



House Lawmakers Approve Bill Shutting Down 'Operation Choke Point'

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In February, the U.S. House of Representatives approved a bill that would prevent government agencies from using financial regulatory powers to undermine or destroy businesses in disfavored industries, such as adult entertainment or firearm sales.

If approved by the U.S. Senate and signed into law, the Financial Institution Customer Protection Act of 2015, sponsored by U.S. Rep. Blaine Luetkemeyer (R-MO), would prohibit “a federal banking agency from formally or informally suggesting, requesting, or ordering a depository institution to terminate ... a specific customer account,” as it has done through Operation Choke Point (OCP).

OCP, a U.S. Department of Justice (DOJ) initiative, was first disclosed in 2013. It involves investigations of banks doing business with merchants who sell products such as firearms and tobacco. OCP was executed by auditors from the Federal Deposit Insurance Corporation, effectively pressuring banks to drop clients in certain legal but politically unpopular industries.

'Few Rights More Fundamental'

Brian Garst, director of policy for the Center for Freedom and Prosperity, says OCP is an example of runaway regulatory power.

“If bureaucrats arbitrarily deciding that certain businesses ought not be allowed to use financial services—effectively meaning they be made not to exist—is not a violation of the Constitution, then the document simply no longer has any meaning,” Garst said. “There are few rights more fundamental in a free society than the right to earn a living and engage in commerce. Any infringement upon that right must require much more than a vague distaste among regulators for a particular economic activity.”

‘Direct Assault’ on Freedom

Garst says OCP shows the government has been using regulatory power as a form of political power.

“Enabling one or more federal agencies to act as judge, jury, and executioner over legal businesses is a direct assault on the free market, and it has been a nightmare for those operating in the industries targeted by the administration,” Garst said.

Mark Calabria, director of financial regulation studies at the Cato Institute, says OCP has also harmed the economy.

“[OCP] further entangles the banking and political system, while potentially reducing consumer choice and driving many small businesses into failure, destroying jobs as well as the livelihood of the business owners,” Calabria said.

Runaway Regulators

Calabria says OCP is an obvious abuse of regulatory power.

“This is a case of bureaucrats trying to abuse their powers to implement policies that they could not convince Congress to give them,” Calabria said. “Many of the targeted industries are simply ones that the Obama administration dislikes. The regulators are substituting their preferences for those of the public, believing themselves to be better informed.”