TRAC COUNCIL, CYN HUTCHINSON

Title: Prohibition on Use of Reputation Risk or Other Supervisory Tools to Encourage or Compel Banking Organizations to Engage in Politicized or Unlawful Discrimination, R-1884

Comment ID: FR-2026-0002-01-C01

Organization Name: TRAC Council

Organization Type: Organization

Name: Cyn Hutchinson

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February 24, 2026
TRAC Council
https://traccouncil.org
standards@traccouncil.org
Docket No. R-1884
RIN 7100-AH17
Re: Prohibition on Use of Reputation Risk or Other Supervisory Tools to Encourage or Compel Banking
Organizations to Engage in Politicized or Unlawful Discrimination

Comment

TRAC Council appreciates the opportunity to comment on the Board's proposal to codify the removal of
"reputation risk" from supervisory programs and to prohibit encouraging or compelling banking
organizations to deny services based on constitutionally protected beliefs or lawful activities perceived to
present reputation risk.

We support the Board's objective of increasing supervisory clarity and precision by focusing examination
findings on quantifiable, objective risk channels.

Support for Removal:
"Reputation risk" is difficult to quantify and may lack objective measurement criteria, creating ambiguity
in supervisory findings. Supervisory frameworks are strongest when risk categories are definable, control
expectations are measurable, findings are tied to identifiable loss pathways, and remediation steps are
concrete. Removing a perception-based category may improve transparency and reduce examination
uncertainty.

Scope Clarification
For durable implementation, the prohibition should clearly apply to:

• Examination manuals
• Supervisory guidance and training materials
• MRAs and MRIAs
• Informal supervisory communications influencing corrective action
• Examiner-in-charge memoranda or expectations outside formal findings
Clarity at these levels will reduce inconsistent application.

Evidentiary Standard:
Supervisory criticism should be tied to documented financial exposure, identifiable operational control
failures, legal or regulatory noncompliance, quantifiable risk concentration, or demonstrable safety and
soundness impact.

Concerns previously characterized as reputation-related should be reassigned to defined channels such as
credit, operational, legal, compliance, liquidity, or market risk. This preserves supervisory rigor while
eliminating ambiguity.

Preventing Concept Substitution:
A potential unintended consequence is reintroducing perception-based concerns under alternate labels
without evidentiary thresholds. The Board may consider examiner training emphasizing objective loss
pathways, internal supervisory review controls to ensure findings map to defined risk taxonomies, and
documentation standards for risk categorization.

AI Execution Risk, Automation, and Operational Control:
As banking increasingly relies on automated systems and AI-enabled workflows, supervisory focus should distinguish between perception-based reaction risk and operational control risk at the point of execution, including execution risk arising from automated or AI-driven decision systems. Where systems trigger transactions, access decisions, or account actions, supervisory attention is appropriately directed toward authority boundaries, runtime controls, audit traceability, escalation mechanisms, and containment capabilities. These are measurable operational risk matters consistent with the Board's focus on core financial risk.

Definition:
We do not recommend broadening the proposed definition of "reputation risk." Supervisory emphasis should remain on underlying financial or compliance drivers rather than reputational perception itself.

Conclusion:
Codifying removal of reputation risk may enhance clarity, consistency, and focus on measurable financial and operational risk. We appreciate the opportunity to comment.

Respectfully submitted,
TRAC Council
By: Cyn Hutchinson, JD
Founder

Please see attached long comment submission

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Formal Docket Comment

TRAC Council
Re: Docket No. R-1884 | RIN 7100-AH17
Prohibition on Use of Reputation Risk in Supervisory Programs

I. Introduction

TRAC Council appreciates the opportunity to comment on the Board's proposed rule to codify the
removal of "reputation risk" from supervisory programs and to prohibit the encouragement or
compulsion of banking organizations to deny services based on constitutionally protected beliefs or
lawful activities perceived to present reputation risk.

We support the Board's objective of increasing supervisory clarity and precision by focusing
examination findings on quantifiable, objective risk channels.

Our comments focus on implementation clarity, evidentiary standards, and supervisory consistency.

II. Support for Removal of Reputation Risk as a Supervisory Category

The proposal appropriately recognizes that "reputation risk" is difficult to quantify, can lack
objective measurement criteria, and may create ambiguity in supervisory findings.

Supervisory frameworks are strongest when:

- Risk categories are definable

- Control expectations are measurable

- Findings are tied to identifiable loss pathways

- Remediation steps are concrete

The removal of a subjective and perception-based risk category may improve transparency and
reduce uncertainty in examination outcomes.

III. Clarification of Scope: "Examination Programs" and Supervisory Materials

To ensure durable implementation, we recommend clarifying that the prohibition on the use of reputation risk applies to:

- Formal examination manuals

- Supervisory guidance and training materials

- Matters Requiring Attention (MRAs) and Matters Requiring Immediate Attention (MRIAs)

- Informal supervisory communications that may influence corrective action

- Examiner-in-charge memoranda or supervisory expectations communicated outside formal findings

Without clarity at these levels, there is risk of inconsistent application.

IV. Evidentiary Standard for Supervisory Criticism

To reinforce supervisory precision, the Board may consider articulating that supervisory criticism should be tied to:

- Documented financial exposure

- Identifiable operational control failures

- Legal or regulatory noncompliance

- Quantifiable risk concentration

- Demonstrable safety and soundness impact

This approach ensures that concerns previously characterized as reputation-related are appropriately reassigned to existing risk channels such as:

- Credit risk

- Operational risk

- Legal risk

- Compliance risk

- Liquidity risk

- Market risk

This would preserve supervisory rigor while eliminating ambiguity.

V. Preventing Concept Substitution

A potential unintended consequence (Question 6) is the reintroduction of perception-based concerns under alternate labels without defined evidentiary thresholds.

To mitigate this risk, the Board may consider:

- Examiner training emphasizing objective loss pathways
- Internal supervisory review controls ensuring findings are mapped to defined risk taxonomies
- Clear documentation standards for risk categorization

Such measures would enhance consistency across portfolios and institution types.

VI. Emerging Automation and Execution Risk Considerations

Modern banking increasingly relies on automated systems, decision engines, and AI-enabled workflows. In this environment, a distinct form of operational exposure arises at the moment systems execute financial or account-level actions ("execution risk"), including where AI-driven systems initiate or approve transactions ("AI execution risk").

In this context, supervisory clarity benefits from distinguishing between:

• Perception-based external reaction risk

• Operational control risk at the point of execution

Where automated systems trigger financial transactions, access decisions, account actions, or compliance workflows, supervisory focus is best directed toward:

• Runtime control mechanisms

• Authority boundaries

• Escalation controls

• Audit traceability

• Containment and override capabilities

These are objective operational risk matters and are consistent with the Board's stated intent to focus on core, material financial risks.

VII. Definition of "Reputation Risk"

The proposal's definition reflects the historical formulation in SR 95-51. We do not recommend broadening the definition.

However, clarity may be improved by explicitly distinguishing between:

- Public reaction as an outcome

- Underlying financial or compliance drivers of that reaction

Supervisory emphasis should remain on the underlying drivers rather than reputational perception itself.

VIII. Conclusion

We support the Board's effort to increase supervisory precision, objectivity, and transparency.

Codifying the removal of reputation risk may:

- Improve clarity in supervisory communication

- Enhance consistency across examiner teams

- Reduce ambiguity in remediation expectations

- Strengthen focus on measurable financial and operational risk

We appreciate the opportunity to comment and would be pleased to provide further technical input if requested.

Respectfully submitted,

TRAC Council
By: Cyn Hutchinson, JD
Founder