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INTRODUCTION

First of all, let me thank Chairman Hill, Subcommittee Chair Meuser, Ranking Member Waters, and Subcommittee Ranking Member Green for the opportunity to testify today. I would also like to take a moment to thank all of the staff who have worked on this hearing. My job is the easy one: I get to write and speak, but there are dozens of hardworking folks behind the scenes who make everything happen on behalf of America. Thank you.

Secondly, I want to say it is an honor to be able to testify on this topic, and I believe it is one that is of utmost importance for all Americans. I will lay this out in my testimony below, but if you read nothing else and stop at this line, let me just say this: fair, transparent, and open access to financial services is something all law-abiding Americans deserve and is essential to preserving our system and way of life.

Should you listen to me[1]? My CV is included with this testimony, so here is the summary version: I've spent more than a decade on wall street running trading desks and managing risks directly related to bank capital and market structure for more than a decade. I've built regulated financial products in crypto (they exist!) that served consumers well and did not lose people money. I founded a blockchain consulting firm. I'm a senior advisor to one of the key government subcontractors, Inca Digital, helping to fight financial crime in the crypto and traditional space. They work with entities like the Defense Advance Research Projects Agency, the Federal Reserve, and the CFTC (among others), and are busy suing crypto scammers to get money back for victims. In short, I care about our system working properly, consumers being protected, criminals being prosecuted, and people being treated fairly.

OVERVIEW

We are here today to discuss Operation Chokepoint 2.0, in which the US banking regulators managed to almost completely deprive an industry of access to basic banking services from the 2022-2024 period.

[1] This is the point where my wife would likely warn you about my terrible sense of humor if she were writing this

I will start by stating that the fact that we are having this discussion again, after Congress was already forced to confront Operation Chokepoint 1.0, is the most significant problem. Repeat occurrences of major issues are a sign of a deeper governance failure. This subcommittee faces the unenviable task of unpacking that problem, and I call it unenviable because much of the evidence the committee would need for a truly clear determination of exactly what happened is being obfuscated behind a cloak of confidentiality and transparency which could easily be disguising lawless actions or illegal discrimination. But how would we know, when it's all confidential? This is why we are here. Again.

Today it is the crypto industry facing a banking chokepoint, and in the past it has been payday lenders, firearm manufacturers, telemarketers, and other often disfavored industries. Some of that disfavor is earned! There are certainly some bad actors that have been in crypto (FTX & TerraForm Labs, for example) I could point to. However, that does not justify a regulatory response where entire industries, much of which did not engage in bad or illegal conduct, suffer collective punishment for the sins of the few and, to add insult to financial injury, this punishment is decided behind closed doors, obfuscated, denied, covered up, and leaves the victims deprived of any due process or recourse.

Speaking bluntly, unless you trust all future presidents of both political parties, no matter how extreme they are on the left or the right, to treat even their most hated foes with the utmost integrity, this is a problem.

Later, I unpack what I think happened with Chokepoint 2.0, the pernicious effects on an entire industry, and the many undeserving victims of this behavior who were lumped in with some of the bad actors. Here, however, I want to put the most important point first: it is essential Congress reforms banking supervisory practices to ensure that, years down the road, we are not holding hearings on Operation Chokepoint 3.0, 4.0, 5.0, 6.0, and onward to infinity[2]. It is also obvious that the crypto space was denied adequate banking services, and the confidential nature of these discussions are making it impossible to determine precisely how or why that happened, which again is itself the problem.

To that end, the most important reform possible is the elimination of both confidential and verbal guidance by banking regulators. All supervisory guidance should be written, and verbal guidance alone without being put in writing should be cause for immediate termination and personal liability for banking regulators. In addition to this, all guidance should be made public, with no redactions other than for personally identifying information of bank clients[3], on a 12 month trailing basis.

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[2] Countable infinity, for you other math majors out there, in this case

[3] Yes, this means both bank employees and regulators should be named - if you don't like that, maybe levered lending with other people's money and a government-granted charter is not for you?

There is no problem so severe that becoming public knowledge after a year of time to remediate it should be fatal for a bank, or if a problem is that severe, the bank should simply be shut down.

Additionally, when a bank fires a customer, they should have to tell them why, in writing. The only requirements around this notification should be that it is truthful and provides a clear explanation of why the relationship was terminated. Customer is not profitable due to low balances? So be it. The bank doesn't like the color of their shirt? Weird, but acceptable. The bank is closing the account because the regulator pressured them? Yes, this should also be disclosed.
These two reforms alone would end the ability to run something like Operation Chokepoint 1.0 or 2.0, because all the dirty laundry would be aired out in public and a fact pattern of why customers were losing accounts would be documented in writing.

