

October 23, 2025

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Re: Comment on Docket ID OCC-2023-0016, Regarding Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996

Dear Sir or Madam,

The American Bankers Association (ABA)¹ appreciates the opportunity to provide comments on the regulatory burden review under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA).²

As required by EGRPRA, the federal banking agencies (Agencies)³ must review their regulations at least every ten years to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions. This process includes providing public notice, gathering comments on specific regulatory categories, and ultimately producing a report for Congress.⁴ This report should summarize the key regulatory burdens raised, assess their validity, and recommend whether those issues are best addressed by regulation or legislation.⁵

¹ The American Bankers Association is the voice of the nation's \$25.0 trillion banking industry, which is composed of small, regional, and large banks that together employ approximately 2.1 million people, safeguard \$19.7 trillion in deposits, and extend \$13.1 trillion in loans.

² Economic Growth and Regulatory Paperwork Reduction Act, 90 Fed. Reg. 35,241 (Jul. 25, 2025).

³ The current EGRPRA review includes regulations issued by the Federal Financial Institutions Examination Council, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the Board of Governors of the Federal Reserve System. However, ABA believes it should also include rules issued by the Bureau of Consumer Financial Protection (CFPB) and the Financial Crimes Enforcement Network (FinCEN) to address a broader range of regulatory challenges impacting banks.

⁴ See 12 USC § 3311.

⁵ *Id.*

ABA supports the goals and purpose of the EGRPRA and strongly encourages the Agencies to use this third decennial review as an opportunity to provide meaningful regulatory relief for banks, enabling them to better serve their customers. Although ABA provided detailed recommendations in previous EGRPRA reviews, few were adopted by regulators.

In response, ABA is now focusing on a broader goal: removing unnecessary regulatory burdens, a priority shared by both regulators and the banking industry. The recommendations and examples below regarding rules of procedure and safety and soundness issues require immediate attention, but they also point to a broader underlying issue. We encourage the Agencies to use the examples below to identify broader rules and requirements that hinder, rather than help, banks in effectively serving their customers.

I. Banking Operations

a. Regulation II

The Board's Regulation II routing and exclusivity restrictions (2022 Final Rule) impose an unnecessary burden on card issuing institutions and networks.⁶ This result is not mandated by statute. Regulation II provides that an issuer or payment card network shall not, directly or indirectly, (i) restrict the number of payment card networks on which an electronic debit transaction may be processed to less than two unaffiliated networks, or (ii) inhibit the ability of any person that accepts or honors debit cards to direct the routing of electronic debit transactions over any payment card network that processes such transactions.⁷ In 2022, the Board published an amendment to Regulation II to "clarify" that the requirement that each debit card transaction must be able to be processed on at least two unaffiliated payment card networks applies to card-not-present transactions.⁸

The Durbin Amendment requires the Board to issue regulations *prohibiting* issuers and networks from *restricting* the number of networks over which an electronic transaction may be processed to one network.⁹ Yet Regulation II *requires* issuers to *enable* multiple networks on a debit card. Regulation II thus requires issuers to seek out and negotiate transactions with networks, even if the issuer has determined for legitimate business reasons, unconnected to any "restriction," to enable only one network on its debit card.

⁶ See Debit Card Interchange Fees and Routing, 88 Fed. Reg. 78,100 (Nov. 14, 2023); Debit Card Interchange Fees and Routing, 87 Fed. Reg. 61,217 (Oct. 11, 2022) (12 C.F.R. pt. 235).

⁷ See 12 C.F.R. § 235.7.

⁸ Debit Card Interchange Fees and Routing, 87 Fed. Reg. 61,217 (Oct. 11, 2022).

⁹ See 15 U.S.C. § 1693o-2(b).

Moreover, the current rule, as amended by the 2022 Final Rule, evidences a wholesale reworking of the network exclusivity and routing requirements. It imposes new, vague responsibilities on issuers for transaction types that do not exist under either the Durbin Amendment or Regulation II and requires issuers to undertake expensive and time-consuming efforts to change their core network infrastructure.

For example, the current rule, as amended by the 2022 Final Rule, requires that issuers “enable” multiple unaffiliated networks for each type of transaction, among other transaction categories, providing only that particular types of transactions include, but may not be limited to, card-present and card-not-present transaction. As a result, issuers must undertake to make their systems compatible—to the extent compatibility was the Board’s intent with the “enablement” requirement—with multiple networks for at least these two transaction types, and perhaps others.

These ambiguous amended routing and exclusivity provisions force issuers to contract with and accept services from payment card networks that have not, for example, proven their ability to handle fraud security in the category of card-not-present transactions and with which these issuers would not otherwise engage in business. These obligations interfere significantly with the way in which issuers choose to conduct their business and have the effect of stifling competition.

Further, the 2022 Final Rule contravenes established Board policy. The Board has long maintained that it should not mandate specific technology. In 2015, for example, after receiving an inquiry from Senator Mark Warner (D-Va.), former Board Chair Janet Yellen indicated that “[i]n our role as supervisor, the Federal Reserve does not mandate use of a specific technological approach to payment card security ... This approach is intended to allow financial institutions and other industry participants sufficient flexibility to design policies and procedures that effectively reduce fraud losses to all parties involved in payment card transactions.”¹⁰

The current routing and exclusivity restrictions in Regulation II essentially reverse the Board’s stated policy position, which aligns with that of other federal regulators, greatly reducing the flexibility that financial institutions employ in being discerning selectors of payment networks for their customers, in order to provide safe, efficient, and reliable payment options for its customers. In effect, the restrictions create the conditions for a *de facto* mandate that drives the majority of transactions across networks and with authentication methods that regulated, insured financial institution may judge to be inferior and not best in class. That issuers have the full force of federal enforcement upon them to accept these transactions, despite well-reasoned reservations, is counterintuitive and undermines consumers’ best interests.

Beyond interchange fee limitations and routing and exclusivity requirements, the Durbin Amendment permits, but does not require, the Board to promulgate regulations regarding network fees solely for purposes of ensuring that (i) a network fee is not used to directly or indirectly compensate an issuer with respect to an electronic debit transaction; and (ii) a network

¹⁰ Letter from Federal Reserve Chair Janet Yellen to Sen. Warner (D-Va.), Mar. 5, 2015.

fee is not used to circumvent or evade the interchange fee limitations.¹¹ “Network fees” are defined under the Durbin Amendment to mean “any fee charged and received by a payment card network with respect to an electronic debit transaction, other than an interchange transaction fee.”¹²

Notwithstanding this narrow, permissive rule-writing authority, the Board promulgated a far-reaching prohibition on net compensation that exceeds the grant of rule-writing authority in the Durbin Amendment. For example, the current rule requires that issuers consider network payments for all “debit card-related activities” when calculating net compensation, whereas the Durbin Amendment is limited to direct or indirect compensations with respect to an electronic debit transaction.¹³ By including network payments for all debit-related activities, which may include marketing incentives or signing bonuses, the Board has exceeded its authority under the Durbin Amendment, which has had an adverse effect on the market and competition.

