



Preserving Fair Access: Why the Fight Against Debanking Demands National Reform

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In the United States, sovereignty rests with the people. Our political institutions function best when they respond to the needs of Americans. The American economy rests on a similar principle; markets thrive when businesses answer to customers, not to regulators or political pressure. Economic freedom as a pathway to prosperity is not only a hallmark of free market principles, but also a core tenet of

political liberty itself.

Unfortunately, a troubling practice has recently threatened these foundations: government-driven debanking.

This summer, President Trump took an important step to address the problem. His administration order¹ directing the U.S. Treasury Department to root out the regulatory overreach and outdated banking policies that fuel politically motivated account closures.

Now, it's time we call on Congress to take the power away from bureaucrats and place it back in the hands of American consumers, small businesses and communities.

What Is Debanking?

Debanking occurs when a financial institution denies a service to a customer or business. Sometimes, the reasons can be completely appropriate: when the bank detects fraud or scams occurring to the customer or by the customer, when there are suspicious activities that could signal illicit finance, or simply when a customer is delinquent payments. But other times, the reasons are completely inappropriate, driven by overzealous regulators or by bad policies that end up shutting out lawful customers. This is called government-driven debanking, and it is the result of politicized oversight of our financial system or the unintended consequence of bad and outdated policy.

The precedent of regulatory overreach in financial services traces back to Operation Choke Point under the Obama administration. Regulators exploited the ambiguous concept of “reputation risk” to pressure banks into denying services to entire categories of lawful businesses—from firearms retailers to small-dollar lenders.

This practice grew under the Biden administration, extending to cryptocurrency firms and conservative nonprofit organizations. In each case, financially sound, legally compliant entities were cut off from financial services, often without explanation, crippling their operations.

A Needed Corrective

The Trump Administration's executive order aims to restore fairness through prohibiting the use of “reputation risk” in bank supervision, directing the Treasury to modernize outdated rules that fuel unnecessary account closures and ensuring that regulators follow objective, reasonable, and apolitical assessments.

As the executive order itself makes clear: “It is the policy of the United States that no American should be denied access to financial services because of their 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. Banking decisions must instead be made on the basis of individualized, objective, and risk-based analyses.”

These measures build on recent steps by the Federal Reserve, OCC and FDIC to remove “reputation risk” from guidance documents. Yet executive action on “reputation risk” alone is not enough. It establishes precedent but remains vulnerable to reversal by future Presidential administrations.

Why Congress Must Act

For lasting reform, legislative action is essential. Chairman Tim Scott's Financial Integrity and Regulation Management (FIRM) Act² provides precisely that by codifying the removal of “reputation risk” from supervisory tools and erecting permanent guardrails that keep regulators focused on sound financial criteria, not political considerations.

Congress should move quickly to

approve the FIRM Act. Without statutory reform, the door remains open for politicized banking policy to return under a future administration.

Congress has an unprecedented opportunity to ensure accountability, transparency, and fairness in financial supervision with the FIRM Act. But ending the practice of government-driven debanking requires additional action.

The State Regulation Patchwork

Several states – including Florida – have tried to curb politically motivated debanking through state-level bans. While well-intentioned, these efforts result in a patchwork of rules that complicate the responsibilities of both bank compliance and regulatory oversight. Our banking system is fundamentally national in scope and conflicting state mandates impose new costs, reduce efficiency and limit consumer access.

Most recently, the state proposed an expansion of a well intended law designed to stop inappropriate account closures and protect Floridians. Unfortunately, in practice, the proposal would harm Florida's banks, consumers and economy if enacted. At the same time, the proposal has the unintended consequence of expanding the administrative state, a precedent that impacts all job creators and economic drives, and will over time erode Florida's pro-business climate. This state intervention also undermines the progress made to end government driven debanking under President Trump.

As Congress and the Administration develop a strategy to address debanking head on – for Floridians and all Americans

– a national fair access standard that prohibits banks from closing accounts based on politics would help address the undue influence of federal regulators and hold financial institutions accountable.

Only a uniform federal solution can preserve free enterprise and consumer choice for all Americans.

Updating Antiquated Rules

Action to stop politically-driven closures is not the only reform needed to help ensure fair access. Outdated compliance mandates often encourage banks to put lawful customers and their financial data under scrutiny. Currency Transaction Reports (CTRs), for instance, are still triggered by cash transactions over \$10,000—a threshold that has remained frozen for decades, despite inflation.

Likewise, suspicious activity reports (SARs) are written so broadly that banks often flag transactions and close certain accounts out of an abundance of caution, but are legally constrained from disclosing the reason to the account holder, resulting in confusion and frustration for customers.

Reform means modernizing CTR and SAR standards to eliminate unnecessary reporting, enhance transparency, and leverage new technology to precisely target illicit activity without ensnaring ordinary Americans in a regulatory dragnet.

Protecting Free Markets, Not Mandating Them

As reform proceeds, one caution is essential: banks must not be converted into government-controlled utilities. They must retain the freedom to choose customers on

legitimate economic grounds. While reform is necessary to increase transparency and eliminate political coercion, it must not inhibit the expert industry judgment that has built the American financial industry into the envy of the world.

As Federal Reserve Governor Michelle Bowman³ explained when the board announced its removal of reputation risk: “This change does not alter the Board’s expectation that banks maintain strong risk management to ensure safety and soundness and compliance with law and regulation nor is it intended to impact whether and how Board-supervised banks use the concept of reputational risk in their own risk management practices.”

The America First Policy Institute echoed this sentiment in a recent research report,⁴ noting that we must “establish a federal fair access standard that puts banks—not bureaucrats—in charge of running their business... This standard would ensure banks make decisions based on independent business judgements, and not because of pressure from federal regulators.”

Conclusion

A free and resilient financial system is one that serves customers, not the whims of politicians and regulators. The Trump Administration’s executive order marks critical progress in this respect. But lasting reform requires congressional action—through legislation such as the FIRM Act, modernized compliance standards, and a uniform federal Fair Access framework.

Economic liberty cannot hinge on the political priorities of whichever party holds power in Washington. Lawful American enterprises and individuals must never fear financial exclusion for their beliefs or political views. The era of government-driven debanking must end.

At Americans for Free Markets,⁵ we know that this is a crucial opportunity to show our commitment to free-market alternatives and limited government overreach. We must all work together to ensure our financial institutions can operate freely, fairly and without fear of overregulation from power-hungry government bureaucrats.

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ENDNOTES

- 1 <https://www.foxbusiness.com/politics/trump-moves-protect-american-bank-accounts-from-politically-based-closures>
- 2 https://www.banking.senate.gov/imo/media/doc/firm_act_bill_text.pdf
- 3 <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20250623a.htm>
- 4 <https://www.americafirstpolicy.com/issues/debanked-when-political-bias-trumps-financial-judgment>
- 5 <https://forfreemarkets.org/>