The greatest imperative before this subcommittee and Congress is to eliminate the secrecy behind debanking, which acts as potential cover for impermissible and illegal actions, and to solve this problem. We must ensure fairness for all Americans, especially the poor and politically disfavored who have the least power to fight back, by bringing these actions into the light.

WHAT IS DEBANKING

Many of us have been fired from jobs, but how many people have been fired from a bank? The experience may not be what you think.

In the good version, the bank gives you a warning and adequate advance notice to have your affairs in order: something like 60 or 90 days to move your accounts, and a request for instructions as to where to send all the money.

In the bad version, you get a letter in the mail two days after you figured out something was wrong because your debit card suddenly stopped working and all your automated payments start bouncing, and helpfully when you call your bank they tell you to reference the letter[4] and refuse to otherwise talk with you. What does that letter say? It tells you that you are fired as a customer, forever, to never speak to them again, and included is a paper check for your remaining balance, which means you have to find a new bank that will open an account for you, deposit the check, and then finally you have access to your own money again.

This is assuming you can find another bank.

There are some important details about this process:

[4] This is the one you won't receive for another two days

The first is that there is no requirement for you to be given an explanation by the bank. They can just close your account, tell you that they will not explain why, and that it is final. There is also no meaningful appeal[5]. It just happens.

The second is that they may not limit it to you. They may also debank your relatives (spouse, children, parents, etc.) as well as you, so that if you didn't already have multiple banking relationships at multiple entities, the web of disruption now spreads to your entire family. The same is true of corporations - they could wipe out an entire tree of corporate entities in a single fell swoop, and this can cripple or bankrupt enterprises.

You will notice I have focused here on closing of accounts and denial of basic services. This is because debanking is an often confused topic, so I want to be clear about what we are discussing: I would describe debanking as what happens when you are denied the core, low-risk, extremely necessary services of regular banking (e.g. checking accounts) and payments (e.g. debit cards, ACH).

Being denied a mortgage is not necessarily debanking. Being denied a credit card is not necessarily debanking. Being denied corporate financing is not necessarily debanking. Debanking is when the core services a business needs to operate (access to deposits, payments, and in some cases, custody services for money) are denied.

Why define it this way? As a former trader and bank risk person myself, there are very legitimate business reasons to decline to lend or extend credit to many institutions that have nothing to do with impermissible bias[6], speaking as someone who has said "no" to a lot of trades, possibly in significantly less polite language that I won't repeat here.

However, there is almost no economic reason[7] to deny someone a checking account except for:

1. You think their balances will be too small to justify the costs of servicing them
2. You don't want their kind of business at all because you see significant AML / CTF style risks
3. Your regulator has threatened to make your life extremely difficult for taking them on

Fundamentally, taking deposits is not risky! The lending part? That tends to cause a lot of problems when you try to get fancy. However, the act of taking deposits, paying depositors the

[5] Unless you are super politically connected or able to put them on blast publicly in ways that would be worse for them than keeping you
[6] There may be a bias in overestimating volatility or default risk due to unfamiliarity in new asset classes, but that is more routine risk professional conservatism
[7] There are niche complaints about things like chargebacks, but those are not unique to crypto (imagine Amazon having a huge fulfillment issue!) and if that is the real concern, we should be reforming ACH, not denying people accounts

national average checking account interest rate of 0.07%[8], and then putting that money into treasury bills earning you well over 4%[9] if you buy them on the secondary market should not be risky[10]. And yet, given that basic deposit account services of this type are essentially free money for banks from this perspective, people are still getting debanked all the time! What is happening?

OPERATION CHOKEPOINT 2.0:

A MOST UNWELCOME SEQUEL

That brings me to the topic of this hearing: from 2022 until the present, crypto companies have faced severe problems getting bank accounts in America.

First, I want to start by stating that I am not championing the case of entities like FTX, Celsius, or the like. These were entities run by criminals, doing criminal things, and it is not unfair or unreasonable for them to be debanked, along with employees being thrown in jail and entities being shut down. Good riddance. Had the actions of banking regulators stopped there, I would be quite complimentary of them in this hearing[11].

However, debanking did not stop there. Completely unrelated companies lost their operating accounts, such as those in the bitcoin mining space, such as blockchain foundations who had banked at Signature or Silicon Valley Bank and, upon their collapse, were all but unable to establish new accounts. Companies that were creating digital art on blockchains? Debanked or refused accounts. Companies that merely create software for things like validators, wallets, or blockchain explorers? Same story. Even my own consulting company, which does no actual hands-on work in crypto and just advises people, was denied a bank account by at least one bank because of “crypto exposure”. There are multiple startups who simply couldn’t get accounts at all and now exist offshore or had converted into solely on-chain entities with remote employees paying for things with stablecoins.