For the reasons stated above, the Board should (1) rescind the 2022 Final Rule, and (2) narrow the net compensation provisions of the current rule in a manner consistent with its narrow rule-writing authority under the Durbin Amendment.

b. Regulation CC

Simple, but impactful, updates to Regulation CC would make it easier to understand and implement by conforming it to present-day operational realities. For example, Regulation CC still references the now outdated concept of local checks. When the regulation was initially passed, checks were processed at multiple regional Federal Reserve Banks. At that time, when a depository bank's indorsement was not in the same check-processing region as the address associated with the routing number in its indorsement, it was considered a “nonlocal check” and was treated differently under several provisions of Regulation CC. By 2010, the check-processing operations of the Reserve Banks had been fully consolidated into the Federal Reserve Bank of Cleveland. This established only a single check-processing region for purposes of Regulation CC and eliminated the concept of “nonlocal” checks. Since then, the Federal Reserve has updated certain portions of Regulation CC to remove references to nonlocal checks.¹⁴

¹¹ See 15 U.S.C. § 1693o-2(a)(8).

¹² See 15 U.S.C. § 1693o-2(c)(10).

¹³ Compare 12 C.F.R. § 235.6(b) and 15 U.S.C. § 1693o-2(a)(8)(b)(i).

¹⁴ See Final Rule Amending Subparts A, C, and D of Regulation CC, Availability of Funds and Collection of Checks, 82 Fed. Reg. 27552 (Jun. 15, 2017) (see fn 10, noting that nonlocal checks are “a null set of checks.”); see also Final Rule Amending Appendix A of Regulation CC, 75 Fed. Reg. 2291 (Jan. 5, 2010) (reflecting the restructuring of the Federal Reserve Banks’ check-processing operations).



Despite this, in several places the text of Regulation CC still distinguishes between “local” and “nonlocal” checks, including setting forth different funds availability schedules for each.¹⁵ Adding to the confusion, the Official Commentary on Regulation CC extensively refers to “nonlocal” checks and explains the now-obsolete distinction between the two check types.¹⁶ The Federal Reserve Board acknowledges that the term is obsolete in its Regulation CC Compliance Guide for Small Entities, where it notes “[s]ince there is now only one Reserve Bank check-processing region, however, there are no longer any “nonlocal” checks for purposes of Regulation CC.”¹⁷ While small entity compliance guides are valuable resources, it would significantly improve the clarity of the regulation itself (and the official guidance in the Code of Federal Regulation) to remove references to “nonlocal checks.”

The Federal Reserve should improve Regulation CC’s clarity and accuracy by issuing a rule to eliminate references to “nonlocal checks” across the regulation. This simple technical amendment would make the regulation significantly easier to use, by aligning it with the operational realities of check-processing that have been in place for the last 15 years.

Similarly, Regulation CC defines a “business day” to exclude a list of enumerated Federal holidays, but the list is no longer current.¹⁸ The list of holidays does not reflect 2021 legislation establishing Juneteenth as a Federal holiday, which can cause confusion. The Official Commentary to Regulation CC states that, for the purpose of calculating funds availability requirements, “there is less need to identify a day when a particular bank is open. . . [therefore] [b]usiness day generally follows the standard Federal Reserve Bank holiday schedule.”¹⁹ While this clarification is helpful, as noted above, the rule itself should clearly and accurately reflect banks’ obligations.

We recommend that the Federal Reserve add Juneteenth to the list of excluded “business days” in the rule, or, take the opportunity to make amendments to the Federal holiday schedule self-executing. The Federal Reserve could cross-reference the Federal Reserve’s published holiday schedule, as the Official Commentary does.²⁰ Or, it could cross-reference the U.S. Code citation listing the official Federal holidays, which not only was updated to reflect Juneteenth but will

¹⁵ See e.g. 12 CFR § 229.12, *see generally* 12 CFR Part 229, Appendix C, Appendix E, Appendix F.

¹⁶ See 12 CFR Part 229, Appendix E. The Official Commentary references “nonlocal checks” 75 times, without indicating the term no longer has meaning.

¹⁷ <https://www.federalreserve.gov/supervisionreg/guide-regulation-cc-compliance.htm>.

¹⁸ See 12 C.F.R. § 229.2(g).

¹⁹ Official Commentary on Regulation CC, 12 C.F.R. Part 229, Appendix E (“229.2(f) Banking Day and (g) Business Day”).

²⁰ See <https://www.federalreserve.gov/aboutthefed/k8.htm>.

continue to reflect Congress' addition and elimination of Federal holidays.²¹ Regardless of the means, the Federal Reserve should make Regulation CC more usable and understandable by amending it to directly reflect the current Federal holiday schedule.

Additionally, the rapid evolution of check fraud—driven by advances in technology, organized criminal activity, and the proliferation of counterfeit and altered checks—has exposed significant challenges in balancing prompt funds availability with the need for robust fraud controls. The ABA reiterates the recommendations to improve the exception hold framework, which we submitted to the Agencies in response to their RFI on Payments Fraud.²²

First, the Agencies should support the expansion of “reasonable cause” holds. This recommendation supports further expansion of the “reasonable cause to doubt collectability” exception. Its current application often depends on evidence obtained from the paying bank, such as confirmation that the check is unauthorized. This reliance on external confirmation creates delays because the paying bank must first verify the check with the maker. In practice, depository institutions frequently detect red flags earlier in the process through internal staff, systems, and fraud detection protocols. Explicitly recognizing internal fraud detection as sufficient “reasonable cause” would allow institutions to act promptly, protecting consumers and businesses while reducing criminal opportunity. We recommend clarification that the “reasonable cause” exception applies when a receiving depository institution’s internal review—without waiting for paying bank confirmation—provides a reasonable suspicion of fraud. If this requires Congressional action, we recommend the Agencies request appropriate legislation.

Second, the Agencies should support creating a new fraud exception hold. “Reasonable cause” holds alone may be inadequate. In this case, we recommend the Agencies ask Congress to amend EFAA to add a distinct “fraud” exception hold. This exception would expressly authorize depository institutions to place holds based on reasonable suspicion of fraud identified through their own systems, processes, or alerts. A clear fraud exception would not only reduce consumer and business losses but also deter fraud attempts by reducing criminals’ perception that check fraud is low risk.

Third, the Agencies should support revising the definition of a “new account.” Currently, EFAA defines a new account as one opened for 30 days or less. Fraudsters often maintain accounts beyond the 30-day period precisely to avoid this restriction, leaving banks without a critical tool to manage risk. A longer timeframe—such as 120 days—would better reflect today’s fraud

²¹ See 5 U.S.C § 6103.

²² See ABA Letter to the Agencies re RFI on Payments Fraud (filed Sept. 18, 2025).



landscape, giving institutions sufficient time to evaluate customer behavior and implement effective controls. We recommend the Agencies ask Congress for this change.

Fourth, given the increasing sophistication of check fraud, we recommend maintaining or extending current regulatory hold times for check deposits and avoid shortening these periods that would undermine banks' ability to detect and prevent fraud before funds are irreversibly withdrawn. We urge the Agencies to recognize the operational realities of modern fraud and support longer hold periods, allowing institutions sufficient time to investigate and validate deposits.

These recommendations reflect the need for Regulation CC to adapt to the realities of today's fraud landscape. By preserving and extending hold periods, expanding exception holds, and revising the "new account" definition, the Agencies can empower depository institutions to more effectively detect, prevent, and mitigate payments fraud—while maintaining fair and timely access to funds for legitimate customers.

