

Home > Banking > Debanking: How Nigel Farage's Banking Woes Have Raised Serious Concerns Over Account Closures

Banking

DEBANKING: HOW NIGEL FARAGE'S BANKING WOES HAVE RAISED SERIOUS CONCERNS OVER ACCOUNT CLOSURES

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The past decade has witnessed a considerable increase in reports of individuals' and companies' bank accounts suffering untimely closures. Known as *debanking*, this trend was firmly put in the spotlight in late June when it was revealed that Nigel Farage's Coutts & Co. accounts had been closed. After a forceful backlash transpired, claiming the chief-executive positions of both the feted private bank itself and its parent bank (NatWest, or National Westminster Bank), the debanking issue has sparked a fierce debate over the implications and questionable legalities of the banking sector having such control over members of the public's financial lives.

The regulatory burden has grown significantly for much of the global banking system since the 2008 Global Financial Crisis (GFC). Major components of this onerous compliance regime include KYC (know your customer) and AML (anti-money laundering) requirements for banks to verify the identities of and collect important information about their customers to protect themselves against potential vulnerabilities to money-laundering activities.

And while debanking may be the appropriate response to any suspicious customer financial activity detected, many additional debanking cases have emerged that have seemingly had no basis in banking compliance. Indeed, recent figures show that UK lenders have been increasingly trigger-happy in closing accounts, with almost 350,000 shuttered during 2022—almost eight times more than they closed five years earlier. More than 1,300 people lodged complaints with the Financial Ombudsman Service last year regarding their account closures.

Nigel Farage, the former leader of the UK Independence Party (UKIP) and one of Brexit's staunchest advocates, maintains that his accounts were closed because his political views were out of step with the Coutts company values. "The establishment are trying to force me out of the UK by closing my bank accounts. I have been given no explanation or recourse as to why this is happening to me," Farage posted on X (formerly Twitter) on June 29. "This is serious political persecution at the very highest level of our system. If they can do it to me, they can do it to you, too."

In mid-July, Farage obtained a 40-page dossier from Coutts detailing the reasons behind the bank's decision in March to close his accounts. The document includes 36 pages of background information presented to the bank's Wealth Reputational Risk Committee in November 2022, minutes of the meeting and an internal email conversation confirming the decision to "exit" Farage as a Coutts customer. Among the most significant findings was that the bank's staff had spent months compiling evidence to support their views that there were "significant reputational risks of being associated with him" and that his opinions were "at odds with our position as an inclusive organisation".

The incident claimed Alison Marie Rose-Slade as a casualty on July 25 after the chief executive of the bank's parent company, NatWest, admitted to speaking to a BBC (British Broadcasting Corporation) journalist about the Coutts decision to close Farage's account. Prime Minister Rishi Sunak and the HM (His Majesty's) Treasury weighing in on the issue—the UK Government still owns a 38.6-percent stake in NatWest, bailed out by the state in 2008 when it was the Royal Bank of Scotland (RBS)—only further made her position untenable. Rose-Slade also apologised to Farage for the way his account closures were handled, admitting that the Coutts documents "do not reflect the view of the bank" and that it is "absolutely not our policy to exit a customer on the basis of legally held political and personal views".

Two days later, Peter Flavel, chief executive officer of Coutts, was also ousted. "In the handling of Mr Farage's case, we have fallen below the bank's high standards of personal service. As CEO of Coutts, it is right that I bear ultimate responsibility for this, which is why I am stepping down," Flavel said. Farage welcomed the departure, tweeting that the ultimate responsibility for the debanking document lay with Flavel. And according to Neville Hall, a risk and compliance expert and partner at the law firm Punter Southall, Flavel's departure was inevitable for three reasons: "Failure to put a customer's interests first; poor oversight within Coutts; and inaccurate communications with its parent". Hall also suggested to *The Guardian* that the Financial Conduct Authority (FCA) would be actively engaged with the boards of Coutts and NatWest "to discuss how they can demonstrate adequate oversight, judgment and above all, customer protection".

Indeed, the FCA has been deeply involved in this issue. But the United Kingdom's financial-services regulator has poured cold water on theories that British financial institutions are widely engaged in closing customers' accounts due to their political views. Having published findings on September 19 of its initial data exercise on bank-account access and closures after being asked to do so by UK Chancellor of the Exchequer Jeremy Hunt, the FCA found that between July 2022 and June 2023, not a single bank, building society or payment firm reported that they had closed accounts primarily due to someone's political views. That said, the FCA's chief executive, Nikhil Rathi, did acknowledge that "further work is needed for us to be sure".

"The FCA will be doing further work with firms to verify the data and to better understand the reasons behind, for example, the closure of accounts due to reputational risk," the financial watchdog also noted. "By far the most common reasons providers gave for closing, suspending or declining an account was because it was inactive/dormant or because there were concerns about financial crime."

But is debanking considered a discriminatory practice under the law? According to Bindmans LLP, the issue remains undecided from a legal standpoint, with the London-based law firm arguing that although banks are private entities and are not obliged to serve every customer, they must abide by laws preventing discrimination against persons with protected characteristics, including race, religion and most political beliefs, among others. "That said, it is often challenging for affected persons to prove that such discrimination is at the root of the decision, as banks rarely disclose details of their decision-making process, relying upon exemptions from disclosure obligations in data protection legislation," Bindmans' lawyers stated in an August 30 blog piece.

Voices condemning debanking from inside and outside the banking industry have since been brought to the fore. C.S. Venkatakishnan, for example, has lent his support to the government's work to improve access to banking services. "We feel really strongly that people should not be excluded on the basis of personal or political beliefs," Barclays Group's chief executive officer stated in late July. And Farage himself has found solidarity in his cause from some unlikely sources. With the FCA's figures showing that 2 percent of UK adults and 10 percent of Muslim adults in the country are unbanked, the Muslim Council of Britain (MCB) has called for an impartial review to determine if banks have been disproportionately closing the accounts of Muslim Britons.

Speaking to *Bloomberg* in mid-August, the founder of the Cordoba Foundation think-tank, Anas Altikriti, described the frequent account closures he had experienced, often along with his family, at HSBC UK Bank, Lloyds Bank, Banco Santander, Halifax, NatWest, Royal Bank of Scotland and, most recently (in August), Barclays, with none of the banks commenting on the cases. It was eventually revealed that he had been placed on a heightened-risk list compiled by World-Check Risk Intelligence, while Altikriti himself believes the account closures were prompted by his political views about the United Arab Emirates (UAE), Saudi Arabia and Palestinian rights. "These are lives we're talking about," Altikriti lamented during his *Bloomberg* interview. "I don't know whether my marriage broke down because of this. I don't know whether my relationship with clients broke down because of this. I don't know if my reputation has been sullied as a result of this."

Since the Coutts flare-up, Prime Minister Sunak has promised a crackdown on banks preventing customers' access to often crucial banking services. "It wouldn't be right if financial services were being denied to anyone exercising their right to lawful free speech," the prime minister told the UK Parliament. "Having consulted on the payment services regulations, we are in the process of cracking down on this practice by tightening the rules around account closures."

"Debanking represents an increasing threat to civil liberties and economic participation. While it reflects banks' increasingly risk-averse nature, the practice poses significant concerns for individual rights, media responsibility, and the safeguarding of personal data," Bindmans added. "As society continues to grapple with the intertwining of finance and information, our commitment to justice and protection becomes ever more crucial. If you or someone you know is facing such challenges, seeking legal counsel can be a vital step in navigating these murky waters."

[Back To Top](#)