February 5, 2025

Re: Stop Government from Weaponizing Financial Institutions

Dear Chairman Scott and Ranking Member Warren,

We, the undersigned organizations, write to express deep concern over government bureaucrats pressuring financial institutions to close customer accounts. Politicized risk assements mandated by regulators undermine the free market. Regulations should never be weaponized to silence disfavored industries or individuals.

Weaponization of financial institutions can target individuals or entire industries. A recent Freedom of Information Act request revealed that the Biden Administration engaged in a deliberate effort to pressure financial institutions to stop engaging in crypto activities. Industry debanking is not new — it echoes Operation Choke Point under the Obama Administration, in which regulators targeted lawful industries such as firearms dealers and payday lenders under the guise of risk management.

Regulatory pressure to force debanking decisions usually takes the form of risk assessments. For example, it was discovered that the FDIC was targeting a list of "high-risk" industries, including companies responsible for firearm and ammunition sales, coin dealers, and online gambling. The FDIC quietly amended the report years later, but the damage to public trust remains.

A significant driver of this issue is the overly burdensome Bank Secrecy Act, which mandates that financial institutions monitor and report on their customers to the government. Many of these reports provide little to no value for law enforcement or national security. Banks are required by law to file suspicious activity reports ("SARs") and currency transaction reports ("CTRs") with the Financial Crimes Enforcement Network — a bureau of the U.S. Department of Treasury. SARs are used to tip off law enforcement that banks suspect that a crime might be taking place. CTRs flag large cash transactions (exceeding $10,000). According to FinCEN, 4.6 million SARs were filed in 2023 and fewer than 0.3% of these SARs contributed to an active FBI or IRS investigation. According to the Government Accountability Office, over 170 million CTRs were filed between 2014 and 2023, but only 5% were ever accessed by law enforcement, and even fewer were used for law enforcement or national defense purposes.

SARs and CTRs ultimately contribute to some customers being debanked, regardless of whether a crime is being committed. Nonetheless, banks are fined for not being sufficiently aggressive in debanking criminals that law enforcement did not catch despite the bank filing a SAR, forcing banks to err on the side of debanking when they are unsure if a crime has been committed. Banks are also prohibited by law from telling customers about the existence of a SAR, meaning customers are often left without answers when debanking occurs. Law enforcement and national security experts leverage some of this information to aid criminal investigations. However, a more strategic approach is needed to protect innocent customers from getting wrapped up in the scope of these reporting exercises. The Anti-Money Laundering Act of 2020 could solve this problem by allowing banks to focus on identifying criminals, rather than filing reports for the sake of filing reports.

The current regulatory system places banks in an impossible position — either comply with the government's unspoken blacklist or risk hundreds of millions of dollars in penalties. As a result, banks are being forced to become de facto law enforcement agencies without knowing the full story of any of the enforcement actions they are pressured to take. The consequences are severe: entire industries are shut out of the financial system, and individuals are left without recourse.

To address this growing threat, Congress must act to reign in rogue regulators and prevent government bureaucrats from debanking disfavored individuals and groups. Furthermore, Treasury should implement the Anti-Money Laundering Act of 2020, which has gone nowhere under the Biden Administration.

Weaponizing financial regulation to punish disfavored individuals and industries is a dangerous abuse of power that threatens economic freedom. If left unchecked, this practice will not stop with cryptocurrency firms or firearms dealers—it will expand to any industry or individual who falls out of favor with those in power. Congress must act now to prevent further erosion of financial access and ensure that Americans can participate in the economy without fear of ideological discrimination.

Sincerely,

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