II. Capital

a. Leverage ratio reform

ABA strongly supports a holistic review of leverage ratio requirements to ensure that all leverage ratios function as a backstop to risk-based capital requirements and not a binding constraint. As the agencies have acknowledged, leverage ratios should generally serve as backstops to risk-based capital requirements. It is well recognized by policymakers that when leverage ratios bind, it can discourage low risk and relatively safe activities versus the riskiest activities. We believe it is important for the banking agencies to restore leverage ratios to a backstop as intended.

ABA has submitted a response in support of the agencies' recent consultation, which proposes to recalibrate the eSLR and corresponding TLAC and LTD leverage buffer requirements.²³

ABA has long argued that low-risk and riskless assets, such as reserves on deposit at the Federal Reserve, cash, and U.S. Treasury securities, should be excluded from leverage ratio calculations.²⁴ Their inclusion can disincentivize banks from engaging in stabilizing activities

²³ See Comment Letter on Regulatory Capital Rule: Modifications to the Enhanced Supplementary Leverage Ratio Standards for U.S. Global Systemically Important Bank Holding Companies and Their Subsidiary Depository Institutions; Total Loss-Absorbing Capacity and Long-Term Debt Requirements for U.S. Global Systemically Important Bank Holding Companies, (2025), <https://www.aba.com/-/media/documents/comment-letter/cleslr20250826.pdf>

²⁴ See Comment Letter on Regulatory Capital, eSLR Standards for U.S. GSIBs and Certain of their Subsidiary IDIs; TLAC Requirements for U.S. GSIB Holding Companies, (2018), <https://www.aba.com/-/media/documents/archives/comment-letter/revisions-to-enhanced-supplementary-leverage-ratio.pdf>

when those functions are most needed. Their exclusion, particularly in stressed macroeconomic circumstances, would provide banks with flexibility to accommodate deposit inflows and facilitate Treasury market intermediation during flights to safety. The existing framework inadvertently penalizes banks for performing these essential functions when they are most needed.

The agencies should consider future proposals excluding such assets from the leverage ratio calculations for all banks. We echo the recent remarks of Federal Reserve Vice Chair Bowman that the agencies should “reconsider capital requirements for a wider range of banks, including the SLR’s application to banks with more than \$250 billion in assets, tier 1 leverage requirements, and the calibration of the community bank leverage ratio.”²⁵

Similarly, the agencies should exercise their existing statutory authority to reduce the community bank leverage ratio (CBLR) from 9 percent to 8 percent. We share Vice Chair Bowman’s views that this change would “not only allow more community banks to adopt the framework but also increase balance sheet capacity for all CBLR firms, facilitating additional support for local economies through lending.”²⁶

b. Stress testing framework

We reiterate our views that many aspects of the stress testing framework are in need of substantial reform.²⁷ The below points are not exhaustive and the industry will provide a full response after the 2025 stress testing Proposal is released.²⁸

In considering revisions to the stress testing framework, the Federal Reserve should ensure that capitalization for the same risks is not duplicated in the Federal Reserve’s capital rule and applicable buffers; provide greater transparency to banking organizations with respect to models and stress testing results; and fully and clearly define the paths of additional variables in the stress testing scenarios.

Certain aspects of the stress testing framework should be recalibrated to improve risk sensitivity – in particular, the Global Market Shock (GMS) and Large Counterparty Default (LCD) components. For instance, the GSM’s assumption of no liquidity over an extended period of time

²⁵ Michelle Bowman, “Unintended Policy Shifts and Unexpected Consequences,” Conference on the Effectiveness of Monetary Policy during and after the COVID-19 Pandemic, International Journal of Central Banking and the Czech National Bank, Prague, Czech Republic, June 23, 2025.
<https://www.federalreserve.gov/newsevents/speech/bowman20250623a.htm>

²⁶ Michelle Bowman, “Thoughts on the Economy and Community Bank Capital,” Kansas Bankers Association 2025 CEO & Senior Management Summit, Colorado Springs, Colorado, August 9, 2025.
<https://www.federalreserve.gov/newsevents/speech/bowman20250809a.htm>

²⁷ See Comment Letter on Modifications to the Capital Plan Rule and Stress Capital Buffer Requirement, (2025), <https://www.aba.com/-/media/documents/comment-letter/jointelcapital20250623.pdf>

²⁸ See Open board meeting - October 24, 2025 (2025) Federal Reserve Board - Open Board Meeting.
<https://www.federalreserve.gov/aboutthefed/boardmeetings/20251024open.htm>

should be modified to an assumption of limited liquidity. In addition, the LCD should be modified to reflect a default based on the average of a banking organization's top counterparties, not the single largest counterparty.

Similarly, the supervisory pre-provision net revenue (PPNR) and loan loss models should better align with market realities. For example, PPNR models should reflect higher trading income derived from client-driven activity during periods of volatility and the loan loss models should better reflect underlying collateral on secured loans.

c. Long-term debt requirements

We encourage the agencies to revisit the need for long-term debt requirements. While we continue to support an appropriately calibrated total loss absorbing capacity (TLAC) requirement for covered BHCs, a separate long-term debt requirement is unnecessary and should be eliminated.²⁹ Covered BHCs should be able to satisfy their minimum TLAC requirements by freely substituting equity for long-term debt securities and long-term debt securities for equity, subject to applicable regulatory capital requirements.

We also urge the agencies to rescind the 2023 LTD proposal for large depository institution holding companies, and large IDIs.³⁰

d. Basel III Endgame

We reiterate our views that the 2023 Basel III proposal was fundamentally flawed.³¹ As the agencies consider next steps for a new proposal, they should consider the framework more holistically, removing gold-plating in the original proposal, addressing the duplication with the stress testing framework, and addressing known issues with the GSIB requirements, including the need to index the U.S. Method 2's fixed coefficients to nominal GDP to account for the inflationary effect of economic growth on firms' scores.

²⁹ See Comment Letter on the Notice of Proposed Rulemaking on External TLAC, Long-Term Debt, Clean Holding Company and Other Requirements Applicable to U.S. G-SIBs, (2016), https://www.federalreserve.gov/secre/2016/april/20160422/r-1523/r-1523_032816_130250_545759023734_1.pdf.

³⁰ Notice of Proposed Rulemaking, Long-Term Debt Requirements for Large Bank Holding Companies, Certain Intermediate Holding Companies of Foreign Banking Organizations, and Large Insured Depository Institutions, 88 Fed. Reg. 64524 (Sep. 19, 2023).

³¹ See Comment Letter on the Regulatory Capital Rule: Large Banking Organizations and Banking Organizations with Significant Trading Activity, (2024), <https://www.aba.com/-/media/documents/comment-letter/ltrbaselendgame20240116.pdf>

The recent Federal Reserve stress testing results showed that “large banks are well positioned to weather a severe recession.”³² We share FDIC Acting Chairman Hill’s views that “a proposal that is roughly capital neutral...remains a prudent starting point.”³³

e. U.S. standardized requirements under Regulation Q

i. Capital deductions

The agencies should retain the requirements from the 2019 Simplifications Rule that simplified the framework for deductions from CET 1 capital and for the recognition of minority interests for banking organizations that are not Category I or II firms.³⁴ Specifically, the agencies should retain the 25% deduction threshold for deferred tax assets (DTAs), mortgage servicing assets (MSAs) and significant investments in unconsolidated financial institutions (UFIs). The agencies should also extend these deductions to all banks.

