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## President Trump's Digital Assets Executive Order Promotes "Fair Access" to Banking Services

Yesterday, President Trump signed an Executive Order titled "[Strengthening American Leadership in Digital Financial Technology](#)" (the "Order"). Among other policy objectives and mandates (see our [Client Memorandum](#)), the Order refers to "protecting and promoting fair and open access to banking services for all law-abiding individual citizens and private-sector entities alike" as "support[ing] the responsible growth and use of digital assets, blockchain technology, and related technologies across all sectors of the economy." On the same day, President Trump [raised](#) broader "debanking" concerns during a Q&A session following his virtual speech at the World Economic Forum in Davos, referring to complaints about banks denying services based on political views.

The Trump Administration's focus on "fair access" to banking services is not new. At the end of the first Trump Administration, the OCC released a [final rule](#) entitled "Fair Access to Financial Services". Under that rule, a covered bank—generally an OCC-regulated bank with \$100 billion or more in total assets—must (i) make each financial service it offers available to all persons in the geographic market served by it on proportionally equal terms, (ii) not deny any person a financial service it offers unless the denial is justified by such person's "quantified and documented" failure to meet "quantitative, impartial risk-based standards" established in advance by it, and (iii) not deny, in coordination with others, any person a financial service it offers. However, following a change in Administration shortly after the finalization of the rule, the OCC [paused publication](#) of the rule and the rule never went into effect.

During the Biden Administration, there were Republican-led efforts to enact fair access legislation like the OCC's fair access rule at both the federal and state levels. At the federal level, Senator Kevin Cramer (R-ND) and Representative Andy Barr (R-KY) introduced "the Fair Access to Banking Act" in the Senate and the House, respectively, in [2021](#) and then again in [2023](#), although none of the bills progressed to a vote. At the state level, two states—Florida and Tennessee—have enacted fair access laws, and several other

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states, including Arizona, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana and South Dakota, have proposed fair access legislation. These state fair access laws and proposals generally prohibit (or would prohibit) financial institutions from denying or canceling services to a person or otherwise discriminating against a person in making services available on the basis of enumerated factors, commonly including political opinions, religious beliefs, “social credit scores,” or any factor that is not “quantitative, impartial, and risk-based.”

Compliance with state fair access laws, including related compliance attestation and customer complaint response requirements, have presented challenges to banks due to uncertainty regarding the scope of their application, interpretive questions regarding certain key terms such as “social credit scores” and “quantitative, impartial and risk-based,” potential conflicts with the federal Bank Secrecy Act / anti-money laundering framework and safety and soundness considerations, and potentially inconsistent fair access requirements from state to state. In November 2023, in response to state-level fair access laws, the then General Counsel of the OCC issued a letter to the CEOs of all national banks and federal savings associations, expressing concerns about the impact of state-level fair access laws on the ability of federally chartered banking institutions to provide banking services consistent with safety and soundness principles and the fair treatment of customers, and emphasizing the OCC’s commitment to preserving the federal preemption legal framework. For further information see our [Client Memorandum](#), “States Require “Fair Access” to Financial Services.”

Following the November 2024 Presidential election, concerns regarding fair access to financial services are increasingly the subject of social media and the issue has been referred to as “Operation Choke Point 2.0.”

Congressional lawmakers and Trump Administration officials have recently referred to fair access as among their policy priorities. For example, House Financial Service Committee Chairman French Hill (R-AR) has released a set of [principles](#) outlining his policy priorities, with the first one being that “the Federal prudential regulators should not be able to order institutions to terminate a customer’s account without a material reason for doing so.” In addition, on January 20, 2025, FDIC Acting Chairman Travis Hill [noted](#) that one of his focus areas would be to “[w]ork to ensure law-abiding customers have, and do not lose, access to bank accounts and banking services.”

Although the ultimate contours of the “fair and open access” provision of the Order are currently unclear, considering the increasing focus on fair access to banking services by Congressional lawmakers, the Trump Administration and social media, banks should continue to monitor developments in this space closely, including potential legislation and regulatory actions at the federal level and their impact on state fair access laws.

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