-proposals-to-streamline-regulatory-oversight.

[10] *See generally*, U.S. House Comm. Fin. Serv., "Operation Chokepoint 2.0: Biden's Debanking of Digital Assets" (Dec. 2025) (describing "Operation Choke Point" and "Operation Choke Point 2.0").

[11] *See* proposed 12 C.F.R. §§ 4.91(c) and 302.100(c).

implies that reputation risk can be considered — just not alone. This, in our view, leaves the door open to the agencies using the same problematic, subjective, and vague considerations around reputation risk to deny banking services to disfavored businesses. They need only to point to some other risk in addition, even if the primary issue they have identified is reputation risk.

As the proposal itself describes this provision, it pertains to actions by the agencies taken "solely based on bias against politically disfavored but lawful business activities perceived to present reputation risk."[12] Bias does not align with the agencies' missions and has no place, be it solely or partially, in bank supervision.

Moreover, this prohibition should not be limited to pressure regarding "politically disfavored" but lawful business activities, but instead should prohibit the use of reputation risk at all in consideration of adverse actions. Limiting this prohibition to considerations of politically disfavored but lawful potential customers of a bank neglects to address the broader issues around the "public perception" considerations that animate reputation risk and results in the denial of banking services. Lawful business activity that does not pose a financial risk must be protected from reputational-based denials of banking services in any form, whether it stems from political disfavor, public perception considerations, or otherwise.

The use of reputation risk is pernicious and must end altogether, particularly because the harmful effects of its misuse remain with the targeted business well after the inappropriate use of supervisory authority is finally corrected. After Choke Point 1.0 was shuttered, "banks simply ascribe a higher risk to activities that they suspect might draw the government's ire, even if no specific guidance exists."[13] This shadow regulation persists because the underlying concept was never truly eliminated, only paused. The final rule must eliminate reputation risk entirely, including any functional equivalents, to prevent its inevitable return under a future administration with different political priorities.

This administration's Executive Order correctly identifies the stakes. The legitimacy of bank supervision depends on it being grounded in objective, financially-relevant criteria rather than public perceptions and public opinion that invariably reflect the political moment. The agencies should seize this moment to excise the use of reputation risk completely and restore public confidence that bank supervision serves its proper purpose.

Accordingly, to eliminate any possible ambiguity, the final rule should require that adverse findings be based on specific and quantifiable factors like credit, liquidity, compliance, or

---

[12] 90 Fed. Reg. at 48828 (emphasis added).
[13] *See* Nic Carter, Operation Choke Point 2.0 Is Underway, And Crypto Is In Its Crosshairs, Pirate Wires (Feb. 8, 2023), https://www.piratewires.com/p/crypto-choke-point?f=author.

operational risks. Doing so would ensure that supervisor concerns are addressed through existing risk categories and remove the need for a subjective "reputation risk" factor. By eliminating reputation risk from the supervisory framework entirely, the agencies would restore the clarity that bank supervision exists to ensure financial safety and soundness — not to serve as an instrument of industrial policy or social pressure.

3. Explore Additional Protective Mechanisms: FOIA and CSI Modernization

The abuse of reputation risk has long been enabled by a broader pathology in bank supervision: the operation of "secret evidence, secret law, and secret policy."[14] Unfortunately, this observation "remains fresh today."[15] The agencies cannot credibly commit to ending reputation risk abuses while maintaining the secrecy apparatus that made those abuses possible.

The machinery of denying banking services based on reputational risk operates largely outside public view. Bank examinations are entirely confidential under federal regulations.[16] Within this confidential process, examiners issue "matters requiring attention" ("**MRAs**"), "supervisory recommendations," and other informal communications that banks understand they "ignore at their peril."[17] As one commentator noted, "MRAs have no origin or even reference in law or regulation; rather, they have grown up as an informal convention in the examination process."[18] Yet, failing to respond to these informal communications can trigger formal enforcement.