This is where I want to take a moment to stress that we are not talking about accounts where crypto companies somehow hold crypto on the balance sheet of banks. Neither are we talking about accounts that are being used for leveraged trading, such as hedge fund prime brokerage style arrangements. Again, we are talking about accounts for making payroll, for paying rent, for

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[8] https://www.fdic.gov/national-rates-and-rate-caps

[9] https://home.treasury.gov/resource-center/data-chart-center/interest-rates/TextView?type=daily_treasury_bill_rates&field_tdr_date_value=2025

[10] Seriously, if you can’t manage this, you shouldn’t be a bank or handling other people’s money at all!

[11] We wouldn’t be having this hearing at all, in fact

safely holding customer money, or for receiving money after raising a round from venture capital firms. This is the same stuff (other than the VC bit) that a grocery store would be doing.

To raise one source of these claims that has gone public, A16Z, a venture capital firm with multiple portfolio companies that experienced difficulty in establishing even basic banking relationships, has spoken out about this. In fact, Chris Dixon recently said on a podcast the firm literally had a full-time person to help get bank accounts for their clients[12]. Olivia Chow, an incredibly talented advisor who works with me at Zero Knowledge, previously built an entire consulting practice called Yokip around getting people in crypto bank accounts. In the course of preparing for this testimony, I found no less than four crypto projects, three blockchain foundations, two stablecoin companies, and three different investment funds who all faced conditions ranging from difficult to impossible to get bank accounts or keep bank accounts, especially after the collapse of Silicon Valley Bank, Signature Bank, and Silvergate Bank. To bring you behind the curtain, this took about one day of asking around, meaning if I had three months to prepare for this testimony, I could likely bring a list 100 companies long.

On the upside, someone did have much more time: a comprehensive study has already been conducted by John D'Agostino[13] with the AIMA, finding that a vast majority of fully legal, US-based, properly registered crypto investment funds had severe difficulties finding banking relationships[14]. Difficulties far in excess of much lower risk industries, you know, like hedge funds and private equity, which have plenty of access to the kinds of leverage that cause issues like Archegos or Long-Term Capital Management. In the infinite wisdom of our banking regulators, those are fine, but a blockchain foundation paying an AWS bill? Can't have that!

Again, these are not the problem children! If you think Bitcoin miners operating in the United States and selling solely through Coinbase, blockchain foundations associated with such sketchy and criminal institutions such as Stanford or MIT, or regulated New York financial services companies under the aegis of the NYDFS are "too risky" to operate in our banking system, then I have to ask some deep questions about what your definition of risk is and why any hedge fund ever, anywhere, for any reason, or any private equity firm, or, given their failure rate and the amount of money laundering risk, any restaurant[15] ever has a bank account.

Equally so, the banks servicing crypto clients also found that other banks providing services to them began pulling back. Both smaller onshore banks and offshore banks have been deplatforming crypto clients because of fears over their correspondent banking relationships, and the global ecosystem is being forced into the shadow bank sector and less regulated

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[12] https://x.com/laurashin/status/1884590647547461771
[13] https://en.wikipedia.org/wiki/John_D%27Agostino_(financial_services)
[14]
https://www.wsj.com/livecoverage/stock-market-today-dow-sp500-nasdaq-live-12-20-2024/card/majority-of-crypto-hedge-funds-report-facing-banking-issues-in-recent-years-Nat2gsEh0xPEleK6583O
[15] Much less a chain of them… or worse, franchises!

offshore jurisdictions to operate. Ironic, given that in attempting to make the system more safe, this specific action virtually ensures it is actually less safe!

As if that wasn't enough, I know of a law firm that was unable to get escrow accounts because they served clients in the blockchain space, of a crypto project that was essentially destroyed by the SEC because they were having their accounts closed due to regulatory pressure but the SEC instead told a judge that they were deliberately moving money out of the country and closing accounts themselves to get a TRO[16]. This obviously did not end well for the SEC, thanks to some exceptional lawyering by the folks at Morrison Cohen (in particular, the indomitable Jason Gottlieb and his team), but how are we at a point where companies not convicted of any crime or wrongdoing are losing accounts because of the actions of regulators and then having businesses destroyed because Federal regulators then lie and blame the victim in court?

Perhaps most pernicious are the incidents of people having their personal accounts cancelled. If you don't believe that such a thing is possible, I would direct you to the many people who have spoken publicly about this, such as lawyers[17], employees of various blockchain foundations, executives at Coinbase, and more. In some cases, it was not limited to them but also spilled over to family members and children.

This is unequivocally bad. That law-abiding citizens providing legal counsel to firms to navigate uncertain waters could have had their accounts closed for daring to, you know, practice law? That an individual could take a job in the crypto space and their young son or daughter have their beloved savings account where they are learning good financial discipline abruptly closed with no notice by a bank[18]? These things are deeply wrong and unamerican.

