# COUNTERING VIEWPOINT-BASED DEBANKING

## Overview

Politicized debanking happens when a financial institution discriminates against a client due to their religious or political views or because they are politically disfavored. Politicized debanking is on the rise and should be opposed because it destabilizes the marketplace, poses legal, regulatory, and reputational risks to the institutions that engage in it, and has a chilling effect on people's willingness to speak and live out their faith.

> *"Politicized debanking...has a chilling effect on people's willingness to speak and live out their faith."*

# MESSAGING

- No American should have to worry that a financial institution will deny them service based on their religious or political beliefs.
- If a bank is too big to fail, it's too big for bias. State and federal governments grant banks and other financial institutions wide-reaching benefits to ensure everyone has access to essential financial services, not to play politics.
- Banks appear to be debanking people and groups based on their political and religious beliefs.
- All Americans benefit when powerful corporations respect free speech and religious freedom.
- Banks should respect everyone's freedom to participate in the marketplace without fear of political or anti-religious bias.
- Politicizing business poses many threats to everyday Americans and chief among them is the chilling effect debanking has on the exercise of speech and religion.
- Banks can rebuild trust by setting clear policies and then evenly applying them regardless of a customer's political or religious points of view.

# KEY DATA

- Prominent instances of debanking include:
  - (JPMorgan Chase) Former Ambassador Sam Brownback, the Arkansas Family Council, Defense of Liberty, and former general Michael Flynn, Jr.
  - (Bank of America) Christian charity Indigenous Advance, Christian non-profit Timothy Two Project International, Christian author, preacher and podcaster Lance Wallnau.
  - (International) Former U.K. politician Nigel Farage.
- Tennessee and Florida have both enacted legislation that prohibits big banks from canceling customer accounts based on their constitutionally protected speech and religious exercise.
- The 2024 Viewpoint Diversity Score Business Index is the first comprehensive benchmark designed to measure corporate respect for free speech and religious freedom. The Business Index found that powerful financial services providers like Bank of America, Block, Comerica, PayPal, Truist, Visa, and Wells Fargo prohibit financial services for speech, activities, or products that promote "hate," "intolerance," or similarly vague terms.
- In March 2025, JPMorgan Chase agreed to adopt language in its Code of Conduct that will protect customers against future instances of political and religious debanking. The policy changes specify that Chase will "not tolerate discrimination" against employees, customers, suppliers, contractors, or others affiliated with Chase "based on … religion, religious affiliation, or religious views … [or] political opinions, speech or affiliations." In 2023, Chase had also removed its "social risk" policy, which it had relied on to debank conservative and religious groups.
- The Business Index also found that many financial institutions have "social" or "reputational" risk policies that afford them a wide degree of discretion and render them highly susceptible to political influence.
  - Over **76% of scored companies** have subjective policies that imperil speech on the books, including every major social media platform, every other digital service provider from Amazon to Zoom, and **69% of financial institutions** including **2 of the largest 3 banks**. And this does not include non-public "reputational risk" policies, which banking regulators require banks to maintain.

# MAKING THE CASE TO REIN IN DEBANKING

## 1. “REPUTATIONAL RISK” AND “HATE” POLICIES IMPERIL CIVIL LIBERTIES

Financial institutions have set the stage for politicized debanking by adopting vague and subjective “reputational risk” policies and prohibitions on “hate” (or similarly vague terms) that are susceptible to abuse. The 2022 Statement on Debanking and Free Speech, signed by investment advisors who manage over $20 billion in assets, observed that “overly broad language... [in] [their]... terms of service” effectively grant financial institutions and their staff “carte blanche authority to deny or restrict service for vague, arbitrary, or viewpoint-based reasons.”

These types of policies are pervasive within financial institutions. For example, PayPal, WePay, and Truist refuse to process payments for anyone that, in their discretion, is promoting “hate” or “intolerance.”

WePay even considers whether a client is a “social risk,” including whether they are “related to hate groups.” And PayPal met with major backlash when it tried to add “misinformation” to its prohibited activities.

