THE REVIEW OF
BANKING & FINANCIAL SERVICES
A PERIODIC REVIEW OF SPECIAL LEGAL DEVELOPMENTS AFFECTING LENDING AND OTHER FINANCIAL INSTITUTIONS

Vol. 42 No. 8 August 2026

THE NEW ERA OF FAIR BANKING: THE FEDERAL ADMINISTRATION'S INCREASED FOCUS ON DEBANKING AND HOW FINANCIAL INSTITUTIONS SHOULD RESPOND

The issuance of Executive Order 14331 (Guaranteeing Fair Banking for All Americans) *in August 2025 marked a turning point in U.S. fair banking policy, directing federal banking regulators, the CFPB, and the SBA to identify and remediate past debanking practices and to prohibit future denials of financial services based on political, religious, or ideological grounds. Federal agencies have taken significant steps to implement the Order, including removing reputation risk from examination frameworks, conducting look-back reviews of supervised institutions, and — in the case of the OCC — releasing preliminary findings identifying certain industry-sector restrictions at major national banks. At the same time, three states (Florida, Tennessee, and Idaho) have enacted fair access laws, Congress has introduced the Fair Access to Banking Act, and the FTC has issued warning letters to major payment processors, signaling that the administration's debanking agenda extends across the full spectrum of financial services. Against this rapidly evolving regulatory and legal landscape, financial institutions and small business lenders should act now to review policies and practices, document objective and risk-based decisioning, monitor complaints, and prepare for the possibility of supervisory criticism, investigations, enforcement actions, and private litigation.*

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INTRODUCTION

Debanking has become the signature fair banking issue of President Donald Trump's second term. Although the concept of debanking is not new, this iteration of federal debanking policy is entirely different. Instead of the federal government encouraging financial institutions to avoid or exit relationships with certain banking customers based on asserted reputational risk, which occurred under the past two Democratic administrations, this administration's debanking initiative seeks to prohibit debanking activities from taking place in the future and to identify and remediate debanking activities that have occurred in the past.

On August 7, 2025, President Trump issued Executive Order 14331 (*Guaranteeing Fair Banking for All Americans*) ("EO 14331" or the "Order") to address concerns about debanking practices used by financial institutions to restrict access to banking products and services for certain businesses and individuals based on political, religious, or ideological beliefs. As evidence, the Order points to Operation Choke Point — a debanking initiative that took place at the direction of

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