For non-significant investments in financial institutions (NSFI), the agencies should exempt index fund holdings of financial institutions. Index holdings are a means to gain broad market exposure rather than to gain exposure to financial institutions. Indirect holdings in financial institutions through an index fund are incidental to gaining broad exposure to the entire market.

Holdings in financial institutions arising from market-making activity should also be excluded. These do not represent investments in other financial institutions. Rather, these are short-term client driven transactions. A market making exemption would align with European implementation and mitigate the risk of equity market illiquidity should banks be limited in their ability to make markets in financial institutions or indices

ii. Repos / securities lending

The agencies should recognize netting and diversification benefits in the Collateral Haircuts Approach. The Collateral Haircuts Approach can result in uneconomic outcomes where similar collateral posted or received must be assumed to both increase and decrease in price.

iii. Secured lending

Remove security pledge transactions from the counterparty credit risk requirements where collateral is exchanged without title transfer, consistent with what is already allowed for cleared transactions. Collateral that is pledged by a bank without title transfer, at a third-party custodian,

³² FRB’s annual bank stress test showed that large banks are well positioned to weather a severe recession, while staying above minimum capital requirements and continuing to lend to households and businesses, (Jun. 27, 2025). <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20250627b.htm>

³³ Travis Hill, “Charting a New Course: Preliminary Thoughts on FDIC Policy Issues,” American Bar Association, Washington, D.C., January 10, 2025. <https://fdic.gov/news/speeches/2025/charting-new-course-preliminary-thoughts-fdic-policy-issues>

³⁴ Final Rule, Regulatory Capital Rule: Simplifications to the Capital Rule Pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996, 84 Fed. Reg. 35234 (July 22, 2019)

and without rehypothecation, does not result in credit risk to the pledging institution. The capital rules recognize that there is no credit risk when these fact patterns exist for cleared transactions and should do the same for secured lending activity.

iv. Mortgages risk weights

Align mortgage, CRE and retail risk weights with the international Basel III Standard. Risk weights on the Basel III standard are representative of the actual risk and provide granularity to differentiate between the risk profiles of the exposures.

The agencies should also use “current LTVs” that reflect borrowers’ current outstanding debt rather than “original LTVs” at origination. Current LTVs represent the actual risk of the position rather than a static and outdated view of the risk.

v. Corporate risk weights

The agencies should align risk weights for broker dealers to be consistent with those applicable to banks, especially if the broker dealer is subject to a Basel equivalent capital framework – such as for broker dealers that are subject to SEC requirements. U.S. rules have gold-plated the risk weights for broker dealers with no credit given to the regulatory oversight on these entities.

The agencies should not require that a corporate has a publicly traded security outstanding, in addition to being an investment grade, to qualify for the 65% risk weight. In addition, rather than applying one standard risk weight to all corporates, the agencies should differentiate risk weights by creditworthiness. They should also provide granularity to differentiate between investment grade and high yield counterparties, in alignment with prudent risk management.

vi. Securitization

See the Structured Finance Association’s EGRPRA comment letter for the industry’s views on securitization.³⁵

vii. Foreign bank definition under Regulation K

The agencies should de-couple the definition of a foreign bank from Regulation K - 12 CFR 211.2. Regulation K defines a foreign bank as any company that meets 5 criteria, with the most problematic being “receives deposits to a substantial extent in the regular course of its business.” “Substantial extent” is not a defined term and introduces ambiguity that can lead to inconsistent capital treatment across firms. Further discussion with the industry is needed to determine an appropriate and workable standard that is clear and consistently applied.

³⁵ See Structured Finance Association’s comment letter on EGRPRA, (Oct 3, 2025), <https://www.fdic.gov/federal-register-publications/structured-finance-association-michael-bright-rin-3064-za39.pdf>

viii. Standardized approach for counterparty credit risk (SA-CCR)**1. Remove alpha**

The agencies should amend SA-CCR to be more risk sensitive by, for example, removing the alpha 1.4x multiplier for all activity, at least in relation to the replacement cost that reflects balance sheet values that are certain. In addition, alpha—which was calibrated in 2005 assuming derivatives are unmargined—is outdated and should be revisited.

2. Collateral recognition

The agencies should improve collateral recognition through revision of the potential future exposure (PFE) multiplier formula. At present, there are diminishing marginal returns to adding additional collateral, making it impossible to reduce SA-CCR exposure at default (EAD) to zero, even with infinite collateral.

3. Supervisory factors

The agencies should revise the supervisory factors for the equities asset class to better reflect underlying asset volatilities, as alluded to in the preamble to the SA-CCR final rule. Equity supervisory factors, in particular, are not consistent with the empirical data and should be recalibrated.

4. Netting

The agencies should allow for both settle to market (STM) and collateralize to market (CTM) netting. STM and CTM netting should be allowed consistent with the legal, risk, and accounting framework. In addition, the agencies should allow banks to opt into CTM where STM is used, and vice versa.

5. Decomposition non-linear index derivatives

For the SA-CCR PFE calculation, the agencies should expand the ability of banks to decompose index derivatives into single name exposures to also apply to index options—in particular, plain vanilla options. This would allow better hedge recognition, particularly in instances where indices are similar but not identical.

6. FX Hedge recognition

The agencies should allow for better hedge recognition for FX by allowing banks to net by currency instead of currency pair and incorporating a correlation for the FX add-on aggregation.

7. Credit valuation adjustment (CVA)

The agencies should allow SA-CCR EAD to be reduced by CVA, similar to B3E. This would remove double counting of the same risk and be consistent with the application of SA-CCR under the Advanced Approach.

ix. Credit risk mitigation

The agencies should appropriately recognize the various forms of credit risk mitigation, including the following:

The traditional and synthetic securitizations frameworks prevent recognition of valuable credit risk mitigation tools. Specifically, it requires accounting de-recognition for originated traditional securitizations and imposes operational constraints—such as the reservation of authority (RoA) and notional limits—on the use of credit-linked notes (CLNs) in originated synthetic transactions.

The agencies should eliminate the de-recognition requirement for originated traditional securitizations and allow CLNs to be used for originated synthetic securitizations without requiring RoA approval or imposing notional limits.

The agencies should remove or modify the “stay risk” element from the definition of a “collateral agreement” in 12 CFR 217.2 so that financial collateral held by an institution can potentially be recognized as a credit risk mitigant more broadly, provided all other criteria are met. The collateral recognition under the “Simple Approach” is too restrictive. In particular, the collateral agreement requirement inadvertently excludes the recognition of financial collateral for exposures where the banking organization’s exercise of rights under the agreement may be stayed. This requirement makes the Simple Approach unavailable for high quality loans and other contracts where a counterparty would have enforceable rights to collateral.

Furthermore, partial recognition should be given for foreign exchange (FX) mismatches when recognizing collateral under the “Simple Approach.” Full disallowance of collateral for any FX mismatch is misaligned with the legal agreement and prudent risk management generally.