Reputational risk policies are particularly ripe for abuse. For example, Morgan Stanley considers whether a client raises “social responsibility issues.” In the now-infamous Operation Choke Point, the Obama administration pressured banks to deny services to unpopular groups based on perceived “reputational risk.”

Banks and other financial institutions are now using those same policies against other disfavored groups and persons like Indigenous Advance, Michael Flynn, and Nigel Farage. In the case of Farage, his status as a public figure who engages on contentious issues of national import was enough for the bank, Coutts, to classify him as a “social risk” and cut off his access to financial services.

While nearly every bank and financial service provider claims to abide by nondiscrimination laws, which typically include a bar on religious discrimination, policies like those above weaken such commitments by providing wide discretion to cancel or restrict service under standardless terms like “hate speech” or “social risk.”

With similarly vague and open-ended terms present across the financial services industry, there is great risk for increased religious and political discrimination in the provision of financial services.

## 2. POLITICIZED DEBANKING POSES SIGNIFICANT RISKS TO COMPANIES

Using "reputational risk" or "hate" policies to discriminate presents significant legal, regulatory, political, and reputational risks to a financial institution. Even the perception this is happening can do great harm to financial institutions because they rely heavily on consumer and government trust.

### SOME DISCRIMINATION IS ALREADY BARRED BY LAW.

Numerous laws prohibit financial institutions from discriminating based on religion. The Equal Credit Opportunity Act and Fair Housing Act bar religious discrimination in lending, broadly construed. The Consumer Financial Protection Bureau also prohibits religious discrimination as a part of the statutory ban on "unfair" practices under the Dodd-Frank Act. Many states and cities prohibit religious discrimination in a wide variety of contexts. For example, both Washington D.C. and New York prohibit religious discrimination in housing, employment, public accommodations, and educational institutions.

New York's Human Rights Law also specifically prohibits religious discrimination in providing credit services.

Barring discrimination against Americans based on their political views also has a pedigree in civil rights law. Though political views remain an emerging field in federal nondiscrimination law, the civil rights laws of numerous states like New York, Washington, and Washington D.C. already treat political affiliation or political activities as protected characteristics.

Tennessee and Florida have enacted legislation prohibiting banks and lenders from punishing citizens for their political or religious viewpoints. Texas also passed a law stopping insurers from setting rates based on any ESG criteria, including social factors.

Many financial institutions also hold themselves out as inclusive places and make promises not to discriminate. To the extent they make these representations, they may be liable under state and federal consumer protection laws for deceptive acts and practices.

### DEBANKING IS FRAUGHT WITH REGULATORY AND POLITICAL RISK.

Investigations and scrutiny of questionable debanking practices are on the rise. Chase's decision to close the account of Sam Brownback's organization prompted letters from 19 attorneys general and 13 state treasurers. Bank of America's decision to close the account of nonprofit Indigenous Advance prompted a legal complaint filed with the Tennessee Attorney General's office. Chase was also the target of a letter to the OCC from U.S. Senators Rubio and Cramer about debanking public figures.

Regulatory backlash is another significant concern. The OCC in 2021 introduced a Fair Access rule that addressed banks using "subjective or category-based evaluations to deny certain persons access to financial services." U.S. Senators and Representatives introduced similar legislation in 2022 and 2023.

Numerous states are also taking action. Tennessee, Florida, and Texas' legislation was enacted expressly to protect citizens from politicized debanking. Fifteen states have also passed bills boycotting financial institutions and other actors that boycott fossil fuels or guns, prohibit state fund managers from considering ESG criteria, or both.

## DEBANKING PRESENTS SERIOUS REPUTATIONAL RISKS

Many states have been outspoken advocates of divesting from financial institutions because of the institutions' political activism. Texas, Florida, West Virginia, Missouri, Kentucky, and Oklahoma are re-evaluating their relationships with banks and investment managers largely over concerns that those entities are denying service and capital to legal industries such as firearms companies and fossil fuel producers. Oklahoma restricted several major financial institutions from participating in state contracts valued at $100,000 or more. Kentucky threatened to place similar restrictions on many of the same institutions. And Louisiana divested $800 million from BlackRock.

