



January 30, 2026

Chief Counsel's Office
Attn: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219

Benjamin W. McDonough
Deputy Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Jennifer M. Jones
Deputy Executive Secretary
Attn: Comments/Legal OES RIN 3064-AG17
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: Regulatory Capital Rule: Revisions to the Community Bank Leverage Ratio Framework;
Office of the Comptroller of the Currency RIN 1557-AF33, Docket ID OCC-2025-0141;
Federal Reserve System RIN 7100-AH08, Docket No. R-1876; Federal Deposit Insurance
Corporation RIN 3064-AG17; 90 Fed. Reg. 55048 (Dec. 1, 2025)

Dear Ladies and Gentlemen:

Better Markets¹ appreciates the opportunity to comment on the proposal from the Office of the Comptroller of the Currency (“OCC”), Board of Governors of the Federal Reserve System (“Fed”), and the Federal Deposit Insurance Corporation (“FDIC”; collectively, “Agencies”) to lower the community bank leverage ratio capital requirement (“CBLR”) and extend the length of time that certain institutions can remain in the CBLR framework while not meeting all the framework’s criteria (“Proposal”).²

¹ Better Markets is a non-profit, non-partisan, and independent organization founded in the wake of the 2008 financial crisis to promote the public interest in the financial markets, support the financial reform of Wall Street, and make our financial system work for all Americans again. Better Markets works with allies—including many in finance—to promote pro-market, pro-business, and pro-growth policies that help build a stronger, safer financial system that protects and promotes Americans’ jobs, savings, retirements, and more.

² Regulatory Capital Rule: Revisions to the Community Bank Leverage Ratio Framework; Office of the Comptroller of the Currency RIN 1557-AF33, Docket ID OCC-2025-0141; Federal Reserve System RIN

Better Markets is generally supportive of the Proposal and believes it would encourage more community banks to opt into the CBLR and allow community banks that opt in to the CBLR (“CBLR community banks”) to:

1. Improve their business operations and risk management by redirecting retained earnings towards other uses, such as technology enhancements, and
2. Rebuild capital in periods of stress despite the likelihood of decreased retained earnings.

However, the proposed CBLR framework would be improved by adding conditions to the framework that would limit predatory actions by outside investors. Such actions likely would result in further consolidation within the banking system at the expense of community banks and leave many households, small businesses, and farms in communities across America without access to bank credit, harming Main Street economic growth. These conditions are detailed in the comments below.

Additionally, Better Markets notes that while the CBLR reduction would be helpful to eligible community banks, it nonetheless still leaves CBLR community banks with a substantial disadvantage compared to large banks, a disadvantage that will be much worse once the Agencies complete their deregulatory actions around large bank capital requirements.³ Large banks should always have stronger capital requirements than community banks considering their size, range of financial activities, and interconnectedness, but the Agencies are putting in place an upside-down capital requirement framework in which capital requirements for the largest banks are lower than or basically the same as those for community banks. This provides large banks with an unfair competitive advantage that will lead to further consolidation and less lending to Main Street borrowers.

That’s because **community banks are much more supportive of Main Street small businesses, households, and farms than large banks.**⁴ Put simply, **big banks getting bigger means less support for Main Street.** This is obvious when looking at the data – compared to large banks, community banks:

- Use 75 percent of their deposits for direct lending to the real economy, compared to the largest banks that use only 40 percent of their deposits for real-economy lending⁵

7100-AH08, Docket No. R-1876; Federal Deposit Insurance Corporation RIN 3064-AG17; 90 Fed. Reg. 55048 (Dec. 1, 2025), <https://www.federalregister.gov/documents/2025/12/01/2025-21625/regulatory-capital-rule-revisions-to-the-community-bank-leverage-ratio-framework>.

³ See Phillip Basil, “The Banking Agencies’ Anti-Community Bank Policies Are Hurting the Main Street Economy” (January 2026), Better Markets, <https://bettermarkets.org/analysis/the-banking-agencies-anti-community-bank-policies-are-hurting-the-main-street-economy/>.