The agencies should also recognize non-investment-grade instruments as financial collateral under the “Collateral Haircuts Approach.” This would reduce procyclicality given credit downgrades are most likely in stressed periods, better align capital with prudent risk management, and remove cliff effects in the capital framework.

f. G-SIB

i. Recalibrate coefficients indexed to nominal GDP

The agencies should recalibrate coefficients using nominal GDP since 2015 to account for economic growth (*see pages 26 and 27*). This would remove double counting for capital markets activity across the framework and remove gold-plating relative to the international framework.

ii. Short-term wholesale funding (STWF)

The agencies should adjust the STWF indicator to constitute only 20% of the systemic risk score. This change would restore balance in the framework as initially intended.

iii. Equity exchange traded funds (ETFs)

The agencies should exclude equity ETFs from Interconnectedness, similar to bond ETFs. ETFs are not financial institutions and were likely intended to be included in the Interconnectedness exclusion.

iv. Remove current exposure method (CEM)

The agencies should replace CEM with SA-CCR for Interconnectedness. This would align with the replacements of CEM in RWA and the Supplementary Leverage Ratio (SLR). Additionally, they should exclude the SA-CCR alpha factor from GSIB surcharge calculations in measuring derivative exposure.

v. Derivatives

The agencies should remove the triple count of derivatives across Size, Interconnectedness and Complexity. This would remove relative bias against capital markets activities. Excluding the Principal model from Complexity and Interconnectedness would align with the current treatment for Agency model activities.

vi. Repos

The agencies should remove the quadruple count of repo-style transactions across Size, Interconnectedness, Cross-Jurisdictional Activity, and STWF. This change would remove relative bias against capital markets activities.

g. Market risk

The Agencies should consider developing a mechanism to review and exempt value at risk (VaR) back testing exceptions in periods of stress if the breach was not a result of a model shortcoming.

During the Covid pandemic, the Agencies provided relief to avoid outsized impacts to a banking organization's capital requirements arising from a pandemic-related "sudden and significant repricing of global financial markets" resulting in an increased number of VaR model back testing exceptions. These breaches tend to be procyclical thus exacerbating stressed conditions.

h. Digital assets

The agencies should provide for regulatory certainty with respect to digital asset exposures. Regulation should not result in an effective prohibition or an overall cap on the amount of

activity. As President Trump’s Working Group on Digital Asset markets noted,³⁶ the agencies should “ensure that bank capital rules are aligned with the actual risks associated with digital assets, not simply the fact of their presence on a distributed ledger.”

Regulatory capital should be de-linked from the accounting classification if it would result in a capital deduction or an effective prohibition. Accounting should not disrupt the principle of technologically neutral – “same risk, same treatment.”

III. Community Reinvestment Act (CRA)

The multiyear effort to modernize the CRA regulations led to the 2023 Rule, which the agencies are now in the process of rescinding. The proposed rescission follows a legal challenge alleging that the 2023 Rule exceeded the agencies’ statutory authority. ABA strongly supports repealing the 2023 Rule and replacing it with the 1995 framework. While the modernization effort was unsuccessful, it highlighted the strengths of the legacy rule as well as areas where targeted updates are needed.

Below we provide several recommendations for meaningfully improving the 1995 framework. These changes can be made through modest revisions to the CRA regulation, updates to the Interagency Questions and Answers (Interagency Q&A), and improvements to CRA-related processes. After the 1995 framework is reinstated, we also request that the agencies resume meeting with trade associations and bankers to discuss CRA topics and address banker questions. This dialogue will be especially important as more banks pursue a hybrid business strategy that combines online lending, traditional bank branches, and non-branch funding sources. It would promote consistency across the agencies and provide needed clarity for new CRA officers and agency staff following the recent wave of retirements among experienced bankers and regulators. It would also benefit community banks that do not have large compliance teams.

a. Performance tests

i. Size thresholds

The asset caps for the Small Bank and Intermediate Small Bank performance tests are too low and do not reflect the evolution of the banking sector following the establishment of the

³⁶ President’s Working Group on Digital Assets. Strengthening American Leadership in Digital Financial Technology. 2025. <https://www.whitehouse.gov/wp-content/uploads/2025/07/Digital-Assets-Report-EO14178.pdf>. See also e.g., Joint Trades Letter to BCBS re: Cryptoasset Exposure Standards, Aug 2025, which recommends essential revisions to the Basel Committee’s cryptoasset exposure standard, noting the standard’s excessively conservative and overly punitive capital treatment, which is misaligned with actual risk. <https://www.gfma.org/wp-content/uploads/2025/08/bcbs-prudential-letter-final-public-version.pdf>

Intermediate Small Bank classification in 2005.³⁷ As a result, CRA performance tests that once reflected meaningful distinctions in size and capacity are now applied to institutions that were never intended to be subject to the full spectrum of CRA requirements.

In 2005, banks with up to \$250 million in assets qualified for evaluation under the Small Bank Test, while those with assets between \$250 million and \$1 billion qualified for the Intermediate Small Bank Test. At that time, these thresholds corresponded to the 73rd and 93rd percentiles of bank asset size, respectively. Today, those same percentiles align with approximately \$850 million and \$4.7 billion in assets. To maintain consistency with the original intent of the regulation, we recommend that the agencies update the CRA asset thresholds to reflect the current distribution of bank sizes. Under this approach, the Small Bank Test would apply to banks with up to \$850 million in assets, and the Intermediate Small Bank Test would apply to those with up to \$4.7 billion.

Following this initial adjustment, we recommend that the thresholds be indexed annually to nominal Gross Domestic Product (GDP) rather than the Consumer Price Index (*see pages 26 and 27*). Indexing to nominal GDP would ensure that the CRA asset classifications remain meaningful and appropriate as the economy grows and the banking sector evolves.

ii. Specialized Lending and Strategic Plan Flexibility

Banks have evolved beyond the traditional branch-based model. As the economy has become increasingly digital, many institutions have diversified their business strategies. Some are pursuing hybrid models that maintain their existing branch networks for deposit-taking and local lending, while also offering specialized lending products outside their branch footprint. These niche products, such as equipment financing or veterinary practice loans, are often funded through brokered deposits or other non-branch-based sources and reflect many community banks' interest in meeting targeted credit needs as well as the business needs of the bank.

This evolution has created challenges under CRA's in/out ratio, which is a metric that examiners use to assess the proportion of loans made inside versus outside a bank's assessment area. The in/out ratio is intended to ensure that banks are helping to meet the credit needs of their communities and are not simply exporting local deposits for the purpose of making loans elsewhere. A skewed in/out ratio can result in a low CRA rating for banks that are market leaders in their assessment areas but also lend in a wider geography through specialized lending products.

³⁷ The CRA regulation establishes three categories of performance tests, which are based on a bank's asset size. These thresholds are adjusted annually for inflation based on changes to the Consumer Price Index. The size classifications are as follows:

- Small Bank Test: Up to \$402M
- Intermediate Small Bank Test: \$402M - \$1.609B
- Large Bank Test: More than \$1.609B

It is important that the CRA regulatory framework not discourage innovation or new business strategies; banks must be free to adapt in order to remain competitive in the modern economy. For this reason, we urge the agencies to ensure that the strategic plan option remains a viable alternative for evaluating CRA performance, especially for community banks.³⁸ Regulators should take care not to discourage (directly or indirectly) banks from pursuing a strategic plan. Regulators should improve the strategic plan approval process to make the option more accessible. We recommend the following three enhancements.

First, streamline the strategic plan approval process. Regulators should reduce the time, burden, and red tape associated with developing a strategic plan. We support the OCC's recent announcement that it intends to simplify the strategic plan process for community banks and urge the FDIC and Federal Reserve to follow suit.³⁹

Second, provide clearer guidance. The agencies should issue interagency guidance regarding how to draft a strategic plan, including examples of measurable goals. OCC Bulletin 2019-39, *Guidelines for Requesting Approval of a Strategic Plan*, is a helpful resource, but additional information issued on an interagency basis would support broader adoption of strategic plans. We also encourage the agencies to invite public comment on the guidance.

