Cooley

To Carry Out EO, SBA Orders Its Lenders to Review and End Debanking Practices

September 5, 2025

On August 26, the US Small Business Administration (SBA) instructed its network of more than 5,000 lenders to "cease any politicized or unlawful debanking actions," in direct response to President Donald Trump's recent Executive Order (EO) 14331, "Guaranteeing Fair Banking Access for All Americans."

The EO, issued on August 7, directs "Federal banking regulators," including the SBA, to remediate past instances and prevent against future acts of politicized or unlawful debanking, which it refers to as the practice of withholding financial services on the basis of a customer's or potential customer's political, religious or lawful business activities with which the institution may disagree. The EO also requires the SBA, specifically, to provide notice to all lenders that participate in its loan guarantee programs of certain obligations the lenders must carry out.

Similar to the EO, in its letter to lenders, the SBA references past actions by the Obama and Biden administrations that allegedly unlawfully denied access to financial services on the basis of political, religious or disfavored beliefs, such as Operation Choke Point, and declares an end to such practices.

Requirements for SBA-backed lenders

By December 5, 2025, SBA-backed lenders must take the following actions:

- Identify past or current policies or practices that require, encourage or influence the lender to engage in politicized or unlawful debanking.
- Make reasonable efforts to identify, reinstate and provide notice to any previous clients of the lender or its subsidiaries denied service through a politicized or unlawful debanking action.
- Identify potential clients denied access to the lender's financial services or payment processing services due to politicized or unlawful debanking, and provide notice of the denied access and the renewed option to engage in the services.

By January 5, 2026, each lender must also submit to the SBA a report addressing and demonstrating their compliance with the EO. Failure to carry out the above actions could result in a lender losing its good standing with the SBA and subject it to "punitive measures." Such measures could include "non-renewal of delegated authority, a headquarters meeting, increased reporting, a Supervisory Letter, requiring a Board Resolution or Commitment Letter, and for intermediaries, withholding of technical assistance grant funds and, as identified in the Fair Banking Executive Order, referral to the U.S. Attorney General for appropriate civil action."

Looking ahead

While the SBA's letter marks the first public action by a Federal banking regulator in response to the debanking EO, we have already seen banking regulators, Congress and states take steps to eliminate "politicized and unlawful debanking," such as by removing "reputational risk" references from bank examinations and guidance. We expect to see more policy and rule changes at the federal and state levels to effectuate the administration's quest to hold accountable those financial institutions it believes wrongfully penalized customers or potential customers based on their political, religious or disfavored but lawful business activities.

This content is provided for general informational purposes only, and your access or use of the content does not create an attorney-client relationship between you or your organization and Cooley LLP, Cooley (UK) LLP, or any other affiliated practice or entity (collectively referred to as "Cooley"). By accessing this content, you agree that the information provided does not constitute legal or other professional advice. This content is not a

substitute for obtaining legal advice from a qualified attorney licensed in your jurisdiction, and you should not act or refrain from acting based on this content. This content may be changed without notice. It is not guaranteed to be complete, correct or up to date, and it may not reflect the most current legal developments. Prior results do not guarantee a similar outcome. Do not send any confidential information to Cooley, as we do not have any duty to keep any information you provide to us confidential. When advising companies, our attorney-client relationship is with the company, not with any individual. This content may have been generated with the assistance of artificial intelligence (AI) in accordance with our AI Principles, may be considered Attorney Advertising and is subject to our legal notices.

Key Contacts

Michelle L. Rogers Washington, DC	mrogers@cooley.com +1 202 776 2227
Elyse Moyer Washington, DC	emoyer@cooley.com +1 202 776 2113

This information is a general description of the law; it is not intended to provide specific legal advice nor is it intended to create an attorney-client relationship with Cooley LLP. Before taking any action on this information you should seek professional counsel.

Copyright © 2023 Cooley LLP, 3175 Hanover Street, Palo Alto, CA 94304; Cooley (UK) LLP, 22 Bishopsgate, London, UK EC2N 4BQ. Permission is granted to make and redistribute, without charge, copies of this entire document provided that such copies are complete and unaltered and identify Cooley LLP as the author. All other rights reserved.