⁴ See Phillip Basil and Shayna Olesiuk, “Strengthening Community Banks Creates an Economy That Works for All Americans” (September 2025), Better Markets, https://bettermarkets.org/wp-content/uploads/2025/09/BetterMarkets_Strengthening_Community_Banks_09-24-2025.pdf.

⁵ Analysis based on deposit, asset, and risk weighted asset data from the Call Report.

- Lend to a broader range of borrowers through their unique “relationship banking” model – for example, community banks hold around 40 percent of balances of small business loans despite having only around 12 percent of deposits⁶ and approve small business loans at a much higher rate (54 percent) than larger banks (45 percent)⁷
- Provide more support to communities during economic downturns, limiting the effects of recession conditions in those communities.⁸

The Agencies should be focused on ensuring a level playing field for community banks by 1) regulating larger banks appropriately in recognition of their much larger size and riskier activities, including interconnections with other banks and nonbank financial institutions and 2) recognizing the small size of community banks combined with their unique business model and special role in our communities and the economy. Doing so would be perfectly in-line with the Agencies’ publicly stated objectives for supervision and regulation. For example, Fed Vice Chair for Supervision Michelle Bowman has stated that she has “consistently supported a *risk-focused*, tailored approach to supervision and regulations.”⁹ Unfortunately for community banks and Main Street America, this has not been the case.

COMMENTS

I. THE REDUCTION OF THE CBLR IS BENEFICIAL BUT SHOULD HAVE CERTAIN RESTRICTIONS THAT PREVENT PREDATORY BEHAVIOR FROM OUTSIDE INVESTORS

The proposed reduction of the CBLR from 9 percent to 8 percent could be beneficial to CBLR community banks for multiple reasons. Perhaps the biggest benefits are that the reduction could make those banks more competitive against banks that have lower capital requirements (more in the next section) and that it would allow CBLR community banks to redirect newly “excess” capital funding towards other uses that would improve sustainability and their ability to support communities. Importantly, those other uses could include much-needed enhancements to operations and risk management.

For more than fifteen years, Better Markets has supported strong capital requirements. This has primarily focused on advocating for appropriately higher levels of capital for the largest banks so that they can provide the same resiliency and stability to the economy and financial system that community banks do. Bank capital is essential because it protects American families, small businesses, the financial system, and the economy from bank failures, losses, and taxpayer

⁶ Analysis based on small business lending data and deposit data from the Call Report.

⁷ Federal Reserve Banks, “2025 Report on Employer Firms: Findings from the 2024 Small Business Credit Survey” (2025), *Small Business Credit Survey*, <https://doi.org/10.55350/sbcs-20250327>.

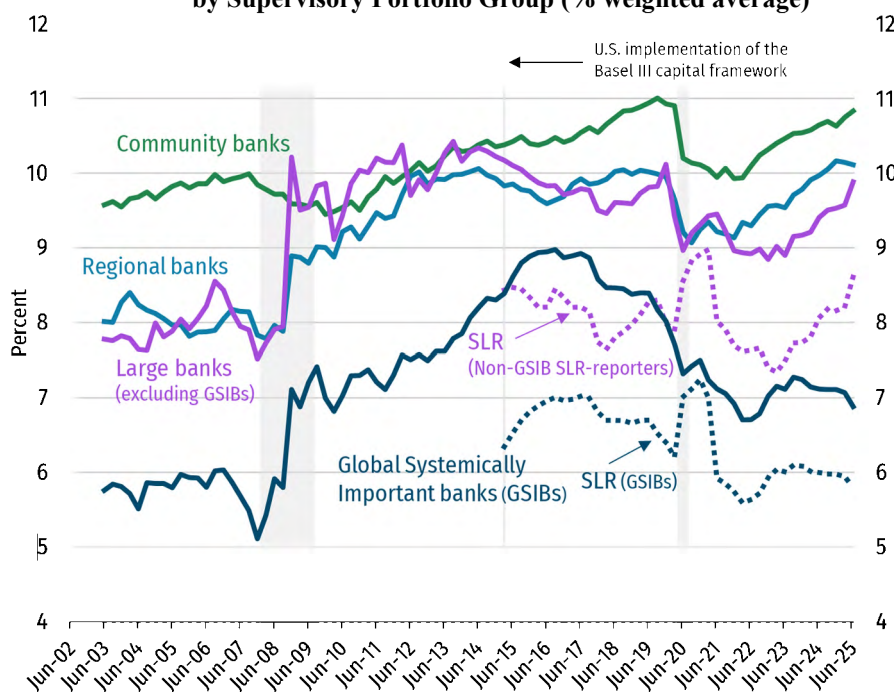
⁸ Maryann Feldman and W. Scott Langford, “We Miss You George Bailey: The Effect of Local Banking Conditions on the County-Level Timing of the Great Recession” (December 2019), <https://dx.doi.org/10.2139/ssrn.3501746>.