One recent poll surveying American workers found that at least 57% of respondents indicated that they were likely to stop using service providers that do not respect their values.

This is a part of the larger distrust that many Americans have of financial institutions. A recent AP poll noted that "only 10% of adults have a great deal of faith in the nation's banks and financial institutions." Being transparent about politicized debanking and taking steps to protect against it is a viable path to rebuild that trust.

## RECOMMENDED RESOURCES

In addition to urging companies to participate in the survey portion of the Viewpoint Diversity Score Business Index, we recommend the following resources to counter the disturbing trend of political and religious debanking:

- Instances of Viewpoint-Based De-Banking (Viewpoint Diversity Score)
  - This resource captures instances of viewpoint-based discrimination in financial services.
- Risks of Unclear or Imprecise Terms in Usage Policies (Viewpoint Diversity Score)
  - This resource helps companies gauge how vague or subjective policies impact the freedom of individuals and groups to publicly voice diverse viewpoints, operate businesses and nonprofits consistent with a wide array of beliefs, and participate equally in the marketplace.
- Preventing Viewpoint Based Discrimination in Product or Service Policies (Viewpoint Diversity Score)
  - This resource helps businesses identify and guard against terms that target stakeholders' specific views for restriction.
- Product and Service Viewpoint Equality Policy (Viewpoint Diversity Score)
  - This model policy ensures companies ensure do not condition/restrict use of a product or service based on the ideology, opinion, or perspective of a person or group.
- Model Policy: Pledge to Respect Freedom of Expression and Belief (Viewpoint Diversity Score)
  - This model policy enables companies to publicly commit to never use corporate resources to support advocacy or causes that threaten free speech or religious freedom.

## ADDITIONAL RESOURCES:

- Fox Business [March 10, 2025] "Chase moves to prevent 'debanking' over political, religious views"
- *New York Post* [March 10, 2025] "I was debanked by JPMorgan Chase -- but fought back to win fiscal freedom"
- *Real Clear Markets* (Jan. 22, 2025) "Trump Can Strike a Blow Against Discriminatory De-Banking"
- How Banks Discriminate Against Conservatives (Foundation for Government Accountability Video)
- Is Bank of America Debanking Religious Charities? (ADF Freedom Matters Video)
- *RealClear Markets* (May 13, 2024) "Real World Dangers of Politicized 'De-Banking'"
- Statement on De-banking and Free Speech (Viewpoint Diversity Score)
- *Daily Mail* (Aug. 25, 2023) "EXCLUSIVE: 'De-banking' row breaks out after Bank of America shuts down account for ultra-conservative Christian charity that serves impoverished Ugandans"
- *Newsweek* (March 15, 2023) "Stop the Troubling Trend of Politically Motivated De-banking"
- *Real Clear Markets* (Aug. 12, 2024) "Pushing Back Against Viewpoint-Based Discrimination by Banks"
- *Daily Mail* (Aug. 24, 2023) "EXCLUSIVE: UK's 'Mr Brexit' Nigel Farage - who was at the center of 'de-banking' scandal - warns woke trend is now on the rise in the US after Christian charity accused Bank of America of axing its account over 'religious views'"
- *Fox Business* (May 2, 2023) "Chase Bank warned on religious discrimination by 19 GOP attorneys general"
- *Washington Examiner* (Nov. 12, 2023) "Why is Bank of America canceling the accounts of religious organizations?"

**Disclaimer:** The information contained in this document is general in nature and is not intended to provide, or be a substitute for, legal analysis, legal advice, or consultation with appropriate legal counsel. You should not act or rely on information contained in this document without seeking appropriate professional advice. Printing, distributing, or using this document does not constitute legal advice, create an attorney-client relationship, and is not intended to constitute advertising or solicitation. You should consult a qualified attorney for advice about your specific situation.