Cahill

August 11, 2025

New Executive Order Targets Political Discrimination in Financial Services

Introduction

On August 7, 2025, President Donald Trump signed an Executive Order titled *Guaranteeing Fair Banking for All Americans* (the "Order"), directing federal agencies to revise policies and amend regulations to "remove the use of reputation risk" from any functions that could result in politicized or unlawful debanking or the denial of "banking services," and to take action against financial institutions alleged to have denied or restricted banking services based on political, religious, or ideological beliefs. The Order instructs members of the Financial Stability Oversight Council (which includes the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Reserve, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the National Credit Union Administration, and the Consumer Financial Protection Bureau), and the Small Business Administration (SBA), to review past and current account closures and service denials for potential violations of federal law and authorizes monetary penalties, consent decrees, and other enforcement measures where appropriate.

The Administration's move follows public statements by President Trump alleging that major banks denied him and others service based on political considerations. This includes allegations that some financial institutions "target[ed] persons participating in activities and causes commonly associated with conservatism and the political right following the events that occurred at or near the United States Capitol on January 6, 2021." The Administration has characterized these and similar actions as "unlawful debanking," a term the Order defines broadly to include both direct and indirect adverse actions taken against customers or applicants based on protected beliefs or disfavored activities. The Order mandates a range of agency actions, including a ban on the use of reputational risk in supervision, mandatory policy revisions, and notification requirements for SBA lenders.

While the Order reflects a continuation of deregulatory themes in the financial services sector generally, including a shift away from certain risk assessments, it also demonstrates a broader shift in enforcement priorities that is likely to have implications for many national and regional lenders — particularly in areas involving reputational risk assessments and customer onboarding practices. It also directs the Treasury Department to develop a cross-agency strategy for eliminating such practices across the financial system.

Chairman James Comer with the House's Committee on Oversight and Government Reform has also launched an investigation into whether financial institutions have improperly engaged in debanking activities of individuals and companies because of their political beliefs or involvement in certain industries, such as crypto companies.[1] Additionally, Chairman Tim Scott and other Republicans on the Senate Banking, Housing, and Urban Affairs

[1] In February 2025, the Subcommittee on Oversight and Investigations of the Committee on Financial Services held a hearing titled "Operation Choke Point 2.0: The Biden Administration's Efforts to Put Crypto in the Crosshairs" to examine the negative effects of the Biden Administration's Operation Choke Point 2.0. *See* https://www.congress.gov/event/119th-congress/house-event/117858

Committee have introduced the Financial Integrity and Regulation Management Act, which would prohibit financial regulators from using reputational risk as a component of supervision. Chairman Andy Barr of the Subcommittee on Financial Institutions on the House Financial Services Committee and Representative Ritchie Torres have introduced a bipartisan companion bill in the House. Some conservative media outlets have cited these legislative efforts as key to safeguarding these policies against potential reversal by a future Democratic president.[2] The Administration and Congress will undoubtedly increase scrutiny of financial institutions practices given the Order.

Key Provisions of the Order

The Order includes several policies and directives likely to affect banking operations and compliance functions:

1. Definition of "Politicized or Unlawful Debanking"

The Order defines this term as:

> [A]n act by a bank, savings association, credit union, or other financial services provider to directly or indirectly adversely restrict access to, or adversely modify the conditions of, accounts, loans, or other banking products or financial services of any customer or potential customer on the basis of the customer's or potential customer's political or religious beliefs, or on the basis of the customer's or potential customer's lawful business activities that the financial service provider disagrees with or disfavors for political reasons.

This definition sets the foundation for the broader regulatory reforms mandated in the Order, including supervisory reviews and potential enforcement actions.

2. Regulatory Investigations of Debanking Practices

Federal banking regulators, defined to include the federal member agencies of the Financial Stability Oversight Council and the SBA, are directed to review past and present supervisory practices and identify any formal or informal policies that may have required or encouraged institutions to restrict services based on political, religious, or ideological factors. Reviews must be completed within 120 days.

3. Enforcement Mechanisms and Penalties

Where violations of applicable law are found, including under the Equal Credit Opportunity Act or Consumer Financial Protection Act, agencies are authorized to impose penalties, enter into consent decrees, or pursue other remedial measures. Where religious discrimination is involved and compliance cannot be attained, regulators are directed to refer such matters to the Attorney General for appropriate civil action.

