

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

April 8, 2015

The Honorable Debbie Matz
Chair
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Dear Chair Matz:

On January 28, 2015, the Federal Deposit Insurance Corporation (FDIC) issued a Financial Institution Letter (FIL) and an internal memorandum clarifying policy for documenting and reporting recommendations and orders to insured depository institutions to terminate deposit account relationships. The policy set by the FDIC in the FIL states that “Financial institutions that can properly manage customer relationships and effectively mitigate risks are neither prohibited nor discouraged from providing services to any category of customer accounts or individual customer operating in compliance with applicable state and federal law.”

The memorandum, circulated to all FDIC supervisory staff, directs a formalized process for account termination recommendations and orders that should have been the longstanding practice of the FDIC. Any recommendation or order to terminate a deposit account must be made *in writing*, and approval by a regional director must be made *in writing* before being provided to and discussed with bank management and the board of directors. In addition, before a formal request is made and included in an examination report, the findings must be thoroughly vetted and approved through appropriate channels within the FDIC. The purpose of this clarification was to make clear to FDIC staff that it is improper to impose heightened scrutiny of financial institutions that do business with certain industries.

The memorandum also prohibits recommendations for termination of deposit account relationships based solely on reputational risk – which is not and cannot be codified and is highly subjective – and requires that supervisory staff list the legal basis for any account termination request or order. Many of these reforms are contained in the *Financial Institution Customer Protection Act* legislation Representative Luetkemeyer introduced in both the 113th and 114th Congresses.

Operation Choke Point as implemented through the FDIC has caused small businesses, financial institutions, and the American people to lose confidence in our nation’s banking regulators. Financial institutions need assurances from federal

The Hon. Debbie Matz

April 8, 2015

Page 2

banking regulators that recommendations for deposit account terminations are based on sound reasoning and potential risk, not political motive.

In an appearance before the Subcommittee on Oversight and Investigations on March 24, 2015, FDIC Chairman Martin Gruenberg testified that the FDIC officials responsible for improperly targeting certain industries remained employed and unpunished pending an inspector general investigation. This, unfortunately, leaves open the possibility that those FDIC officials are failing to adhere to the clarified policy and that political motive may persist at the FDIC as a basis for account termination recommendations and orders.

In order to avoid the appearance that your agency is misusing government resources to pursue partisan ends, we request that you: (1) publicly disclaim your agency's past, present, and future involvement in Operation Choke Point or any similar operation; (2) publicly issue an FIL and memorandum for employees clarifying your agency's policy for documenting and reporting recommendations and orders to insured depository institutions to terminate deposit account relationships; and (3) confirm in writing to the Financial Services Committee that you have informed your agency's employees of this policy, as well as the consequences for violating the policy.

As Chairman Gruenberg's testimony confirmed, this situation is far from resolved and we must all continue to work cooperatively to bring Operation Choke Point to a close. The Financial Services Committee will continue to investigate this matter. Your proactive efforts to require your staff to follow similar guidelines as those issued by the FDIC would help demonstrate to Congress, the public, and the financial institutions that you regulate that the National Credit Union Administration takes seriously the need for transparency and fairness in examinations.

By not later than April 15, 2015, please provide the Committee with your proposed timetable for complying with our requests. If you have questions regarding this request, please contact Katelyn Christ of Committee staff at (202) 225-7502.

Sincerely,



JEB HENSARLING
Chairman



SCOTT GARRETT
Chairman
Capital Markets and
Government Sponsored Enterprises

The Hon. Debbie Matz
April 8, 2015
Page 3



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Chairman
Financial Institutions
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BILL HUIZENGA
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Monetary Policy and Trade



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Chairman
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cc: The Honorable Maxine Waters, Ranking Member

The Honorable Carolyn B. Maloney, Ranking Member, Capital Markets and
Government Sponsored Enterprises

The Honorable Wm. Lacy Clay, Ranking Member, Financial Institutions and
Consumer Credit

The Honorable Emanuel Cleaver, Ranking Member, Housing & Insurance

The Honorable Gwen Moore, Ranking Member, Monetary Policy and Trade

The Honorable Al Green, Ranking Member, Oversight & Investigations