December 29, 2025

Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219
Docket ID: OCC-2025-0174

Federal Deposit Insurance Corporation
550 17th St NW
Washington, DC 20429
RIN 3064-AG16; 90 Fed. Reg. 48835

Re: Unsafe or Unsound Practices, Matters Requiring Attention; Office of the Comptroller of the Currency RIN 1557-AF35, Docket ID OCC-2025-0174; Federal Deposit Insurance Corporation RIN 3064-AG16; 90 Fed. Reg. 48835

Consumer Reports[1] appreciates the opportunity to comment on the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) joint notice of proposed rulemaking on unsafe and unsound practices, matters requiring attention.

Overview

Consumer Reports believes that the agencies' proposed rule should explicitly recognize that harm to a bank's financial condition can manifest in ways that directly affect consumers, not just in internal prudential metrics. Small or routine consumer harms like service disruptions, payroll delays, or access limitations, may appear minor, but when they accumulate across many consumers or over time, they can stress the institution's operations, liquidity, and reputation creating unsafe or unsound conditions.

In the current supervisory and enforcement environment, where consumer protection oversight may be more limited in practice, the OCC and FDIC are among the few

[1] Founded in 1936, Consumer Reports (CR) is an independent, nonprofit and nonpartisan organization that works with consumers to create a fair and just marketplace. Known for its rigorous testing and ratings of products, CR also advocates for laws and corporate practices that are beneficial for consumers. CR is dedicated to amplifying the voices of consumers to promote safety, digital rights, financial fairness, and sustainability. The organization surveys millions of Americans every year, reports extensively on the challenges and opportunities facing today's consumers, and provides ad-free content and tools to 6 million members across the United States.

federal regulators positioned to observe early consumer harms as they arise. Consumer Reports is not suggesting these prudential regulators act beyond their mandate, but we urge that the rule allow proactive attention to emerging consumer risks, not just practices already likely to cause financial condition impacts. Defining “harm to financial condition” to include consumer-centric indicators alongside prudential measures, and providing illustrative thresholds or examples, would help ensure consistent application across institutions and examiners while preserving both consumer protections and prudential objectives.

Question 1: What effect would the proposed rule have on the agencies' ability to address misconduct by institutions under their enforcement and supervisory authority? What effect would the proposed rule have on the agencies' ability to address misconduct by institution-affiliated parties under their enforcement and supervisory authority?

We support clarifying the scope of unsafe or unsound practices (USPs) and matters requiring attention (MRAs), but urge that the rule explicitly allow regulators to consider emerging risks that could eventually cause material financial harm to consumers, even if the harm is not yet likely or imminent. Some practices may not initially meet the regulatory definition of unsafe or unsound, yet cause consumer harm that, over time and in aggregate, contribute to conditions that ultimately become unsafe or unsound. For example, in the lead-up to the 2008 financial crisis, certain mortgage lending practices and weak underwriting standards did not immediately threaten bank safety but did cause widespread consumer harm through foreclosures and financial distress. Over time, these harms contributed to systemic instability and material risk to the banking system. More recently, the 2023 collapse of Silicon Valley Bank highlighted how persistent deficiencies in risk management and liquidity planning, left unaddressed, can escalate from individual operational weaknesses into full-scale institutional failure, disrupting consumers and markets. Prudential regulators already have statutory authority over unsafe or unsound practices, but the proposed rule’s focus on material financial harm may unintentionally limit proactive supervisory action. Clarifying that early intervention can include practices causing consumer harm, even if they do not yet rise to the level of material financial risk, would ensure regulators can address emerging risks before they escalate.

We recognize that MRAs and USPs are primarily prudential matters, but given that the CFPB is currently, for all practical purposes, defunct, prudential regulators are effectively the only de facto federal regulators with the capability of addressing practices that could financially harm consumers. We recommend clarifying that early intervention can include foreseeable consumer risk, even if prudentially material risk material financial harm to the bank has not yet occurred.

Question 2: Does the proposed definition of unsafe or unsound practice appropriately capture the types of objectionable practices, acts, or failures to act that should be captured? Please explain.

The proposed definition of "unsafe or unsound practice" emphasizes material balance-sheet harm, which is appropriate from a prudential standpoint. However, it does not explicitly account for practices that cause consumer harm before threatening the bank's financial safety. Operational, compliance, or governance weaknesses may initially appear financially immaterial but can create foreseeable risk to consumers, such as inaccurate disclosures, flawed lending practices, or inadequate complaint resolution.

We recommend clarifying that unsafe or unsound practices can include conduct that creates reasonably foreseeable consumer harm, even if the impact on the institution's balance sheet is not immediately apparent. Further, some practices may actually appear to improve a bank's short-term financial position but can generate consumer harm that, over time and in aggregate, can contribute to conditions that ultimately threaten institutional safety and soundness. For example, aggressive lending or fee strategies may boost profits initially, yet over time lead to defaults, financial distress, or loss of depositor trust. Similarly, funding long-term assets with short-term liabilities can appear beneficial on the balance sheet until interest-rate changes or liquidity stress force losses that directly impact consumers. These examples highlight why the definition of "unsafe or unsound practices" should explicitly consider foreseeable consumer risk, not just immediate financial impact to the institution. Providing illustrative examples tied to consumer impact would help ensure that prudential oversight supports consumer protection and allows regulators to address emerging risks promptly.

