



April 24, 2024

Chief Counsel's Office  
Attention: Comments Processing  
Office of the Comptroller of the Currency  
400 7<sup>th</sup> Street SW, Suite 3E-218  
Washington, D.C. 20219

James P. Sheesley, Assistant Executive Secretary  
Attention: Comments/Legal OES (EGRPRA)  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street NW  
Washington, D.C. 20429

Anne E. Misback, Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue NW  
Washington, D.C. 20551

**Re: Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA), Docket ID OCC-2023-0016, Federal Reserve Board Docket No. OP-1828, and FDIC - EGRPRA**

Dear Federal Banking Regulators:

The Community Bankers Association of Illinois ("CBAI"), which proudly represents 261 Illinois community banks, appreciates the opportunity to provide our observations and recommendations regarding your review of regulations as required under section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 ("EGRPRA").

CBAI is dedicated to exclusively representing the interests of Illinois community banks and thrifts through effective advocacy, outstanding education, and high quality products. CBAI's 261 members hold more than \$80 billion in assets, operate 860 locations statewide, and lend to consumers, small businesses, and agriculture. For more information, please visit [www.cbai.com](http://www.cbai.com)

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The identification of outdated, unnecessary, or unduly burdensome regulation of insured depository institutions is important for reducing the stifling and growing regulatory burden, particularly on community banks. CBAI urges regulators to act swiftly to identify and implement changes in regulations that will help ease this increasing burden which threatens the survival of many community banks.

### Initial Observations and Recommendations

At the outset and throughout this regulatory review process, CBAI recommends that regulators fully embrace viewing regulation as NOT equally applicable to all insured depository institutions; rather the view should be to implement meaningful tiered regulation. Too often in the past the regulators claim to tailor regulations, but the exemptions proposed for community were de minimis when they should have been appropriately consequential.

The great financial crisis and subsequent mini crises clearly demonstrate that the risks taken by Wall Street megabanks and highly specialized large banks are very different from those assumed by community banks, and they should not be regulated in the same way. The regulatory burden imposed on community banks by a one-size-fits-all approach, or only paying lip service to tailoring regulations ignores the disproportionate burden of regulations on community banks. Also, credit unions, Farm Credit System (“FCS”) lenders, and increasingly other non-bank financial service providers (“FinTechs”) are not subject to the same laws and regulations as community banks. This unlevel playing field places community banks at a significant competitive disadvantage. In addition, not only is the individual impact of regulations not being sufficiently addressed but the cumulative burden of the recent avalanche of new regulations is seemingly being ignored by the regulators.

**CBAI urges regulators to robustly implement a tiered regulatory system to ensure that every regulation clearly distinguishes between, and appropriately regulates, community banks versus the largest banks and FinTechs and begin to seriously address the combined impact of all regulations on community banks.**

### Industrial Loan Companies (ILC)

CBAI has consistently supported the long-standing American policy of prohibiting the mixing of banking and commerce, which ILCs represent, because of the risks they pose to the financial

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system, our economy, consumers and American taxpayers. ILCs are the functional equivalents of full-service banks and, as such, should be properly regulated. The risk posed by ILCs is a regulatory loophole that allows their holding companies to escape from consolidated federal supervision and regulation. Completely closing this loophole will be an important safeguard for consumers, the financial system, and the FDIC's Deposit Insurance Fund in times of economic stress.

Closing the loophole now is particularly important as large technology companies like the Japanese e-commerce giant Rakuten (which has been dubbed the *Amazon of Japan*), are eyeing ILC charters as a way to enter the banking industry and enjoy its many benefits without their holding companies being subject to consolidated federal supervision. These big new data, social media, e-commerce, artificial intelligence and FinTechs extend an ominous reach into individuals' economic lives with legitimate personal privacy and conflict of interest concerns. Policymakers should not allow the mixing of banking and commerce and closing the ILC loophole will prevent harming consumers and the financial system.

While CBAI understands that closing the ILC loophole will require congressional action, **CBAI encourages the FDIC to do everything within its powers, as the deposit insurer for these ILC applicants, to ensure the safety of the Deposit Insurance Fund which supports community bank depositors.**

#### De Novo Community Bank Formation

Newly chartered (de novo) community banks are vitally important to maintaining a strong, growing, evolving and vibrant banking profession in the face of continued industry consolidation. CBAI concurs with Federal Reserve Governor Michelle Bowman's concern "that there will continue to be fewer de novo banks as well as a decline in the overall population of community banks," and agrees that "[t]hese banks are a key segment of the industry in that they provide financial services and products to a wide range of consumers and businesses."

Tragically, the FDIC virtually halted de novo community bank formation after the financial crisis. From 2000 to 2009, there was an average of 132 de novos per year. That number plummeted to six per year from 2010 to 2022. In 2022, there were 14 newly chartered banks, but that number declined to nine in 2023. The FDIC has occasionally tried to get back on the right track, but the daunting regulatory approval process remains a significant obstacle. CBAI believes

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the goal in the chartering and insuring de novo banks must reasonably balance the risks associated with these new banks and not ensure that they are failureproof.

Many new banks must be chartered each year to help maintain the vitality of the community banking profession. CBAI agrees with Governor Bowman when she stated, “Looking to the future, policymakers need to appropriately refine the regulatory and supervisory framework to minimize unnecessary compliance costs for smaller banks and address impediments to [new] bank formations.” **CBAI urges the FDIC and all the state and federal banking regulators responsible for chartering and insuring de novo banks to cooperate and diligently pursue a course to restore a healthy flow of new bank formations.**

CBAI thanks you for this opportunity to provide our observations and recommendations regarding the review of regulations required under EGRPRA. If you have any questions or need additional information, please do not hesitate to contact me at (847) 909-8341 or [davids@cbai.com](mailto:davids@cbai.com).

Sincerely,

/s/

David G. Schroeder  
Senior Vice President  
Federal Governmental Relations