⁹ Vice Chair for Supervision Michelle W. Bowman, “Supervision and Regulation” (December 2, 2025), Board of Governors of the Federal Reserve System, <https://www.federalreserve.gov/newsevents/testimony/bowman20251202a.htm>.

bailouts. Well capitalized banks are strong enough to continue providing credit through the economic cycle, in good times and bad, which helps keep the economy growing, creates jobs, and reduces the depth, length, and cost of recessions – the very reason we have a government-supported banking system.

That is proven by community banks. They maintain significantly higher capital levels than global systemically important banks (“GSIBs”) – with an aggregate leverage ratio that is nearly twice as high – and higher capital levels than large banks and regional banks (Figure 1). This is not strictly due to capital requirements – community banks’ level of capital over time has been well above their capital requirements. With these higher levels of capital, they can and do much more lending than the largest banks, lending out 75 percent of their deposits to real economy borrowers (i.e., not other financial institutions) as compared to only 40 percent across the four largest banks.¹⁰ Community banks also lend much more during recessions than non-community banks thanks to their generous levels of capital, a clear indication that they prioritize supporting the real economy over profits. In fact, their lending during recessions has prevented communities from experiencing the worst of downturn conditions and – in some cases – even supported growth in communities while others suffered.¹¹

Figure 1: Supplementary Leverage Ratio (SLR) and Tier 1 Leverage Ratio for U.S. Banking Organizations by Supervisory Portfolio Group (% weighted average)



Source: Federal Reserve Bank of Kansas City, “Bank Capital Analysis” (Q2 2025)

Simply put, community banks have shown over time that they maintain strong levels of capital regardless of capital requirements and that they use those capital cushions to lend more in

¹⁰ *Supra* 5.

¹¹ *Supra* 8.

good times and bad. Therefore, it is clear that CBLR community banks will continue to have strong levels of capital well in excess of requirements even if the CBLR is reduced from 9 to 8 percent (i.e., they will maintain significant “management capital buffers”) and that this reduction would be beneficial to CBLR community banks.

The most impactful benefit of the Proposal is that CBLR community banks – all else equal – would have an extra percentage point of capital above the updated requirement, meaning they could comfortably redirect some retained earnings for other uses. If CBLR community banks decide to redirect those retained earnings away from investment in assets, then ideally those other uses would be enhancements to their business operations and risk management processes. That is, the retained earnings that would have been used to satisfy the difference between the 9 and 8 percent requirements could be spent on enhancing operations, such as making investments in technology upgrades. These could be meaningful investments – for example, a \$1 billion CBLR community bank would be able to redirect \$10 million in retained earnings for enhancements. And – holding everything constant – that bank could redirect \$10 million *every year* to be invested in enhancements.

This would be extremely beneficial to CBLR community banks, because many community banks have been facing a set of challenges that could be improved through targeted investments. The challenges include (but are not limited to):

- A significantly shrinking share of banking system deposits and assets
- Difficulty keeping up with technological advancements
- Difficulty meeting minimum standards for mitigating cybersecurity risks and financial crime.

There are a range of investments community banks could make that would help improve their ability to deal with these and other challenges.¹² For example, offering more deposit insurance could help attract depositors, and a proven effective way to increase deposit insurance is through reciprocal deposits¹³ in which banks essentially swap equal deposit amounts in a way that meets the FDIC’s insurance requirements. There are fees to engage in reciprocal deposits, and so community banks could use the redirected retained earnings to pay those fees. Not only would this increase the amount of deposit insurance community banks could offer, thereby helping to attract depositors, but it also would reduce run risk and improve their overall risk profiles because there would be fewer uninsured deposits.

