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September 25, 2025

Jennifer M. Jones, Deputy Executive Secretary
Attention: Comments-RIN 3064-AG15
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

RE: Notice of proposed Rulemaking and Request for Comments (RIN 3064-AG15)

Ms. Jones:

With the proposed rule changes, the FDIC seeks to ensure sound financial management of banks posing the greatest potential risk to the Deposit Insurance Fund while maintaining consistency with the historical scope of applicability and reducing potential burdens on smaller banks. However, it is important to note that these perceived burdens are subjective. Many banks that already embrace FDICIA requirements have seen value beyond financial reporting, including the standardization of processes, risk mitigation, and a better understanding of the organization, which can ultimately reduce costs and add value.

The current $1 billion threshold for internal control of financial reporting (ICFR) assessments by management and external auditors was established in published document 05-23310 (70 FR 71226)[1], effective December 28, 2005. The proposed rule mentions the FDIC is planning to use the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W) for quantitative adjustment. However, using the CPI-W to evaluate such adjustment from the 2005 threshold to July 2025, the most recent CPI-W, the adjusted threshold should not be $5 billion for ICFR assessments. Rather, the threshold should be no more than $1.6 billion.

Further, the proposed rule states, "the FDIC is proposing an indexing methodology for subsequent, periodic threshold adjustments that would be implemented automatically every two consecutive calendar years." To consider making just adjustments no less frequently than every two years will most certainly create burden on applicable banks as designing, implementing, and maintaining a suitable internal control framework takes time and investment. There is a real possibility that a bank would spend time and money to comply with a threshold only to see it vanish again in two years. That cycle could continue for years creating burden and loss of continuity in the ICFR environment. As an example, looking at the most recent two-year period of CPI-W from July 2023 to July 2025, during that period a $1 billion bank would have needed to grow assets by $56.7 million or 5.66% to then meet the two-year adjustment threshold. According to the Federal Reserve[2], U.S. commercial banks have had an asset growth rate of 2.10% and 1.20% in 2024 and 2023, respectively. Over the last 10 years, the growth rate only exceeded 5.66% twice and that was during the stimulus handout days of COVID. This demonstrates how banks may comply one year, then not have to comply the next year—like flipping a light switch on and off repeatedly unnecessarily. Banks are constantly preparing to be in compliance with FDICIA only to see the threshold move just out of reach each year.

[1] https://www.federalregister.gov/documents/2005/11/28/05-23310/independent-audits-and-reporting-requirements
[2] https://ycharts.com/indicators/us_commercial_banks_total_assets_annual_growth_rate_yearly?utm_source=chatgpt.com

The proposed increase in the asset threshold under 12 CFR Part 363 from $1 billion to $5 billion for ICFR may inadvertently undermine sound risk management by weakening internal control discipline in growing banks. Frameworks such as COSO 2013 and guidance from The Institute of Internal Auditors (IIA) emphasize that effective ICFR is essential regardless of size, particularly as organizations become more complex—not solely based on asset size for banks. These frameworks advocate for a scalable and principles-based approach that supports governance, risk mitigation, and financial integrity.

The banking crisis of the 1980s—which ultimately led to the enactment of the Federal Deposit Insurance Corporation Improvement Act (FDICIA) in 1991—was primarily caused by the failures of small and mid-sized banks, along with a significant number of savings and loan institutions (thrifts). Raising the threshold to $5 billion would exclude many of the small and mid-sized banks whose actions were instrumental in creating the necessity for FDICIA. Raising the threshold risks encouraging smaller banks to scale back their control efforts, even though many are experiencing growth, expanding product offerings, and increasing operational risks. A $1 billion bank, while below the proposed threshold, still poses material financial reporting risk to stakeholders, including depositors, investors, and regulators. The unintended consequences of the revised ruling could, in fact:

- Create an abundance of banks that do not inspect the control environment effectively and therefore are subject to additional regulatory concerns (perhaps even consent orders), affecting the safety and soundness of these banks.
- Create blind spots in governance and financial accuracy, contrary to best practices that call for proportionate, risk-based control environments regardless of size. This can result in higher costs to banks, monetary penalties, and/or an overall downgrade in bank ratings.