Question 3: Does the proposed definition of unsafe or unsound practice provide the agencies with adequate authority to proactively address risks that could cause a precipitous decline in an institution's financial condition, such as a liquidity event or a cybersecurity incident?

The proposed definition of “unsafe or unsound practice” emphasizes material financial harm as the threshold for action. While this aligns with prudential oversight, it may limit the agencies’ ability to proactively address risks that could precipitate a sudden decline in an institution’s financial condition, such as a liquidity event or a cybersecurity incident.

Under the current definition, a practice must either materially harm the institution or be likely to do so if continued. However, and as the question suggests, some operational, risk management, or cybersecurity weaknesses may not initially meet the material threshold, yet can trigger rapid, systemic impacts if left unaddressed.

Recent events illustrate the stakes. The 2023 Silicon Valley Bank collapse showed how previously identified weaknesses in liquidity and interest-rate risk oversight, left unremedied, escalated quickly into institutional failure. Similarly, cyber incidents at other institutions have demonstrated how operational lapses can produce precipitous financial consequences.

Cybersecurity incidents pose unique challenges as banks increasingly come to rely on third-party vendors, cloud providers, and outsourced services. While individual systems may appear secure, weaknesses in governance, vendor oversight, or incident response can create foreseeable risks of sudden operational disruption or financial loss. Regulators typically assess whether banks have robust risk management, vendor management, and incident response processes in place, rather than auditing each system directly. Explicitly include cybersecurity incidents and third-party dependencies within the scope of “unsafe or unsound practices” under a broadened definition could allow more proactive supervisory action to mitigate these risks before they precipitate in a sudden decline of financial condition or harm to consumers. We recommend clarifying that the definition of unsafe or unsound practices explicitly encompasses practices that create reasonably foreseeable risks of sudden deterioration, even if material financial harm has not yet occurred.

Question 8: *Should the agencies define harm to the financial condition of an institution in the regulation? If so, how? Should this include specific indicators or thresholds, or adverse effects to capital, liquidity, or earnings?*

Consumer Reports supports defining "harm to financial condition" in a way that incorporates consumer-relevant consequences, in addition to prudential or technical metrics. The regulation should define harm broadly enough to capture both traditional financial measures and real consumer impacts. Clear, operational examples help ensure regulators and examiners understand how a bank's deteriorating condition can translate into real disruption or loss of services for consumers.

For instance, during the SVB liquidity crisis, some business customers experienced interruptions to payroll and vendor payments, to the extent that even employees without a direct relationship with the financial institution were affected as payroll delays cascaded. These events illustrate that harm to financial condition can have direct, operational and financial consequences, affecting cash flow, employee wages, and ongoing business obligations even when prudential measures are in place.

While depositors are responsible for understanding insurance limits, unexpected disruptions can still cause temporary access or planning challenges, particularly for funds exceeding insured limits.

In a similar vein, actions affecting retail bank accounts can destabilize vulnerable households, who make up a significant share of all individual depositors. As an example of how particular bank practices can cause significant harm to retail consumers, a February 2025 Senate Report noted that "in the last three years, 8,056 consumers filed complaints with the CFPB against a financial institution for improperly closing checking, savings, or other deposit accounts. In the same period, 3,899 consumers filed complaints related to being "unable to open" a deposit account. The agency's experience suggests that complaints filed by consumers to the CFPB only represent a small fraction of the total population of consumers that are experiencing a certain issue, so this could be a problem facing millions of people."[2]

The report also noted that unexpected account closures can cause substantial harm to individual households, since "many people reported a lag between account closure and when they would receive their remaining account funds (often via check in the mail)."

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[2] Supplemental Report, Senate Banking Committee Minority Staff, *Analysis of CFPB Consumer Complaints Related to Debanking*, 2/2/25 available at: https://www.banking.senate.gov/imo/media/doc/debanking_complaints_analysis.pdf

For example, consumers indicated delays of up to 30-60 days in receiving funds after their account was closed. One consumer described the impact of these delays: “I tried to transfer money to my girlfriend and it was locked again this time I was told my account was closed. I have bills and can not wait 30-60 days or I will be evicted from my home.”

Defining “harm to financial condition” to include consumer-centric indicators, like interruptions to account access, delayed payments, changes to insurance coverage implications, and disruptions of banking services, would help ensure the regulation captures harms that matter most to everyday customers. Additionally, including illustrative thresholds or examples would also help achieve consistent application across institutions and examiners, addressing consumer impacts while preserving prudential objectives.

Sincerely,

Consumer Reports