However, allowing retained earnings to be redirected from meeting capital requirements could also create negative consequences. In particular, if those retained earnings instead are paid

¹² *Supra* 4.

¹³ Edward T. Kim, Shohini Kundu, and Amiyatosh Purnanandam, “The Economics of Network-Based Deposit Insurance” (May 2024), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4813996.

out to equity holders – as the largest banks do whenever their capital requirements are reduced¹⁴ – then that likely would attract nonbank financial institution investors, such as private equity and hedge funds, that seek to profit from increased dividend payments. That is, investment funds would seek to make capital investments into community banks in exchange for high dividend payments, and likely would target community banks that are struggling or looking to expand operations. Even worse, a consortium of funds could pool financial resources to purchase entire banks but without any individual fund having controlling interest. In that way, a group of investment funds collectively would have control over how much a purchased bank pays out in dividends and how it is eventually sold off without facing the regulation of a holding company.

Purchases of whole community banks by groups of investment funds is a very plausible outcome because the Fed already has set the precedent for this very activity. In 2023 the Fed fast-tracked approval of the purchase of TIAA Bank by a group of private equity firms, each of which took a noncontrolling interest in the bank.¹⁵ This was a relatively large purchase – TIAA Bank had \$39 billion in assets at the time. This type of nonbank consortia acquisition of banks could easily expand from purchases of single banks to the creation of entire investment portfolios composed of a large number of the roughly 4,000 community banks. For example, the same \$39 billion asset amount of TIAA Bank would be enough to buy 39 community banks worth \$1 billion or 78 community banks worth \$500 million.

Such an outcome would be disastrous for community banks. Profit-seeking funds purchasing large numbers of community banks would only lead to more consolidation in the banking system and leave Main Street borrowers with even more limited access to bank credit. That's because although investment funds and their investors would profit from the dividends while they hold the bank, eventually the investment funds would need to sell off their portfolios of community banks to return profits to their investors. This cycle of purchase, reaping dividend profits, and eventual sale could be done repeatedly by investment funds, leading to the sale of hundreds – or many more – of community banks to larger banks.

To mitigate this outcome, the CBLR framework should be modified such that the one percentage point reduction in the CBLR is contingent on CBLR community banks utilizing excess capital/retained earnings for 1) continuing to invest in assets, 2) enhancements to business operations or risk management processes or – when necessary – to attract stable, long-term investors (i.e., not investment funds), or 3) some combination of the two. The allocation of funds to any of those business uses would be beneficial to community banks by increasing their assets and income, by reducing their risk profile, or both. Whether CBLR banks are using retained earnings for such purposes could be assessed as part of regular supervisory examinations.

¹⁴ Nupur Anand and Niket Nishant, “Biggest US banks hike dividends, announce share buybacks after acing stress tests” (July 1, 2025), Reuters, <https://www.reuters.com/sustainability/boards-policy-regulation/biggest-us-banks-hike-dividends-announce-share-buybacks-after-acing-stress-tests-2025-07-01/>.

¹⁵ Kevin Wack, “Fed traded fast merger for 2023 private equity rescue” (November 20, 2025), American Banker, <https://www.americanbanker.com/news/fed-traded-fast-merger-for-2023-private-equity-rescue>.

Protecting and promoting the growth of community banks must be a primary goal of the Agencies, and the Agencies' policies must reflect that goal.

II. THE AGENCIES' POLICIES FAVOR LARGE BANKS AND CREATE UNFAIR COMPETITION FOR COMMUNITY BANKS

Better Markets appreciates the efforts of this Proposal to benefit community banks. However, this Proposal is a negligible benefit to community banks when compared to the significant deregulatory actions the Agencies are taking to greatly reduce large bank capital requirements. If large banks do not have sufficient capital requirements that account for their scale, risky activities, and interconnections, they benefit immensely by having a huge competitive advantage over community banks.

