



Operation Choke Point: Justice Department Announces Program's End

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This article is part of a continuing series on Operation Choke Point. The first article in this series **can be found here**, which contains a more detailed overview of the history, origin, and evolution of Operation Choke Point and analyzes a still ongoing lawsuit filed in federal court challenging the program.

Operation Choke Point was begun by the United States Department of Justice during the Obama administration, and the stated purpose of the program was to "choke off" banking services to persons who were engaged in illegal activities, such as money laundering. However, over time, evidence surfaced that the federal government had broadened the scope of Operation Choke Point, using the program to go after lawful businesses. Numerous watchdog groups and news agencies alleged that the federal government used the federal bank regulatory regime to inform banks that it was too "risky" to do business with certain industries such as tobacco retailers, firearms and ammunition, and payday lending. Members of these industries lost banking relationships suddenly and without explanation, harming their businesses.

On July 6, 2017, Senators Thom Tillis (R-NC) and Mike Crapo (R-ID) sent a **letter** to Attorney General Jeff Sessions, requesting that the Justice Department repudiate Operation Choke Point and issue an official policy statement that Operation Choke Point is no longer in effect. This was necessary because, according to letter's authors, the Department of Justice had worked with bank regulators to pressure financial institutions to stop providing services to certain businesses.

On August 16, 2017, Assistant Attorney General Stephen Boyd responded to the Senators' letter and officially ended Operation Choke Point. The **Justice Department's letter** states: "We share your view that law abiding businesses should not be targeted simply for operating in an industry that a particular administration might disfavor. Enforcement decisions should always be based on the facts and applicable law." Mr. Boyd noted that, as part of Operation Choke Point, the Federal Deposit Insurance Corporation (FDIC) issued guidance documents that identified certain "elevated-risk" merchants, including payday lenders and firearms dealers. However, the FDIC withdrew this guidance on in January, 2015 with the issuance of **FIL 5-2015**. The Justice Department's letter states that the Department "fully agrees" with the FDIC's withdrawal of the policy.

Bank regulators have not issued recent policy guidance regarding Operation Choke Point, but the Justice Department's letter signals the official end to the program. This move is a very positive development for the affected industries. Withdrawal of the policy provides assurance to banks that they can make lending decisions based upon their assessment of risk, not regulatory concern. Meanwhile, industry members are assured that the federal government will not affect banking relationships based upon subjective judgment about certain industries. Ultimately, the end of Operation Choke Point means better access to capital for members of the affected industries.

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