

Fair Access to Banking Act

Financial services providers are increasingly under pressure from liberal advocates to employ subjective, category-based evaluations to deny industries they disfavor access to financial services. While banks are free to provide or deny financial services to any individual customer, which the bill makes clear, it must be done based on empirical data consistent with the bank's established, impartial risk-management standards. Financial services providers should not be weaponized as de facto regulators or unelected legislators by withholding financial services to otherwise credit-worthy, legal businesses based on the subjective political reasons, bias or prejudices of political activists.

Bill Summary

The *Fair Access to Banking Act* lays out specific rules barring banks and financial institutions from discriminating against lawfully operating people and businesses (not industry specific). The Fair Access to Banking Act would:

- Prohibit banks, with over \$10 billion in total consolidated assets, or their subsidiaries, and that refuse to do business with any person in compliance with the Act, from using discount window lending programs and terminates their status as an insured depository institution (FDIC backing) if they refuse to do business with any person in compliance with the bill (Sec. 4);
- Prohibit banks and credit unions with more than \$10 billion in total consolidated assets, or their subsidiaries and that refuse to do business with any person in compliance with the Act, from using the Automated Clearing House Network (Sec. 7);
- Prohibit a payment card network from discriminating against any person who is in compliance with the law and this Act because of political or reputational considerations and imposes a civil penalty, assessed by the Comptroller of the Currency of not more than 10% up to \$10,000 per violation (Sec. 5);
- Have the potential to penalize credit unions by possibly terminating the status of the credit union as an insured credit union if the credit union, or its subsidiary, is refusing or has refused to do business with any person who is in compliance with the law, including this Act (Sec. 6);
- Ensure covered banks provide financial services on equal terms and ensure that if a person is denied financial services that a covered bank does so based on objective criteria and not in coordination with others (captures the 3 core requirements (verbatim) listed in the OCC's Fair Access to Financial Services final rule);
- Require covered banks to provide written justification as to why it is denying a person financial services to avoid ambiguity and that it is actually justified and in violation of Act (includes language pulled from the Financial Institution Customer Protection Act of 2019 and the House-passed Secure And Fair Enforcement Banking Act of 2019 (Sec.13(a)(b)) to ensure that banks are not basing their denial of serves solely on reputational risk); and
- Provide a cause of action for violations so a person has some recourse if unfairly denied services.

Endorsements

The following organizations supported the legislation in the previous Congress: National Shooting Sports Foundation (NSSF), National Rifle Association (NRA), the Independent Petroleum Association of America (IPAA), the Natonal Mining Association (NMA), the Day 1 Alliance, the Kentucky Coal Association, and the National .