Most importantly, they happened. Before we get into the causation, all you have to do is look around the industry to find problems. Importantly, those problems afflict small companies, startups, innovators, and the politically disfavored first. Very large firms with political connections and deep lobbying benches? They probably keep their bank accounts, though with a lot of pain and annoyance. But a small startup? A minority owned firm trying to provide financial services to people outside the banking system? Someone building an idea with elbow grease to create a better block explorer to track crime?

All blocked.

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[16] https://assets.law360news.com/1841000/1841579/https-ecf-utd-uscourts-gov-doc1-18316495996.pdf
[17] https://x.com/MinarikLaw/status/1863258797323825224 & https://x.com/MinarikLaw/status/1886825962383511559
[18] To find a silver lining on a dark cloud, at least these children will understand why self-custody is important

The receipts are all over the VC community. You can read the AIMA study I referenced above. Or you can go talk to all the banks that wanted to serve crypto customers and were instead met with denials and intimidation.

So how did we get here?

BANK FAILURES & REGULATORY REACTIONS

In 2022, there were some problems in crypto. We had the collapse of FTX, a scam of epic proportions and in a group that includes things like Bernie Madoff and the trading scandal at Barings Bank in terms of both historical note and scale. As if that was not enough, we also had the collapse of entities like Celsius (also with criminal implications), Genesis (still ongoing as to the exact implications) and through them DCG, BlockFi (perhaps not criminal but certainly quite dumb), 3AC (wildly criminal and it remains shocking to me charges have not been brought in the United States), and TerraForm Labs, the ill-fated issuer of the "stable"coin UST.

It wasn't great! People did lose vast sums of money, and the financial devastation was real.

As a result of this, a number of actions were taken by banking regulators, and here is where the picture gets muddy, which is why I want to describe in at least some detail the events which occurred.

First, two of the major crypto-constructive banks were shut down: Silvergate was subjected to significant regulatory pressure and, allegedly, verbal guidance from banking regulators (particularly the FDIC) that made its core business impossible to operate. The bank went into voluntary liquidation in March of 2023 and later paid a $63mm settlement relating to charges of insufficient controls around anti-money laundering and financial crime in 2024[19]. Signature bank was also shut down in March of 2023 by the New York Department of Financial Services and the FDIC was appointed as the receiver, with these actions taken because of risk to the overall financial system, or at least language used by regulators and government officials indicated that[20]. In the Signature case, the FDIC process was initiated on a Sunday (unusual, given Friday was typically when these actions occurred in the past) and the bidding was highly confidential[21], also unusual given the alleged sequestering of the digital assets and also alleged rejection of bids for Signet, the banks 24/7 real-time settlement platform for internal settlement of deposits between customers (e.g. two customers of Signature bank could interact at 3am on a Sunday, something patently impossible through Fedwire or some such, given we insist on living in the 1980s technologically in the U.S. banking system).

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[19] If you think that is bad, hold onto your hat and keep reading
[20] https://www.reuters.com/business/finance/new-york-state-regulators-close-signature-bank-2023-03-12/
[21] https://www.theracetothebottom.org/rttb/2023/7/7/signature-bank-failed-are-more-us-banks-next

I separate these two banks from Silicon Valley Bank because Silvergate and Signature handled significantly more customer money and provided 24/7 real-time settlement platforms, something essential for crypto given that blockchain rails function 24/7 and traditional banking rails function ~30% of the time from a calendar hours basis[22]. There is functionality they provided to the crypto industry, facilitating the majority of flows for stablecoins and exchanges, that was shut down and essentially not replaced.

Second, there was the collapse of Silicon Valley Bank. SVB was closed on a Friday in March, and shut down shortly thereafter and sold off. Here, the cause of the collapse was a pretty traditional bank run: they didn't have enough money to pay back all the depositors who wanted their money back, because they had gone into very long duration bonds while interest rates went up[23]. Having a concentrated depositor base in the tech sector paired with a very illiquid loan book would have been the kind of thing I advised people to not do when I was back at JPM. Here, it ended badly for exactly the reasons one might expect such a thing to end badly.

That is a factual description of things that happened and banks that collapsed, but to understand the spiraling web of regulatory actions behind it, we have to look at least one layer deeper.

Namely, through FOIA[24] requests, Coinbase has uncovered that the FDIC in particular had been rattling the cage with banks[25] with varying degrees of specificity, across a broad variety of programs. Some of these objections are likely valid (you don't want banks lending in risky fashion against highly volatile crypto assets), some of these objections seem less valid (offering investment products with risks disclosed and off the bank's balance sheet seems… strange… to object to), and some of these objections just seem like wild overreactions at best to actively malicious at worst (banking crypto clients at all).

