United States Internet Preservation Society
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February 26, 2026

Benjamin W. McDonough
Deputy Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Docket No. R-1884; RIN 7100-AH17: Prohibition on Use of Reputation Risk or Other Supervisory Tools To Encourage or Compel Banking Organizations To Engage in Politicized or Unlawful Discrimination

Dear Deputy Secretary McDonough and Members of the Board:

The United States Internet Preservation Society ("USIPS") respectfully submits this comment on the Board's proposed rulemaking to codify the removal of reputation risk from its supervisory programs. USIPS is a 501(c)(4) nonprofit dedicated to defending digital rights, preserving Internet infrastructure, and advocating for fair access to financial services. These issues are central to our mission, and we have direct experience with the harms this proposal seeks to address.

We support the Board's stated objectives. The acknowledgment that reputation risk is inherently subjective, difficult to quantify, and has been used to pressure financial institutions into denying services to lawful businesses is long overdue. However, we respectfully submit that the proposed rule, as drafted, is insufficient to accomplish these objectives and will fail to provide meaningful relief to the organizations and individuals who have been harmed by financial censorship.

I. Self-Restraint Is Not Regulation

The fundamental deficiency of the proposed rule is that it constrains only the Board itself. The proposed § 262.9 imposes no obligations whatsoever on supervised banking organizations. The Board expressly acknowledges this, stating that "the decision regarding whether or not to make a loan or to open, close, or maintain an account … rests with the banking organization." This means that banks, holding companies, and their subsidiaries remain entirely free to deny services based on political considerations, reputational risk assessments, or any other subjective criterion, so long as the Board itself is not the one encouraging them to do so.

The problem with financial censorship in the United States has never been that regulators directly order banks to close accounts. The problem is that financial institutions have internalized a culture of politically motivated risk aversion and developed their own blacklists and opaque denial processes operating without notice, explanation, or right of appeal. Removing the Board's thumb from the scale is welcome, but it does nothing to address the independent conduct of the institutions themselves.

Moreover, a rule that binds only the Board is inherently fragile. What one Board adopts by rulemaking, a future Board may repeal by the same process. A self-imposed limitation creates no vested rights, no enforceable expectations, and no structural change. If the Board genuinely intends to eliminate reputation risk as a supervisory tool, it should do so in a manner that cannot

be quietly reversed by a future administration. The only way to accomplish this is to impose affirmative, enforceable obligations on the supervised institutions themselves.

II. Financial Censorship Is a Present and Ongoing Harm

Financial censorship is currently one of the foremost issues impacting the financial success and operational viability of many organizations and persons who are, notably, among the most supportive of the current Administration. These are not hypothetical harms. Lawful American businesses, including those engaged in firearms sales, digital media, cryptocurrency, politically controversial speech, and nonprofit advocacy, are routinely denied access to payment processing, banking services, and financial infrastructure with no meaningful explanation and no opportunity to appeal.

USIPS speaks from direct experience. This organization, a duly incorporated 501(c)(4) nonprofit dedicated to Internet preservation and digital rights, has been denied access to popular payment processors on the basis of its "principal's background." No further explanation was provided. No specific policy violation was identified. No appeal was offered. A lawful nonprofit was denied ordinary commercial services through an opaque, unaccountable process that exemplifies the precise harm this rulemaking purports to address.

The proposed rule does nothing to prevent this from continuing. The payment processor that denied USIPS service was not acting at the direction of the Board. It was acting on its own initiative, pursuant to its own subjective risk criteria, with no obligation to explain itself. A rule that merely prevents the Board from encouraging such conduct does not help organizations like USIPS, nor the countless other lawful businesses and individuals who face identical treatment daily.

III. The Board Should Impose Affirmative Obligations on Supervised Institutions

The Board has the statutory authority under 12 U.S.C. § 1844(b) to make rules "to enable it to administer and carry out" its supervisory programs. This authority is broad enough to require supervised banking organizations to base denials of service on quantified, documented, and objective financial risk criteria rather than subjective reputational assessments or political considerations.

In response to Question 7 of the Board's request for comment, USIPS respectfully proposes that the final rule include the following provisions applicable to Board-supervised banking organizations:

> **(1) Fair access requirement.** Board-supervised banking organizations should be required to make each financial service they offer available to all persons and entities in the geographic market served by that institution on proportionally equal terms, unless denial is based on quantified and documented failure to meet impartial, risk-based standards established in advance.
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> **(2) Documentation requirement.** Any denial, termination, or conditioning of financial services must be supported by written documentation identifying the specific, objective financial risk criteria that were not met. The institution must retain this documentation and produce it upon examination.

(3) Notice and appeal. Persons and entities denied service must receive written notice stating the grounds for denial and must be afforded a reasonable opportunity to cure the deficiency or appeal the decision through a defined internal process.

(4) Examination enforcement. Compliance with these requirements should be examined as part of the Board's regular supervisory cycle, with patterns of unjustified denials treated as a safety and soundness concern warranting supervisory action.

These provisions would require financial institutions to do their homework and show their work. An institution that can demonstrate a legitimate, quantifiable financial basis for declining a customer has nothing to fear from such requirements. Only institutions that rely on subjective, politically motivated criteria would find them burdensome, and that is precisely the point.

IV. The Rule of Construction Should Not Provide Cover for Continued Abuse

In response to Question 5, USIPS notes that the rule of construction in proposed § 262.9(d) preserves the Board's authority under, among other statutes, the Bank Secrecy Act and OFAC sanctions programs. We do not dispute the necessity of these authorities. However, we note that BSA compliance obligations have historically served as a convenient pretext for politically motivated service denials. Institutions have cited vague "BSA/AML concerns" to justify terminating relationships with lawful businesses in disfavored industries without identifying any specific suspicious activity or regulatory deficiency.

The final rule should clarify that the preservation of BSA and OFAC authority does not permit supervised institutions to invoke these statutes as a general-purpose justification for denying services absent specific, articulable compliance concerns related to the particular customer or transaction at issue. Otherwise, the rule of construction becomes a loophole large enough to swallow the rule itself.

V. Conclusion

USIPS commends the Board for recognizing that reputation risk has no place in federal bank supervision. The Board's own economic analysis acknowledges that reputation risk appeared in a meaningful percentage of supervisory findings and that its removal benefits clarity, objectivity, and market access. We agree.

But recognition without action is insufficient. The citizens, businesses, and organizations that suffer under financial censorship need more than a promise that the Board will stop making things worse. They need the Board to use its regulatory authority to require that supervised institutions treat all lawful customers fairly, transparently, and on the basis of objective financial criteria. Anything less is an acknowledgment of the problem dressed up as a solution.

We urge the Board to strengthen the final rule accordingly.

Respectfully,

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