This framework inverts the proper relationship between regulators and regulated entities. Instead, the current system binds banks to silence about regulatory demands while shielding those demands from public scrutiny. When the FDIC issued private letters instructing banks to "pause" or "refrain from expanding" crypto-related activities, those letters were hidden from public view precisely because confidential supervisory information protections applied.[19]

The proposed rule, while an important step, is only one component of what the agencies need to do to be held accountable for inappropriately policing reputation risk. The agencies should also explore additional mechanisms to prevent the use of reputation risk

---

[14] *See* Kenneth Culp Davis, Administrative Procedure in the Regulation of Banking, 31 L. & Contemp. Probs. 713, 713 (1966).
[15] *See* Margaret E. Tahyar, Are Bank Regulators Special?, 6 Banking Persp., no. 1, 2018, at 23, quoted in Regulating Bank Reputation Risk at 569 n.263.
[16] *See* 12 C.F.R. §§ 4.32(b)(2), 4.36 (OCC); §§ 309.5(g)(8), 309.6(a), 350.9 (FDIC).
[17] *See* Regulating Bank Reputation Risk at 569.
[18] *See* Nicholas Anthony, Testimony before European Parliament, at 5 n.28 (citing Greg Baer & Jeremy Newell, Bank Policy Institute).
[19] Anthony, Testimony Before European Parliament at 3.

going forward and protect against politicized or unlawful denial of banking services more broadly.

In particular, the agencies should revisit FOIA exemptions or protections for confidential supervisory information ("**CSI**") to avoid those laws being used to shield the use of reputation risk and subsequent denial of banking services. Supervision of crypto activities has been shrouded in secrecy. When Coinbase sought information about the denial of banking services applied to the crypto industry, our FOIA requests were stonewalled with broad denials and excessive redactions, ultimately forcing us to sue in federal court, which only then led to the release of the requested information.[20] The OCC earlier this month published — for the first time — each of the formal supervisory non-objection ("**SNO**") requests for crypto activities by national banks, and the OCC's responses to those requests, under the agency's since-rescinded Interpretive Letter 1179.[21] From heavily-redacted SNO correspondence dating back to 2022, there emerged fragments of the agency's "secret law" or "lore" for crypto activities by banks, promulgated piecemeal through laconic "non-objections" by supervisors or unexplained withdrawals by applicants.

To help shine a light on this shadow supervision has targeted crypto activities — and could fall on other types of business in the future — the agencies should expressly carve out from their FOIA and CSI disclosure rules[22] and fast-track procedures under those rules related to cases where there is a denial of banking services based on factors not otherwise prohibited by law.[23] The agencies should further consider establishing dedicated online tips, complaints, and enhancing and publicizing portals for reporting the denial of banking services, as well as hotlines for consumers and firms who believe they have been denied banking services.[24]

Developing clear regulatory policy is table stakes; ensuring that each examiner in the field applies this policy in a clear, consistent and objective manner is a more difficult, but important goal to achieve. Banks' primary concern will be how their local examiner applies the rule, more than the text of the rule itself. Therefore, agency leadership should develop transparent processes for holding examiners accountable for applying this rule in a clear

[20] *See* Coinbase's FOIA Reading Room, https://www.coinbase.com/legal/foia.
[21] OCC, "Summary of Interpretive Letter 1179 Requests," https://www.occ.gov/topics/laws-and-regulations/interpretations-and-precedents/summary-of-interpretive-letter-1179-requests.html.
[22] *See* 12 C.F.R. Part 4, Subparts B and C (OCC); 12 C.F.R. Part 309 (FDIC).
[23] *See, e.g.*, 31 U.S.C. § 5318(g)(2)(A)(ii) (generally prohibiting disclosure of suspicious activity reports by federal government officials and employees).
[24] *See* OCC, "HelpWithMyBank.gov" (last visited Dec. 3, 2025), https://www.helpwithmybank.gov/index.html; FDIC, "FDIC Information and Support Center" (last updated Sept. 4, 2018), https://ask.fdic.gov/fdicinformationandsupportcenter.

and consistent manner, and developing concrete measures that the industry and agency leadership can use to judge the effectiveness of this initiative.

4. Pursue Consistency Between All Federal Banking Agencies

If the federal banking agencies are committed to implementing the President's policy of guaranteeing fair banking for all Americans, focusing bank supervision on its proper mission and ending politicized or unlawful denial of banking services, then *all* of the agencies — including the Federal Reserve Board — must join in the efforts described above.[25] We applaud the recent remarks made by the Secretary Bessent on the important role the Financial Stability Oversight Council has in ensuring the financial system is contributing to this administration's pro-growth policies. These efforts will "help unlock the potential available to all Americans when they are free to save, invest, innovate, build businesses, and drive their own economic destinies."[26]

***

We welcome the opportunity to further engage with the agencies and other regulators on these issues.

[25] *See* Exec. Order No. 14,331.
[26] *See* U.S. Dep't of the Treasury, Remarks by Secretary of the Treasury Scott Bessent before the Financial Stability Oversight Council (Dec. 11, 2025), https://home.treasury.gov/news/press-releases/sb0333.