More so, through conversations with staff, executives, and former personnel at over 10 different banks who banked crypto clients so that I could assess banking activity myself, I was told repeatedly that the FDIC was delivering verbal guidance far in excess of what they were putting in writing. These have included rumors of FDIC demands such as a 15% cap on crypto deposits[26] no matter the matching assets, a requirement to get regulatory approval to open accounts for any crypto clients or engage in any new activity in or adjacent to the space (which was never given),

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[22] I will gently remind everyone that countries like Japan and South Korea have had 24/7 real-time bank settlement since the early 2000s, so this is a choice to freeze our technology at a specific point in the time and reject progress in the United States by our banking regulators, like a financial version of the Amish
[23] Surprisingly for a college professor, there was a method to my madness explaining how banks work
[24] I sent the FDIC a FOIA request asking if they have been monitoring and coordinating against critics, naming specific individuals and timeframes, and they are refusing to answer me because it is "overbroad" despite the specificity, just to show how difficult it is to hold them accountable
[25] https://x.com/iampaulgrewal/status/1875226182662418471
[26] Please refer back to my previous comment on the Miata - 15% crypto deposits backed by t-bills or reserves at the Fed would be very different than such deposits backed by 30 year real estate loans

and constant questions and examinations around any crypto activity designed to intimidate banks into deplatforming clients.

Adding credence to this behavior, the banking regulators have put out multiple[27] letters[28] about crypto[29] that contain, when pulled out, some interestingly confusing and self-contradictory statements:

“Banking organizations are neither prohibited nor discouraged from providing banking services to customers of any specific class or type, as permitted by law or regulation.”

“In the statement, the Board also reiterates to state member banks that legal permissibility is a necessary, but not sufficient, condition to establish that a state member bank may engage in a particular activity.”

“The agencies are continuing to assess whether or how current and proposed crypto-asset-related activities by banking organizations can be conducted in a manner that adequately addresses safety and soundness, consumer protection, legal permissibility, and compliance with applicable laws and regulations, including anti-money laundering and illicit finance statutes and rules.”

“Through the agencies’ case-by-case approaches to date, the agencies continue to build knowledge, expertise, and understanding of the risks crypto-assets may pose to banking organizations, their customers, and the broader U.S. financial system.”

“The Board generally believes that issuing tokens on open, public, and/or decentralized networks, or similar systems is highly likely to be inconsistent with safe and sound banking practices. The Board believes such tokens raise concerns related to operational, cybersecurity, and run risks, and may also present significant illicit finance risks, because—depending on their design—such tokens could circulate continuously, quickly, pseudonymously, and indefinitely among parties unknown to the issuing bank. Importantly, the Board believes such risks are pronounced where the issuing bank does not have the capability to obtain and verify the identity of all transacting parties, including for those using unhosted wallets.”

This, to avoid sugarcoating it, is an absolutely radioactive tire fire with regard to guidance.

Our banking regulators have clearly stated that banks are not prohibited from providing services to the crypto community legally, but also clearly stated that legal permissibility does not mean they are allowed to provide services[30].

They have stated that banks with sufficient controls are permitted to serve this industry, but also that it’s unlikely there are even sufficient controls they feel are possible, and that they are going to address this on a case-by-case basis with no consistency so that such standards are unlikely to be developed.

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[27] https://www.federalregister.gov/documents/2023/02/07/2023-02192/policy-statement-on-section-913-of-the-federal-reserve-act
[28] https://www.fdic.gov/sites/default/files/2024-03/pr23002a.pdf
[29] https://www.fdic.gov/news/financial-institution-letters/2023/fil23008a.pdf
[30] https://www.reactiongifs.com/wp-content/uploads/2013/10/tom-delonge-wtf1.gif

Lastly, they remind everyone that banks are responsible for the conduct of users once money is off their platform, a standard they do not apply elsewhere in the banking system (e.g. JPM originating a deposit that a customer then sends to another bank does not make JPM liable when the receiving entity has another customer with those funds who then commits fraud unrelated to the JPM transaction), which helpfully is a thing you definitionally can't control for or report on.

Importantly, much of this is also largely untethered from the specific concerns about keeping banks well capitalized and operating[31]. "Reputational risk" and amorphous concerns about anti-financial crime are not reasons that banks fail. In fact, the latter is precisely the justification used for the racial discrimination of redlining: because this group of people has some criminals and/or non-creditworthy people, rather than doing individualized analysis, we're just going to block the entire group. I am deeply opposed to this on moral grounds, and in fact the excessive compliance costs created by this behavior probably falls most strongly on minority communities and politically disfavored groups.

I will also remind everyone here that the FDIC in particular uses a system called CAMELS to rate banks, and the "M" in CAMELS stands for management. This is a completely subjective category, so it creates the following tautology: if the regulator thinks a space is risky for unclear or inappropriate reasons, then management thinking that space is good for a bank will be downgraded, damaging their score and imposing penalties like higher FDIC charges or even up to and including prohibitions on onboarding new customers or having your charter revoked. In short, because a regulator can deeply penalize a bank for "bad judgment", with bad judgment meaning anything the regulator subjectively does not like, guidance that implies a space is very risky is tantamount to guidance that if you do it, the M score in CAMELS will go down. A lot.