Third, clarify the role of public input. The banking agencies consider the public's involvement in formulating a bank's proposed strategic plan, the public's written comments on the plan, and any response by the bank. We request that the agencies clarify that a bank may prioritize feedback from those organizations that serve the geographies covered by the plan. The agencies should also clarify which topics are in scope and how public comments will be weighed. Further, the agencies should ensure that strategic plans do not become *de facto* community benefit agreements.

b. Assessment areas

The CRA regulation requires that a bank's assessment area consist of one or more metropolitan statistical areas or metropolitan divisions or one or more contiguous political subdivisions, such as counties, cities, or towns. Over the years, the agencies have adopted varying approaches

³⁸ The CRA regulation permits banks to elect to have their CRA performance evaluated pursuant to a CRA strategic plan in lieu of the standard Small, Intermediate, or Large Bank tests. A CRA strategic plan must specify measurable CRA goals and must be developed with public input and receive regulatory approval. Strategic plans enable banks to customize their CRA responsibilities to better reflect their communities, product offerings, business strategy, and expertise.

³⁹ OCC News Release 2025-95 (October 6, 2025). <https://www.occ.gov/news-issuances/news-releases/2025/nr-occ-2025-95.html>

regarding full versus partial county assessment areas even though the regulation does not require banks to delineate assessment areas comprised of an entire county.

Some banks designate partial-county assessment areas due to the geographic characteristics of the areas where they operate—for example when the bank has a single branch on the edge of a large county or when it has a single branch in a county that includes a large city. Other banks delineate full county assessment areas to reduce redlining risk or because they feel pressured by examiners to do so even though full county delineations are not required by the rule.

To preserve flexibility that reflects a bank's capacity, business strategy, and the unique geographic features of its community, we request that the agencies revise the Interagency Q&A to affirm that partial-county delineations are permitted, provided that they do not reflect illegal discrimination or arbitrarily exclude low-and moderate-income (LMI) geographies. This clarification should also be included in the Interagency CRA Examination Procedures. We understand that some examiners view full county assessment areas as a more consistent standard for evaluating CRA performance. However, consistency must be balanced with assessment areas that reflect geographic realities and the communities that the bank can reasonably serve.

For banks that choose to delineate fully-county assessment areas, we request that the agencies revise the Interagency Examination Procedures and the Interagency Q&A to explain the performance context factors examiners will apply when the bank cannot reasonably serve the entire geography—for example, when a single branch is located on the county line, the county divided by a mountain range, or the county is exceptionally large.

c. Community development

Determining whether loans and investments qualify for community development credit continues to be a challenge for banks. In addition, banks have encountered inconsistent examiner expectations regarding the documentation required to support positive CRA consideration of community development activities. Below, we recommend several steps the agencies can take to address these issues.

i. Naturally occurring affordable housing (NOAH)

We request that the agencies update the Interagency Q&A to define what qualifies as NOAH for CRA purposes. With only 20% - 25% of affordable rental housing in the U.S. receiving direct government subsidies, most affordable housing is naturally occurring. Yet, rising rents and limited supply are making it difficult for families to find affordable options. Banks want to support housing affordability, but inconsistent standards and unrealistic or excessive documentation requirements make it difficult to do so.

To encourage investment in NOAH, we recommend that the agencies specify that examiners will provide positive CRA consideration when the majority of units in a multifamily property do not exceed 30 percent of 80 percent of Area Median Income (AMI). This aligns with the housing goals for Fannie Mae and Freddie Mac, which include a goal for the number of units affordable by LMI families with incomes no greater than 80 percent of area median income. In high-cost areas designated by the Federal Housing Finance Agency (FHFA), we support extending CRA eligibility to units affordable to renters earning up to 100 percent to 120 percent of AMI. We also request that the agencies provide non-exclusive examples of documentation that banks can use to qualify NOAH for positive CRA consideration.

ii. Pro rata credit

We recommend that the agencies revise the Interagency Q&A to provide partial (pro rata) credit to all types of community development activities—not just those involving affordable housing. Current regulatory practices only recognize community development initiatives if they are targeted to LMI individuals or revitalize or stabilize disaster areas or underserved or distressed middle-income areas. This approach does not reflect the full spectrum of a bank's community development activities.

Interagency Q&A 12(g)(4)(iii) addresses this issue, but its application is limited to non-metropolitan, middle-income census tracts (if the community is in a county that is classified by the agencies as distressed or underserved, as published annually). Banks may receive credit for revitalization and stabilization in these areas, even if they cannot show that the activity will benefit LMI individuals or areas. While helpful, this Q&A leaves many banks without credit for similar efforts in metropolitan areas.

iii. Credit for outstanding balances on prior period community development loans

We recommend that the agencies revise the Interagency Q&A to provide positive CRA consideration for outstanding balances on community development loans. Currently, only community development investments are given prior period consideration. Providing positive CRA consideration for outstanding balances on community development loans will encourage banks to provide long-term financing that is often key to the success of community development initiatives. In many cases, longer-term loans have a greater community impact than short-term revolvers (depending on conditions) and should be recognized accordingly.

iv. Financial literacy

We recommend that the agencies revise the Interagency Q&A to provide that all financial education activities are eligible for positive CRA consideration, regardless of the income of the

recipients. Currently, credit is limited to programs that serve LMI individuals or schools where more than half of students qualify for free or reduced-price meals. This narrow standard overlooks the broader need for financial education across all communities.

Frequently, children from all income levels do not receive training at home regarding how to manage a checking account, distinguish between needs and wants, establish short-term and long-term financial goals, or determine the pros and cons of applying for a loan. In addition, requiring financial literacy initiatives to have a principal purpose of serving LMI individuals is inconsistent with school boundaries in many communities. Rural schools typically draw students from a wide geographic area, and many rural counties have only one high school. Moreover, some school districts in small cities and suburban areas intentionally draw their attendance maps so that the student population is economically diverse. These realities make it difficult to target financial education solely to LMI populations.

Banks also are important providers of financial education for adults. This may take the form of housing counseling, budgeting instruction, or programs to prevent elder financial exploitation. Today, a bank does not receive CRA consideration for making these presentations to organizations that do not qualify as having a community development purpose (e.g., Rotary Club, Lions Club, Chamber of Commerce, etc.). Senior citizens in all income brackets are at heightened risk of fraud and financial abuse and policymakers encourage banks to participate in programs to prevent financial exploitation. As such, these activities should receive CRA credit.

Banks also provide instruction pertaining to financial services innovation, such as information regarding merits of different types of payment processors or the use of digital wallets. Digital financial literacy is important for individuals from all income levels—not just those who are low income. As technology continues to reshape how individuals manage their money, CRA should recognize the value of helping consumers navigate digital tools safely and effectively.

v. Community development financial institutions (CDFIs)

Today, the banking agencies do not provide positive CRA consideration for activities conducted in conjunction with CDFIs unless those activities benefit the non-CDFI bank's assessment area(s) or the broader statewide or regional area that includes the bank's assessment area(s). This geographic limitation discourages banks from supporting high-impact CDFIs that operate outside their footprint—even when those CDFIs are serving deeply underserved communities.

