

Operation Choke Point: Unwarranted Discrimination against Firearms

- The Obama Administration's Operation Choke Point directed financial institutions to discriminate against businesses in the firearms industry.
- Law-abiding businesses have had accounts terminated, loans denied and other negative actions taken against them. The pattern of discrimination extends past banks to payment processors, insurance firms, and online advertising companies.
- The Trump Administration and Congress must take steps to help prevent the ongoing discrimination against our industry.

Under the Obama Administration, an initiative called "Operation Choke Point" was launched by the Federal Deposit Insurance Corporation (FDIC) and Department of Justice (DOJ) to stop financial institutions from offering services to some regulated industries in an attempt to choke off banking services. This operation, which represented an abuse of the agencies' statutory authority, was first aimed at non-depository lenders (so-called payday lenders) but expanded to ammunition and firearms sales, tobacco sales and pharmaceutical sales, among other industries.

The goal of the operation was to coerce banks, third-party payment processors and other financial institutions into closing or denying business accounts of clients that the FDIC has classified as "high risk" or as a "reputational risk" for the financial institution. According to a House Committee on Oversight and Government Reform investigation, the FDIC, "equated legitimate and regulated activities such as coin dealers and firearms and ammunition sales with inherently pernicious or patently illegal activities such as Ponzi schemes, debt consolidation scams, and drug paraphernalia."¹ The FDIC included federally licensed firearms retailers and other companies

in the firearms and ammunition industry – some of the most heavily regulated businesses in the country - on this list of risky businesses without any evidence or justification. In fact, in its guidance to banks, the agency "justified itself by claiming that the categories had been previously 'noted by the FDIC.'" Working with the DOJ, the FDIC guidance targeting the law-abiding firearms industry and others was included on DOJ subpoenas. This sent a message to banks that they were to remove those clients from their services, or risk a federal investigation.²

Due to this deliberate action on the part of the prior Administration, some banks have ended relationships with legal and legitimate companies solely based on their industry. While the FDIC indicated it will take incremental steps to end this indiscriminate targeting of the firearms industry, there is no evidence that this discrimination has ended. In the meantime, it is clear that legal, legitimate businesses licensed by the federal government are being choked off from the financial system without cause.

According to a National Shooting Sports Foundation survey of its members, individuals engaged in the business of manufacturing and dealing in firearms and ammunition products have

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experienced being refused goods and services by financial institutions simply because they were engaged in the lawful commerce of firearms and ammunition. This discrimination and refusal to provide goods and services results in higher costs of doing business and increased prices for consumers when exercising their Second Amendment Rights.

Unfortunately, discrimination against the firearms and ammunition industry extends far beyond Operation Choke Point. Our members report facing discrimination from internet search engines, payment processors, insurance companies and other service providers not covered by the FDIC. While the firearms industry respects the right of financial institutions to make business decisions based on objective criteria, it is unacceptable to discriminate against businesses simply because they are engaged in the lawful commerce of firearms, an activity protected by the Second Amendment. To help address these unwarranted negative acts against members of our industry, the National Shooting Sports Foundation is advocating for measures to prevent discrimination on the state and federal level.

¹ U.S. House of Representatives, Committee on Oversight and Government Reform, "Federal Deposit Insurance Corporation's Involvement in 'Operation Choke Point,'" Staff Report, 113th Congress, Dec. 8, 2014, p. 1 <http://oversight.house.gov/wp-content/uploads/2014/12/Staff-Report-FDIC-and-Operation-Choke-Point-12-8-2014.pdf>

² Ibid., p. 17



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