OCC-2025-0142

Re: Prohibition on Use of “Reputation Risk” by Regulators (comment period ends Dec. 29, 2025)

Submitted by: Concerned Citizen

Date: December 22, 2025

Where to send / how to submit:

Submit electronically via Regulations.gov docket OCC-2025-0142 (use the “Comment” button on the docket document page).

If submitting by mail/hand delivery, follow the Federal Register notice instructions referenced on the docket.

Public Comment Letter

I oppose any rule or policy that would categorically prohibit banking regulators from considering “reputation risk” where it functions as an integrated proxy for legally relevant, evidence-based risk channels (e.g., litigation risk, consumer protection risk, operational risk, governance failures, and market discipline). An across-the-board prohibition risks creating blind spots in supervisory assessments and could increase the probability of misconduct persisting until it produces acute, measurable losses—at which point remediation becomes more expensive and consumers are more likely to be harmed.

If the agencies’ concern is misuse of vague labels, the remedy is not to bar consideration of reputational effects entirely, but to require disciplined articulation of the underlying drivers: (1) the specific conduct or control deficiency, (2) the statutory or regulatory requirements implicated, (3) the causal pathway to loss, and (4) the supervisory action tailored to correct it. Eliminating the category rather than improving definitional rigor invites regulatory arbitrage and could undermine confidence-based stability dynamics in banking—where runs and liquidity stress are often precipitated by loss of confidence even before accounting losses are fully recognized.

The APA requires that agencies address reliance interests and explain how the proposal will avoid increasing enforcement lag, misconduct incidence, and systemic vulnerability. The administrative record should include empirical or at least serious analytical support for the proposition that removing this supervisory lens will not worsen outcomes. Absent that showing, the action is vulnerable as arbitrary and capricious.

I also request explicit clarification that the rule would not be used to constrain supervision where reputational impacts are directly tied to statutory compliance (e.g., anti-discrimination, UDAAP principles where applicable, AML obligations, consumer disclosures, servicing integrity, cybersecurity incident handling). Any ambiguity should be resolved to preserve effective supervision and to prevent the rule from becoming a shield for institutions engaged in harmful conduct.

I reserve all rights to pursue administrative and judicial remedies, including APA litigation, if a final rule is adopted without a reasoned explanation and a record demonstrating lawful consideration of foreseeable harms.

Selected legal authorities and supporting references (Bluebook-style)

5 U.S.C. § 553 (notice-and-comment rulemaking); 5 U.S.C. § 706(2)(A) (arbitrary-and-capricious review).

Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29 (1983).

FCC v. Fox Television Stations, Inc., 556 U.S. 502 (2009) (reasoned explanation required for policy change).

Encino Motorcars, LLC v. Navarro, 579 U.S. 211 (2016) (unexplained change = arbitrary and capricious).

Dep't of Com. v. New York, 588 U.S. 752 (2019) (agency must offer genuine justifications; pretext problems).

Massachusetts v. EPA, 549 U.S. 497 (2007) (agency must ground decisions in statutory factors and science).

Regulations.gov, Prohibition on Use of Reputation Risk by Regulators, Document OCC-2025-0142-0001 (Comment Period Ends Dec. 29, 2025).