We request that the agencies update the Interagency Q&A to provide that loans, investments, and services provided in connection with a Treasury-Department-certified CDFI will receive positive CRA consideration, regardless of location. This would align the CRA treatment of CDFI activities with the consideration already afforded to activities with Minority- or Women-Owned

Financial Institutions and Low-Income Credit Unions. Updating the Q&A in this regard would be a modest but meaningful step toward expanding access to capital in LMI communities nationwide.

vi. Volunteer service

Under current rules, community development services must meet the definition of community development and must be related to the provision of financial services. The Interagency Q&A explains that such services are limited to the provision of financial expertise, such as credit counseling, financial planning, or other types of financial education. In addition, services reflecting an employee's role at the bank, such as human resources, information technology or the provision of legal services, will receive positive CRA consideration.

These restrictions artificially limit a bank's options for addressing needs in its community. For example, banks are unable to receive positive CRA consideration for volunteer hours to construct a home sponsored by Habitat for Humanity even though the activity clearly supports affordable housing.

We request that the agencies revise the Interagency Q&A to provide positive CRA consideration for volunteer service performed by bank employees acting as representatives of the bank, as long as the service meets the definition of a qualifying community development activity. The activity would need not be limited to the provision of professional services. This approach would empower banks to deploy CRA resources in a manner that responds more effectively to local needs.

vii. List or database of CRA-qualifying activities

Some banks have been able to obtain feedback from their examiners as to whether a proposed loan, investment, or service will receive positive CRA consideration, while other banks have not. Whether an activity will receive CRA credit is one factor of many that banks consider when making community development lending and investment decisions. Providing certainty regarding CRA eligibility may increase the flow of capital for certain types of projects. The 2023 Rule incorporated this idea, and we believe that the agencies should integrate it into the 1995 framework.

This concept could take several forms, such as the illustrative list contemplated in the 2023 Rule. Alternatively, the FFIEC could establish and maintain a database of activities that have historically received CRA credit, are targeted to LMI populations, or are aligned with government-supported programs and policies that advance CRA-related goals. Any such resource should be cumulative, searchable, and organized by topic (rather than date). It could also identify CRA-qualified nonprofit organizations.

The list or database should be easily understood by frontline personnel who do not specialize in compliance, such as branch managers, commercial lenders, and community development officers. In addition, the list should be updated regularly.

viii. Pre-clearance process

While an illustrative list or CRA database could address uncertainty and inconsistency regarding what qualifies for CRA consideration, it would not address new or innovative activities. For this reason, we recommend that the agencies establish a process through which banks may request advance confirmation that a community development activity will receive positive CRA consideration. This mechanism would help provide the certainty that banks need when considering new and innovative activities. This concept was a widely-supported feature of the 2023 Rule, and we recommend that the agencies incorporate it into the 1995 framework. As we have noted previously, the timeliness of the regulatory response will be critical to the success of this process.

ix. Classification of small business loans

Today, a loan that meets the definition of a small business loan must be reported as such. A bank may not choose to report it as a community development loan even if it has a community development purpose. As a result, community development loans are being undercounted. We request that the agencies provide banks with the option of classifying small business loans with a community development purpose as a community development loan or as a loan under the general lending test.

d. Small business lending

Banks have multiple reporting obligations with respect to small business lending. They must report information for purposes of the Call Report, CRA, and the Consumer Financial Protection Bureau's (CFPB's) small business lending data collection rule (1071 Rule). The 1071 Rule

is subject to litigation and has been delayed while the CFPB repackages the rule. Once a new rulemaking is complete, it is possible that banks will be required to maintain two reporting systems for small business lending—one for CRA and Call Report purposes and another for 1071 reporting—because the data elements and reporting thresholds may differ. Dual reporting requirements for the same loans will be inefficient, costly, and operationally burdensome.

While some interested parties have suggested aligning CRA reporting with the 1071 Rule, doing so could create gaps in CRA performance data or require banks to track certain small business loans separately. For example, loan purchases are not included in the 1071 rule issued in 2023, potentially requiring banks to track loan purchases separately or risk losing CRA credit.

Similarly, loan renewals, which are counted for CRA purposes, are excluded from the 2023 final rule for 1071. Further, even if CRA and 1071 reporting were to be aligned, banks would still have to report small business lending for Call Report purposes.

We urge the agencies to carefully consider the challenges posed by dual reporting regimes and to revisit both the CRA small business lending thresholds and reporting requirements once the CFPB finalizes its revised 1071 rule. Thoughtful coordination across regulatory frameworks is essential to reducing unnecessary burden.

e. Process issues

We offer several process-oriented improvements to CRA examination and supervision. These issues were among the initial concerns that ABA and other stakeholders identified as priorities for agency action during the initial CRA modernization effort in 2017.⁴⁰ However, the modernization initiative, which culminated in the 2023 Rule, evolved into a sweeping overhaul that diverged from the initiative's original intent and left many of these process concerns unaddressed.

i. Bulletin boards and informal interpretations

Our members (particularly community banks) have encountered situations where examiners cite internal agency “guidance” that has not been made public. This guidance typically involves informal interpretations of various aspects of CRA compliance that agency staff has posted to internal agency “bulletin boards.” While these online discussions may not be intended to represent official agency positions, some examiners are treating them as such. Banks learn about the internal guidance during an examination and are not provided access to these internal agency documents. Informal, internal agency interpretations should not create official supervisory policy. If internal guidance does represent official policy, it should be made public. Regulators should review these postings for potential inclusion in future updates to the Interagency Examination Procedures and/or the Interagency Q&A.

ii. Performance context

In addition to possessing technical expertise, CRA examiners must apply sound judgment to assess a bank's qualitative impact and performance context. Some banks—particularly community banks—have encountered CRA examiners that disregarded the bank's performance context in favor of a rigid, quantitative analysis of the bank's CRA performance. This may be partly because community bank examiners often conduct multiple types of examinations (not just

⁴⁰ See, American Bankers Association, *CRA Modernization: Meeting Community Needs and Increasing Transparency* (Dec. 2017).

CRA), whereas larger banks are typically evaluated by CRA specialists with deeper expertise. When examiners do consider performance context, exam reports often do not describe how that information informed the bank's final rating. This lack of transparency may contribute to the perception of inconsistency in CRA examinations.

To address this issue, the agencies should require examiners to include a performance context analysis in the exam report that clearly explains how performance context factors affected the bank's CRA rating. Greater transparency will help banks and stakeholders understand the rationale behind CRA ratings and foster trust in the CRA examination process. We also urge the agencies to update the Interagency Q&A and/or the Interagency CRA Examination Procedures to provide a more detailed explanation of how examiners apply performance context.

iii. Reclassification of census tracts

Census tract income classifications often change as demographic data is updated.⁴¹ These reclassifications can affect whether a bank is deemed to adequately serve its assessment area. To date, the banking agencies have not explained how examiners will assess CRA performance in light of census tract changes. Banks should not be penalized by the reclassification of an LMI census tract to a middle income tract. Likewise, banks should not be expected to reallocate branch distributions in response to dramatic swings in census tract designations.