4. Restrictions on Use of "Reputation Risk"

Under the Order, regulators are required to remove references to "reputation risk" or equivalent concepts from non-regulatory guidance and examiner materials within 180 days. Agencies are also directed to consider "rescinding or amending existing regulations . . . that could result in politicized or unlawful debanking," to ensure that reputation is only considered "to the extent necessary to reach a reasonable and apolitical risk-based assessment."

---

[2] The Editorial Board, *Trump Is Right on 'Debanking'*, The Wall Street Journal (Aug. 8, 2025, 6:50 PM), https://www.wsj.com/opinion/donald-trump-debanking-executive-order-bank-examiners-biden-obama-operation-choke-point-8396e49d?st

5. SBA Compliance Requirements

The SBA must notify all lenders in its loan guarantee programs of new obligations, including the identification and potential reinstatement of any clients previously denied services for impermissible reasons. Institutions must complete these reviews and issue notices of renewed eligibility to affected parties within 120 days.

6. Treasury Strategy Directive

The Secretary of the Treasury, in consultation with the Assistant to the President for Economic Policy, is required to develop a cross-agency strategy within 180 days to further address politicized debanking. This may include legislative or regulatory proposals aimed at reinforcing risk-based decision-making standards and restricting agency discretion in this area.

Regulatory Context: Shift Away from Reputational Risk

The Order is the latest in a series of deregulatory efforts in the financial services sector from the Trump Administration aimed at scaling back reputational risk based methodologies. In June, the Federal Reserve announced in Supervision and Regulation Letter 95-51 that its examiners would no longer consider reputational risk when evaluating banks' business relationships. The Order formalizes this approach across all federal financial regulators, underscoring that political or ideological considerations should not influence supervisory or enforcement activity. It also draws a clear contrast with prior regulatory practices, citing the Obama-era "Operation Chokepoint" as "a well-documented and systemic means by which federal regulators pushed banks to minimize their involvement with individuals and companies engaged in lawful activities and industries disfavored by regulators."

With the Order, institutions should expect closer scrutiny of how customer risk is assessed and documented, especially where service restrictions may intersect with protected affiliations or lawful, controversial sectors.

Practical Considerations for Financial Institutions

For institutions already focused on governance, risk, and compliance, the Order presents both potential exposure and an opportunity for policy calibration. Although traditional underwriting standards remain yet unchanged, and enforcement actions remain to be seen, regulators are likely to evaluate whether client onboarding, account closures or client exits are based solely on neutral, documented business risks. Institutions may benefit from a proactive review of policy language, documentation standards, and training practices to ensure alignment with the Order and associated agency actions.

In particular, banks and other financial institutions should consider the following steps as part of a comprehensive response:

- **Policy Review**: Evaluate policies on client onboarding and offboarding, particularly those referencing non-financial or reputational risk.
- **Documentation Protocols**: Ensure decision-making records articulate clear, lawful, and objective bases for relationship decisions.
- **Governance Alignment**: Confirm that reputational or brand risk policies are not being applied in a manner inconsistent with the new regulatory expectations.
- **Preparedness for Inquiry**: Conduct a proactive compliance review and be ready to respond to agency and congressional inquiries related to the Order.

Conclusion

The Order reflects a meaningful shift in tone and emphasis from federal regulators, with potential impacts on a range of institutional policies and supervisory relationships. Although implementation and enforcement specifics remain forthcoming, the signal from the Trump Administration is clear: account access decisions will be reviewed closely where political or ideological bias is alleged.

Institutions that have already begun adapting their frameworks to recent regulatory guidance are well-positioned to respond. That said, it will be important to review internal controls, training, and governance documentation to ensure consistency with the new approach and to prepare for the possibility of agency engagement.

Cahill's Regulatory Enforcement and Congressional Investigations teams remain available to assist in evaluating relevant risk areas, reviewing applicable policies, and advising on next steps in light of the Order.

* * *

If you have any questions about the issues addressed in this memorandum, or if you would like a copy of any of the materials mentioned in it, please do not hesitate to call or email authors Edward O'Callaghan (partner) at 202.862.8970 or eocallaghan@cahill.com; James Mandolfo (counsel) at 202.862.8903 or jmandolfo@cahill.com; or Louis Capizzi (associate) at 212.701.3482 or lcapizzi@cahill.com; or email publications@cahill.com.