However, if the proposed change takes effect, it does not necessarily mean that audits of ICFR will cease. Rather, the current FDICIA effort could shift to more standard internal audit practice rather than relieve perceived cost burdens. Regardless of size, every organization relies on ICFR to ensure that transactions are properly authorized, assets are safeguarded from loss or misuse, and financial data is recorded in accordance with established accounting principles. Effective ICFR not only strengthens confidence in reported results but also supports operational discipline, regulatory compliance, and the trust of stakeholders, including investors, customers, regulators, and employees. Without robust ICFR, banks face heightened risk of errors, fraud, and reputational harm. An effective ICFR testing methodology may in fact be more valuable to a bank and its stakeholders than an independent financial statement audit.

The Sarbanes-Oxley Act of 2002 (SOX), which reshaped corporate governance and financial reporting requirements for publicly traded companies, drew heavily from the framework first established under the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) and its implementing regulation, 12 CFR Part 363. FDICIA imposed independent audit, management reporting, and internal control requirements on insured depository institutions that exceeded certain asset thresholds, with the goal of protecting depositors and enhancing transparency in the banking system. SOX expanded these principles beyond the banking industry to all public companies, underscoring that the reliability of financial reporting and the effectiveness of internal controls are not issues limited to financial institutions. Instead, they are universal governance principles necessary for market integrity and investor protection.

While FDICIA (12 CFR Part 363) establish asset-size thresholds for specific compliance requirements in the banking sector, SOX applies to all public companies, regardless of size. There are no “hard and fast” dollar thresholds under SOX that exempt smaller issuers from the fundamental responsibility of maintaining effective ICFR. Although certain scaled or phased requirements exist (for example, exemptions for smaller reporting companies from auditor attestation under Section 404(b)), the core expectation remains consistent: management must assess and certify the effectiveness of internal controls to ensure financial statements are accurate, complete, and reliable. In this way, ICFR stands as the backbone of trustworthy reporting across all industries, public or private, reinforcing that effective internal controls are essential for banks of every size.

The FDIC should re-consider the proposed rule change and consider alternative adjustments to the current rule such as:

Alternative 1

a) Maintain the ICFR threshold at $1 billion while immediately decoupling the requirement for management and external auditor attestation over ICFR at this threshold. This essentially mandates ICFR as a minimum internal audit that must be performed annually with evidence of performance submitted upon regulatory request only.
b) Raise the independent external audit threshold from $500 million to $2 billion.
c) Add a new $5 billion threshold whereby banks must complete the management and external auditor attestation over ICFR.
d) There will be no *planned* reassessment of ICFR minimum internal audit thresholds on the basis that $1 billion in assets is indefinitely material and all banks over that threshold should demonstrate effective ICFR—because an effective internal control structure is critical to the safety and soundness of ***each insured institution***[3].
e) There will be a planned reassessment of the management and external auditor attestation over ICFR threshold every 5 years.
f) The proposed rule change would become effective January 1, 2027, to allow banks ample time to react.

Alternative 2

a) Maintain the ICFR threshold at $1 billion, including the management and external auditor attestation.
b) Raise the independent external audit threshold to $1 billion.
c) There will be a planned reassessment of all thresholds every 5 years, however, the independent external audit and ICFR attestation thresholds will be linked together in perpetuity.
d) The proposed rule change would become effective January 1, 2027, to allow banks ample time to react.

Alternative 3

a) Raise the independent external audit threshold to $750 million (aligns more closely with actual CPI-W from 2005 to 2025).
b) Raise the ICFR threshold at $1.75 billion (aligns more closely with actual CPI-W from 2005 to 2025), including the management and external auditor attestation, with a planned reassessment of thresholds every 5 years.
c) The proposed rule change would become effective January 1, 2027, to allow banks ample time to react.

Alternative 4

a) If the FDIC adopts the proposed rule as written, the effective date should be no sooner than January 1, 2027, as there are many banks that started the process to implement ICFR for FDICIA purposes in 2025 that have been caught in limbo by the proposed rule and uncertain effective date, if adopted.

Thank you very much for your consideration of our comments.

Cordially,

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[3] https://www.federalregister.gov/documents/2005/11/28/05-23310/independent-audits-and-reporting-requirements