We recommend that the agencies update the Interagency Q&A and/or the Interagency Examination Procedures to specify that examiners should consider performance context in these situations. This includes evaluating the bank's ability to reach the LMI demographic based on its existing branch network and other delivery channels. For community development activities, banks should receive positive CRA consideration if a census tract is designated as LMI at the time underwriting began, even if the census tract is reclassified before the loan closes. Community development loans can take years to identify, underwrite, and close; CRA credit should reflect the status of a census tract at the time of the bank's commitment.

iv. Documentation

There is inconsistency across and within agencies regarding the documentation necessary to receive positive CRA consideration for certain activities, such as partnerships with nonprofit organizations and financing affordable rental housing. We urge the agencies to update the

⁴¹ In 2012, the FFIEC began to utilize data from the Census Bureau's American Community Survey to determine whether census tracts should be designated as low-and moderate-income for purposes of assessing a bank's CRA compliance. The following year, the Office of Management and Budget (OMB) published a new set of definitions for Metropolitan Statistical Areas (MSAs) and Metropolitan Divisions (MDs). Many census tracts previously designated as low-and moderate-income have been reclassified as middle or upper income due to new data from the American Community Survey as well as changes to OMB's new definitions for MSAs and MDs.

Interagency Q&A to provide examples of sufficient documentation. ABA would welcome the opportunity to collaborate with the agencies on this project.

f. Miscellaneous

i. Public file

The CRA public file requirement should be aligned with the digital age and reduce unnecessary burden. Much of the information required to be included in the public file, such as branch locations, street addresses, services provided, and hours of operation, is available on the bank's website. Requiring banks to maintain this information in the public file is inefficient and does not enhance the public's access to information. Therefore, we request that the agencies amend the CRA regulation to streamline the information that banks are required to provide in the public file. In addition, the agencies should provide banks with the option of providing a link to the public section of its most recent CRA performance evaluation instead of a copy of the report. We also recommend that regulators provide banks the option of providing the public file in either paper or digital format.

ii. Reg H/Public welfare investments

The Federal Reserve's regulations governing public welfare investments (PWI's) are inconsistent with the CRA regulation and the Interagency Q&A. These discrepancies harm communities by making it more difficult for state member banks to engage in the full spectrum of CRA-eligible activities.

Regulation H permits state member banks to invest in PWIs if such investments involve six narrow categories of activities.⁴² A bank must obtain approval from the Board of Governors (the Board) prior to investing in PWIs outside of these six categories, even though such investments receive positive consideration under the CRA regulations. Importantly, the six categories of permissible activities are more limited in scope than community development investments that receive credit under CRA.⁴³ This creates a situation where banks would receive CRA credit per

⁴² The six categories include certain residential property activities, nonresidential property activities, investments in small businesses, job training programs, job creation, and the provision of technical assistance. Notably, Regulation H requires that certain PWI investments be located exclusively in an LMI area. This means that the Board must approve certain categories of PWI investments in middle-income areas, even if those investments are for the exclusive benefit of LMI individuals. See corresponding chart for more information.

⁴³ Banks receive CRA credit for investments that revitalize or stabilize LMI geographies, disaster areas, or distressed or underserved nonmetropolitan middle-income areas. However, these activities are not permissible PWIs for state member banks without prior approval.

the CRA regulations, but they are not authorized to make such investments under the PWI rules. These restrictions do not apply to banks supervised by the OCC or the FDIC.

The Federal Reserve should encourage banks to pursue investments that are responsive to community needs rather than limiting CRA investments to activities that are not subject to a lengthy approval process (e.g., MBS). Not all banks have the expertise or legal budget to shepherd a PWI request through Federal Reserve staff and a vote by the Board. Accordingly, we recommend that the Federal Reserve revise Regulation H to clarify that if an investment is a qualified investment under CRA regulations, then such investment also qualifies as a PWI that does not require prior approval from the Board. In lieu of Board approval, banks could be required to provide after-the-fact notice, consistent with the PWI notice requirement for national and state nonmember banks.

iii. Table of contents

As the agencies update the Interagency Q&A, we recommend that they add a table of contents with links to each section of the document. This would make the Q&A more user friendly by reducing the amount of time that users must scroll through the document to locate the information that they are seeking.

IV. Indexing Asset Thresholds

For decades, many regulatory thresholds have stayed fixed in nominal terms, even as the economy has grown. These thresholds were typically set during very different economic conditions and generally are meant to tailor regulations so that institutions are not unduly burdened by heightened regulatory requirements. However, by setting and forgetting these regulatory thresholds, they do not reflect changes in the banking sector, much less in the larger economic environment. As a result, thresholds that once reflected meaningful distinctions in size, complexity, or risk now capture institutions whose risk profiles do not reflect the regulatory requirements tied to the corresponding regulatory thresholds. Additionally, many if not all of the regulatory thresholds in place today serve as artificial barriers to organic growth.

For example, heightened audit requirements established by the FDIC kick in when a bank's assets reach \$500 million. When this threshold was set in 1993, the more stringent requirements applied to only 7 percent of banks. Today, it applies to 41 percent. Dozens of thresholds, from stress testing to resolution planning, have drifted the same way.

This regulatory “drift” creates three problems:

1. Burdens institutions never meant to be captured.

Over time, economic growth and inflation erode the real value of thresholds, pulling more institutions into regulatory regimes that were never intended to apply to them. Banks with limited complexity or risk profiles may be forced to shoulder costs and reporting burdens designed for much larger peers.

2. Discourages organic growth.

Institutions manage their balance sheets defensively to avoid crossing arbitrary thresholds. In some cases, this distortion discourages organic growth and instead encourages consolidation as the only viable means to absorb new regulatory burdens.

3. Dilutes regulatory resources.

An expanding pool of covered banks beyond the intended scope dilutes regulatory efforts and the ability of agencies to focus on the largest sources of risk. These outcomes run counter to the policy objectives Congress and regulators have set.

The solution is indexing. ABA recommends,⁴⁴ *after a one-time adjustment to correct for past inaction, linking asset-based thresholds to nominal GDP*, which reflects the size of the economy and the scale of the banking sector. Indexing is a low-cost, high-impact reform. It improves transparency, reduces arbitrary burden, and allows regulators to focus where the risk really is. In addition, the agencies should eliminate cliff effects by providing transition periods between heightened regulatory requirements, which in turn will serve as on-ramps to growth—instead of disincentivizing growth or causing institutions to manage below thresholds. Indexing regulatory thresholds for nominal GDP and including transition periods when institutions cross such thresholds will ensure a durable framework that is reflective of economic realities.

We applaud the FDIC’s proposal to index some of its thresholds and urge other policy makers to prioritize the issue.⁴⁵

⁴⁴ See Joint ABA and State Bankers Associations Letter to the FDIC on Adjusting and Indexing Certain Regulatory Thresholds (Sep. 24, 2025). <https://www.aba.com/-/media/documents/comment-letter/jointltrfdicregthresholds20250924.pdf>

⁴⁵ Notice of Proposed Rulemaking, Adjusting and Indexing Certain Regulatory Thresholds, 90 Fed. Reg. 35449 (Jul. 28, 2025).

V. Conclusion

ABA looks forward to working with the Agencies to find ways to reduce regulatory burden consistent with the shared goal of ensuring that bank operations are conducted in a safe and sound manner while enhancing the ability of banks to serve their customers. If you have any questions about the content of, or issues addressed in this letter please contact the undersigned, Tyler Mondres, at [REDACTED] Sincerely,

[REDACTED]

Tyler Mondres
Senior Director, Prudential Regulation
American Bankers Association