Put simply, without sufficient capital requirements, large banks are not internalizing the costs of their risks, which allows them to generate outsized profits that can be used to increase scale and outcompete other banks that are appropriately regulated. This only ends one way: big banks will become even bigger and gain more market share, resulting in fewer community banks and less direct support for the communities they serve.

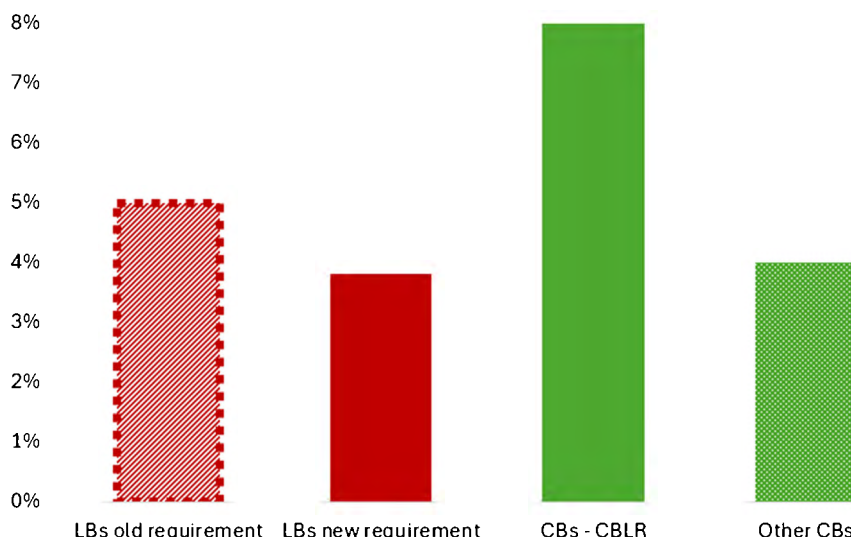
The largest, most complex banks should have the strongest capital requirements – much stronger than for community banks – because they engage in the riskiest activities, like trading and derivatives, and pose substantial risk to the banking system and financial stability. This need for strong large bank capital requirements has been proven repeatedly by the reckless actions of big banks that resulted in the catastrophic 2008 Global Financial Crisis when tens of millions of Main Street Americans lost their jobs, homes and savings¹⁶ and the 2023 regional bank crisis¹⁷ when three of largest bank failures in history happened.

Despite these facts the Agencies are engaged in upside-down policymaking in which the largest banks ultimately will have the same or lower capital requirements than community banks. The upside-down capital framework can be seen most clearly through the so-called leverage capital requirements (see Figure 2), because leverage is a straightforward measure of capital levels. It can be thought of simply as the maximum percentage of losses a bank can take across its financial activities before it fails.

¹⁶ See Better Markets, “The Cost of the Crisis: \$20 trillion and counting” (July 2015), https://bettermarkets.org/wp-content/uploads/2021/07/Better-Markets-Cost-of-the-Crisis_1.pdf.

¹⁷ For a detailed assessment of how deregulation caused the 2023 regional bank crisis, see Dennis M. Kelleher, “Federal Reserve Deregulation Caused the Failure of Silicon Valley Bank and the 2023 Banking Crisis” (March 2023), Better Markets, https://bettermarkets.org/wp-content/uploads/2023/03/BetterMarkets_FactSheet_Fed_Eregulation_Caused_SVB_Failure_March-2023.pdf.

Figure 2: Leverage Capital Requirements for Large Banks (LBs) and Community Banks (CBs)