If you are a bank, what are you supposed to do with this guidance? I can tell you what I would have done when I was running trading desks at JPM and Citi: I would have assumed it was prohibited.

Importantly, I don't mean prohibited in the sense that I can't. I mean prohibited in the sense that if I do it, there will be such severe financial and procedural penalties that it will slowly grind my bank into dust. You'll be subject to operating risk capital increases. You'll be subject to higher FDIC charges. You'll be investigated constantly and forced to quintuple your compliance budget. You'll just have your time constantly wasted as $2.71 transactions to buy a coffee are scrutinized to make sure you did KYC and anti-money laundering, politically exposed person, and OFAC checks before letting someone process that payment.

[31] More on this later in the How Banks Work section

In short, the process is the punishment, and the regulators and the banks both know it. No one in their right mind is going to deliberately put a commercial enterprise in that situation, especially when they answer to shareholders.

As a result of this "guidance"[32], banks started closing the accounts of crypto companies left and right for non-financial reasons. The message was received. Basic checking accounts, for those amorphous "reputational risk" reasons were being closed. Threats of constant examinations and AML/KYC fines were made against banks serving crypto (while, helpfully, regulators ignored or took a full decade to act on much worse conduct in the traditional financial system[33], possibly because these resources were instead being misdeployed into intimidating jpeg artists out of having bank accounts). In short, banks mostly concluded it was too hard to serve the industry, so they didn't. This sort of jawboning to intimidate banks is even going on today[34], with Fed Chair Jerome Powell recently stating at a press conference that "Banks are perfectly able to serve crypto customers, as long as they understand and can manage the risks, and it's safe and sound," and then hilariously went on to say the bar was higher for crypto risks and while the Fed was not against innovation, crypto was scary and should be viewed with deep skepticism.

Full disclosure: I am a parent, and I have two children, ages 9 and 5. More than once, I have told them "you can do this but I wouldn't, if I were you" and I understand exactly what that means and so do they: you're about to get in trouble if you do this. Banks understand this is what the regulators are saying when Powell says things like this, too.

When you combine that with the shutdown of the most crypto friendly banks, here is the situation that most crypto companies faced: the banks, which were the most risk-tolerant of novel technologies, are being shut down and can't bank you anymore, so you have to find a new bank. However, the joke is on you: there are no new banks who want your business, and if they take it, the regulators will try to find a way to shut them down too.

Why is this, though? You may recall that many pages earlier, I said that deposit accounts of the sort that are being denied here are some of the most profitable.

Here is where we get to the problem of AML/KYC and reputational risk. While it is beyond the scope of this hearing, an overall comment I would make is that the AML/KYC regime is incredibly effective at producing paperwork and incredibly ineffective at actually stopping financial crime. This is because there are no real effective measurements of the traditional financial system on this basis, because it is opaque, fragmented, and nobody has a holistic look at the information

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[32] By which I mean thinly veiled threats

[33] https://www.justice.gov/opa/pr/td-bank-pleads-guilty-bank-secrecy-act-and-money-laundering-conspiracy-violations-18b

[34] https://www.thestreet.com/crypto/policy/fed-chair-powell-calls-on-congress-to-create-regulations-around-crypto

What that does is put each bank in a situation where perfection is impossible, so if a regulator wants to use AML concerns as a pretext to engage in things like illegal discrimination based on speech to harm private individuals, they can do so. Similarly, if you want to punish a bank, you can find them guilty of AML violations essentially all the time.

This is not to discount the very real problem of financial crime, but rather, this is a statement that the rules seem calibrated to create paperwork and fines, not solve the problem.

Reputational risk is an even more amorphous concept. It is the idea that somehow the reputation of a bank could be damaged, making it less likely that it can continue as an ongoing concern and that depositors would flee because…? It's unclear what this really means, because in practice it appears never to have sparked a bank run, but rather is a tool for regulators to use to force the debanking of industries they don't like, or for banks to eject customers they don't want, but without having to bother with all of the nonsense about actually having business-relevant reasons, valid risk concerns, or those customers having to have actually committed some wrongdoing. No, it's more like "that customer wore the wrong shirt, and we don't want our reputation associated with the kinds of horrific monsters who think it's okay to wear orange, so you are gone" behavior in practice. When a single bank does that for idiosyncratic reasons, that's actually not a big deal. When the entire industry does it to a sector because regulators hate orange shirts, suddenly every Cleveland Browns fan can't get a bank account. If you don't believe that, go re-read the part on how CAMELS scores work and realize that being in a reputationally risky space is a reason to dock a bank's management score.

