

ANONYMOUS

Proposal and Comment Information

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-C12134

Submitter Information

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Please refer to the document provided.

RE: Comments on Proposed Guidance Regarding Reputational Risk and Operational Resilience

I. Introduction

I am writing to formally comment on the proposed guidance regarding "Reputational Risk." Any financial institution responsible for the custody or transmission of legal tender should not possess the discretionary power to dictate how consumers spend their money on legal goods and services. Currently, the "Reputational Risk" framework is being abused by dominant payment processors and banks to act as moral arbiters of commerce, creating significant economic instability and violating the principles of a neutral financial marketplace.

II. Case Study: Inconsistent Enforcement and "Brand Risk" Abuse

Over the past year, payment processors—specifically **Visa** and **Mastercard**—have utilized "Brand Risk" clauses (such as **Mastercard Rule 5.12.7**) to censor legal, fictional content. This enforcement is demonstrably arbitrary:

- **Selective Censorship:** Processors have targeted fictional depictions of sensitive themes in video games while maintaining processing services for identical themes in mainstream media, such as *Game of Thrones*, *South Park*, *Family Guy*, *American Dad*, and the *Wrong Turn* film franchise.
- **Targeted Platforms:** In July 2025, these networks pressured third-party processors to threaten American platforms like **Steam (Valve)** and **Itch.io** with the total loss of payment services unless specific legal games were removed. This occurred despite vocal backlash from thousands of consumers, suggesting the "reputational risk" was manufactured by small interest groups rather than the general market.
- **The "Shadow" Blacklist:** The abuse of **BRAM** and **VARP** rules allows these networks to bypass the First Amendment and capitalist principles, effectively destroying the livelihoods of creators on platforms like **Patreon**, **Gumroad**, **SubscribeStar**, and **Danbooru**.

III. Influence of Non-State Activist Groups

The Federal Reserve should be concerned that American financial infrastructure is being steered by non-American activist groups. In 2025, the Australian group **Collective Shout**, alongside the U.S.-based **NCOSE**, successfully pressured U.S. payment networks to de-platform legal content.

- **Inconsistency of "Moral" Risk:** These groups have been found to hold inconsistent positions—such as defending the controversial film *Cuties* while campaigning against games like *Detroit: Become Human* for depicting domestic violence, even when shown in a context that supports the victim.

- **Regulatory Capture:** By deferring to these groups, Visa and Mastercard have allowed "Reputational Risk" to be defined by private ideological agendas rather than objective financial safety and soundness.

IV. Systematic De-Banking and Market Concentration

The global duopoly held by Visa and Mastercard means that "de-banking" is an economic death sentence. This power has extended to:

- **Broad Industry De-listing:** The targeting of **Firearms, Marijuana, Crypto,** and **Japanese platforms** (e.g., **Pixiv, DLSite, Manga Planet**).
- **PayPal and Stripe:** **PayPal** has been observed abusing terms of service to "de-bank" individuals for personal opinions, including an attempted (though later retracted) \$2,500 fine for "misinformation." Similarly, **Stripe** has cited "banking partner restrictions" to terminate accounts, creating a lack of transparency that prevents merchants from seeking alternative services.
- **The MATCH List:** The use of the **MATCH** (Member Alert to Control High-risk merchants) list functions as a permanent blacklist, often used to stifle competition or punish disfavored but legal businesses without due process.

V. Economic and Legal Implications

The Federal Trade Commission (FTC) has already issued warnings to these networks regarding their failure to follow their own terms. When "Brand Damage" is defined at the sole discretion of a duopoly, it undermines:

1. **The First Amendment:** By creating a financial "chilling effect" on expression.
2. **Capitalism and Consumerism:** By preventing willing buyers and sellers from engaging in legal trade.
3. **Operational Resilience:** By creating "risk multipliers" where a single arbitrary decision can shut down global commerce for an entire sector.

VI. Conclusion and Recommendations

I support the FTC's scrutiny of these networks and request that the Federal Reserve take the following actions:

1. **Prohibit "Brand Risk" as a Basis for De-banking:** Force banks and networks to remove references to subjective "brand risk" (BRAM/VARP) from their operating rules.
2. **Mandate Neutrality:** Require essential payment infrastructure to operate as neutral platforms for all legal transactions.
3. **Reform the MATCH List:** Implement strict oversight to ensure merchants are only listed for verified fraud or illegal activity.

4. **Enforce Shrinkage or Competition:** If these networks cannot operate neutrally, they should be forced to shrink their networks to allow for the rise of independent, competing payment rails that do not impose "brand" censorship.

The Federal Reserve, in conjunction with the relevant government branches must act to stop these networks from destroying people's livelihoods under the guise of "risk." Legal commerce must be protected from the arbitrary whims of financial gatekeepers.