Source: Regulatory capital rules

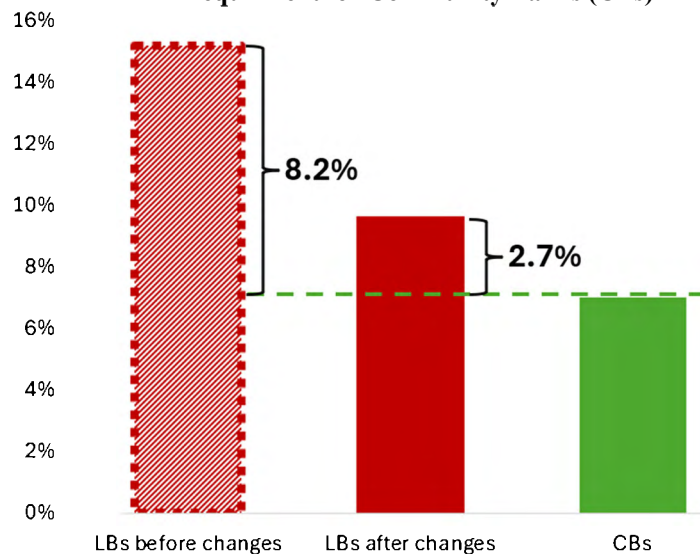
Collectively, the largest, most complex banks have a leverage requirement (the enhanced supplementary leverage ratio) of around 3.8 percent, meaning they can take only 3.8 percent of losses across their activities before they fail.¹⁸ **This large bank requirement is less than half the proposed 8 percent CBLR.** Even the original large bank leverage requirement of 5 percent, before the recent deregulation, was much lower. Other community banks use a different, lower leverage requirement of 4 percent, but that is still higher than the current requirement for the largest banks. *In either case, the largest banks with trillions of dollars in assets have lower leverage capital requirements than community banks with less than \$10 billion in assets.*

Additionally, for risk-based requirements, Better Markets has estimated the cumulative impact of deregulatory changes that are expected to be implemented for Basel risk weights (through so-called Basel endgame), the stress test and associated stress capital buffer, and the GSIB surcharge. As estimated, once all the changes are implemented, there will be little difference between the risk-based requirements for the largest banks and those of community banks (see Figure 3).¹⁹ The difference between the two requirements historically has been much wider, which is how it should be considering how much more risk a \$4.5 trillion bank like JPMorgan Chase poses to itself and the banking and financial systems than a \$1 billion community bank.

¹⁸ Calculation based on data from the FR Y-9C and Bank for International Settlements.

¹⁹ *Supra* 3.

Figure 3: Actual and Estimated Risk-Based Capital Requirements for Large Banks (LBs) and Actual Capital Requirement for Community Banks (CBs)



Source: FR Y-9C, Call report, author's calculations

The agencies are also seeking to lower the capital requirements specific to the most profitable and risky activities of large banks – trading and derivatives. Bloomberg reported that the coming Basel endgame proposal is expected to do exactly that: “[banks] that have bigger trading portfolios could see less of an increase – or even a decrease” in their risk-based capital requirements.²⁰ This means those risky activities will become even more profitable, creating a stronger incentive for the biggest banks to do more of those activities and less lending to the real economy.

This all adds up to a huge advantage for the largest banks. By avoiding the upfront cost of having enough capital and instead passing that cost onto the public, the largest banks can have massive growth in profits. Considering their size, their profits add up to a lot of money – over \$120 billion last year just for the four largest banks.²¹ And with those huge profits, they can – and do – things to gain more and more market share that smaller banks with strong levels of capital can’t.

With more profits, large banks can undercut their competition or buy up their smaller competitors, including community banks, to take over markets. They also can spend the money on enhancements to their business models, such as technological improvements, to bring in more customers. This leaves community banks struggling to compete in many markets and unable to keep pace with the largest banks on the latest business enhancements. **As capital requirements are lowered further by the agencies, this competitive advantage will only get worse and big banks will only get bigger.**

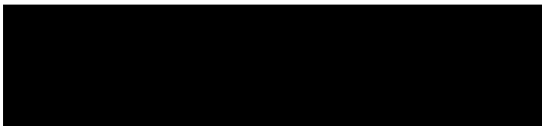
²⁰ Katanga Johnson, “Fed Floats Plan With Much Smaller Capital Hikes for Big Banks” (October 22, 2025), Bloomberg, <https://www.bloomberg.com/news/articles/2025-10-22/fed-floats-plan-with-much-smaller-capital-hikes-for-big-banks>.

²¹ Calculation based on SEC 10-Q reports for 2025.

CONCLUSION

We hope you find these comments helpful as you work to finalize the Proposal.

Sincerely,

A solid black rectangular box redacting the signature of Dennis M. Kelleher.

Dennis M. Kelleher
President, Co-founder, and CEO

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