Maybe unsurprisingly, in the documents quoted above, regulators said that crypto has heightened reputational risk. Who could have seen it coming that a poorly defined category based on subjective bias would be used against politically disfavored industries or people?

LIVING WITHOUT A BANK

In preparing for this testimony, I've started to try to figure out just how essential banks are to our lives in 2025. It wasn't always like this. My grandfather used to tell me about how he'd pay for almost everything in cash, and the only thing he really needed a bank for was buying a house or maybe a car. Now, thanks to electronic payments, I can barely buy a coffee without a bank being involved somewhere, somehow.

In the past few days, I have tried to figure out if I could personally pay any of the following using cash, or failing that, with some method that would not require me to explicitly touch a bank:

- Amazon will give me options for debit cards, credit cards, HSA/FSA, and Amazon store cards, which means cash is out.
- My condo dues can be paid with a debit card, credit card, or ACH. No cash.

- My car insurance was also a no. When I called GEICO to ask if I could mail them cash, the person on the phone sounded mildly panicked[35] until I explained it was just for research.
- My New York City property taxes are potentially a yes. Online I can only pay with the usual mix of cards and bank accounts, but I can theoretically pay in person if I'm willing to travel to the office in person, which appears to be a roughly 30 minute trip in each direction plus the time it would take to have the appointment[36], and involve carrying many thousands of dollars in cash around in person.
- Getting paid by NYU, to which the answer was, to summarize, "absolutely not" and also "stop it". At most they will mail me a check, which I could take to a check cashing location, pay an absurd fee, and then end up with cash. After the 7 business days it takes to get mailed the check, assuming it is not stolen out of the mail.
- Buying food at the local deli or grocery story, which was one of the other rare success stories and they were happy to accept cash.
- Finally, could I buy stocks with cash? Robinhood conclusively told me no.

So what can I do with cash in any timely fashion? Buy food and pay my property taxes.

What can't I do? Have a condo[37], have car insurance, have a job, buy anything from Amazon.

The good news is that I have food! The bad news is that I'm homeless and unemployed.

I will note that for some of these, there is a backdoor to cash through something like PayPal or CashApp or Coinbase, if I get the money into them through an ATM, after paying fees, and then transfer that money in tiny amounts to certain platforms or use a debit card linked to those accounts. Again, there is a bank under there somewhere, though I may not explicitly have an account with said bank. Equally, in some of these cases (like property taxes), I could operate with cash, but the deadweight cost of having to spend large amounts of time means it is vastly less efficient and would be incredibly disruptive to someone working a job (or multiple jobs) or with childcare or elder care responsibilities. This is before we get to the incredible fees for things like check cashing (and having to do that in person, also taking time).

Being without a bank account, personally, means that you are unable to interact with significant parts of electronic commerce, and for other parts, while you can interact in person, your explicit and implicit costs are vastly higher than someone with a bank account. As always, the poor and already marginalized suffer the most from lacking these services as a result.

We're not even done yet. You may notice that above, I asked about my personal bank account. I also tried to figure out if Zero Knowledge could operate without bank accounts.

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[35] Asking experimental questions that cause some degree of panic, confusion, or immediate consternation seems to be an essential part of being a professor, for anyone considering it as a career
[36] https://www.nyc.gov/site/finance/about/contact-us-visit-brooklyn.page
[37] Astute readers will note this renders the property taxes part irrelevant

In short: no.

Any corporate entity would not be able to do tax withholding properly for paying employees if we are delivering solely cash without doing it manually and then somehow figuring out how to pay the IRS and state agencies. Paying filing fees for licenses is going to be rather difficult, and that's before we get to having to post bonds for capital for some financial activities involving handling money, often required for certain financial businesses. Paying rent? Vendors? Internet service providers? Cell phone service? Web hosting? D&O insurance?

You rapidly go down a rabbit hole where the majority of things that you need to run a business are simply unavailable to you when you operate only with cash.

What this means is that if you are debanked, you cease to have a traditional business. You could maybe have certain types of fully remote Web3 or tech businesses, but it's going to be far more difficult (perhaps not impossible, but with major limitations on scalability, business model, and customers) in a way that ranges from limiting to crippling to immediate bankruptcy. It's always damaging.

AMERICA LOSES

One of the biggest losers here is America itself. This sort of embargo against an entire legal industry, either through active malice or incompetence, is the sort of thing that sticks in the mind of entrepreneurs. I will point out that vast amounts of venture capital funding, many very well-compensated jobs in the tech sector, and significant amounts of dollar flow in investment products are all outside of the United States because of this action. As of the time of the writing of this testimony, the total market capitalization of the crypto space is over $3.6T as per Coin Gecko (yes that's the real name), untold billions in crypto funding have been employing people all over the globe except here[38], and the reputation of American regulators and financial markets as fair and impartial have been damaged.

