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FDIC and OCC Finalize Rule Removing Reputation Risk From Most Supervisory Actions

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On April 7, the Federal Deposit Insurance Corporation ("FDIC") and the Office of the Comptroller of the Currency ("OCC") approved a **final rule** that prohibits regulators from using "reputation risk" as a standalone basis for supervisory or enforcement actions. This final rule is adopted largely as **proposed** in October.

Below, we detail the core components of the rule and what it means for your institution's risk management and client onboarding strategies.

The Final Rule explicitly forbids examiners from citing "reputation risk" as the *sole* justification for a formal enforcement action or a downgrade in a bank's supervisory rating. The **staff memo** to the FDIC Board noted that the concept of reputation risk "increases subjectivity in supervision without adding material value from a safety and soundness perspective." The staff said that the rule is aimed at:

- **Evidence-Based Supervision:** To take action against an institution regarding its client base, regulators must now point to **concrete, quantifiable risks**—namely credit, liquidity, legal, or operational risks.
- **Neutrality Toward Lawful Business:** The rule codifies the principle that banks should not be pressured to terminate relationships with lawful businesses based purely on the "repute" of the industry. The final rule specifically prohibits encouraging a bank to terminate a contract based on "political, social, cultural, or religious views or beliefs, constitutionally protected speech, or involvement in politically disfavored but lawful business activities."

The FDIC Board members were vocal about the rule's intent to curb regulatory overreach. FDIC Chair Travis Hill described the rule as a mechanism to ensure the agency remains "focused on our key responsibilities, color within the lines, and keep the main thing the main thing" during the discussion of the rule at the FDIC April 7 meeting. He noted that while a bank's reputation is important, focus on it "untethered from other risk channels" can pressure banks into "debanking law-abiding customers who are viewed unfavorably by supervisors." Comptroller of the Currency Jonathan Gould was even more direct, calling the rule a step toward "reducing the opportunities for regulatory abuse." Comptroller Gould argued that reputation risk has "too often used it as a pretext for decisions that have nothing to do with safety and soundness," resulting in lawful businesses and individuals being "denied access to banking services."

As noted above, the final rule was adopted largely as proposed, but the final rule did make two changes based on comments and feedback during the comment period. Reputation risk is now defined as the risk that an activity could negatively impact public perception for reasons "not clearly and directly related to the financial or operational condition of the institution." The final rule also made clear that the prohibition on supervisory activity discouraging lawful activities would apply to all agency personnel and not just supervisory staff.

The rule will become effective 60 days after publication in the Federal Register.