A good example of this is in the stablecoin space. Stablecoins are the representation of a dollar on a blockchain, and the overwhelming majority of them do this by having actual dollars in a bank account or short-term, high-quality investments held with custodians. Where is the largest stablecoin in the world, Tether, based? El Salvador, soon! Again, this is a $139B dollar investment pool, representing one of the largest buyers of treasuries in the world, and they want absolutely nothing to do with the United States, which also deprives us of all their customer data.

[38] Also probably not Iran, North Korea, or a few others

What other jurisdictions are launching stablecoin frameworks? Europe, with the barely workable framework in MiCA that is mostly being ignored, but also Hong Kong, Singapore, and the United Arab Emirates.
Let me say that again: it is entirely possible that the number one location for global stablecoins in ten years, on the current pathway, is literally going to be Hong Kong, meaning that control of the blockchain dollar system and every single scrap of customer data related to it will be in the hands of China rather than the United States.

This seems kind of insane, doesn't it?

The fact that this story could repeat for other industries, over and over, because of these governance and structural problems is itself a dire threat to national security. Accidentally or purposefully forcing an emerging financial technology offshore because some out-of-touch bureaucrats in a banking regulator privately threatened banks and neither the President nor Congress knew exactly what was going on is exactly the kind of thing you would expect in a dysfunctional autocratic regime, not the United States of America, where we are supposed to be the gold standard of representative and transparent government globally.

I would suggest we can (and should) do better.

REFORM

What we need are reforms to ensure that this sort of activity, deliberate or merely cruelly indifferent, stops happening to law-abiding American citizens and businesses. It has already happened twice. That is enough. To that end, I would propose the following, in order of priority, to Congress:

First, all banking supervisory guidance should be required to be in written form. No more verbal guidance[39]. That guidance should also be made public, completely unredacted except for the names of private individuals, on a 12-month trailing basis. There is no issue so severe that a bank given a full year head start cannot remediate it to the point it is not critical if it becomes public, or if such an issue does exist, the bank should just be shut down.

Second, when a bank debanks someone, they should be required to say why. This is important to create a paper trail, and given banks have a monopoly on certain types of economic activity granted to them by our laws, it is not unreasonable to ask that they explain themselves truthfully. This need not create a pathway to appeal of the decision, and the only criteria should be that it is

[39] Delivering verbal guidance that is not documented in written form should lead to immediate termination of the staff involved and personal liability for those staff

both truthful and provides a clear articulation of the reason[40]. The importance is creating the record so we can see when, where, how, and why people are being debanked.

Third, reputational risk as a risk factor to be considered by regulators should be strictly prohibited, and management as a component of CAMELS should either be removed or greatly reduced in impact. This is all too easily used as a cover for things like illegal discrimination on the basis of race, as retaliation for first amendment protected speech, and more. The amorphous and poorly defined nature of "reputational risk” or “management” is ripe for abuse, and it should be prohibited.

Fourth, all supervisory guidance should be subject to a balancing test weighing the harms the regulations are attempting to prevent against the impact the regulation is having on banking access for law-abiding Americans. Importantly, this evaluation should not be done by the agency itself, but rather by an outside arbiter. I would suggest 3 months, 1 year, and 5 years as appropriate milestones for review to track impact over time, and if the outside arbiter finds that a regulation is poorly designed and doing more harm than good, it is negated.

Fifth, there should be a rule that banking supervisory guidance and rules should apply equally to all institutions. No more case-by-case handling or privately playing favorites or punishing institutions. Clear rules and criteria for compliance should be required.

Sixth, I would suggest that firms or persons that are debanked due to excessive regulatory animus or impermissible motives (such as speech discrimination) and themselves have not been charged with any criminal acts should have a private cause of action against the banking regulators. As I described much earlier in this document, banking access is essential for modern life and confidential revocation of it could easily be used as a tool of illegal discrimination against Americans. The victims should be able to defend themselves.

These reforms together would primarily fix the governance around banking regulation, preventing banking regulators from being judge, jury, and executioner and also exposing their processes to the light of day and public scrutiny. While it will not fix all of our issues, it will at least create the structure needed to address them in the future and prevent further incidents where secrecy is used to hide bad intentions or poor conduct.

I will end with the statement that I believe enacting reforms to prevent this activity in the future is growing increasingly important each time this sort of incident occurs. If we ignore it and enshrine the principle that, so long as they adequately cloak their motives in confusion and are clever enough not to write down the bad bits, regulators answering to the executive branch can debank entire industries or groups just because they don’t like them, where are we going to end up as

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[40] If that reason is that regulators are making the compliance costs too high or threatening banks with harm for banking that client, they should be able to just say that

this cycle continues? I hope we are wiser than to explore that particular future path, and instead put an end to these practices now.

Thank you.