



September 18, 2025

RE: Request for Information on Industrial Banks and Industrial Loan Companies and Their Parent Companies, RIN 3064-ZA48

Chairman Travis Hill:

The National Community Reinvestment Coalition (NCRC) appreciates the opportunity to comment on the Request for Information (RFI) regarding Industrial Loan Companies (ILCs) and their parent companies. NCRC believes that the FDIC must proceed carefully regarding ILCs because this type of financial institution has yet to demonstrate significant and unequivocal benefits for traditionally underserved communities.

Their record has been spotty at best, with several ILC failures due to unsafe and unsound practices. Several of them also seem to seek the ILC charter to preempt state law preventing usurious interest rates and other charges. They have also used this charter as a method for minimizing their reinvestment requirements under the Community Reinvestment Act (CRA).

NCRC is a network of more than 700 community-based organizations dedicated to creating a nation that not only promises but delivers opportunities for all Americans to build wealth and attain a high quality of life. We work with community leaders and policymakers to advance solutions and build the will to solve America's persistent racial and socio-economic wealth, income, and opportunity divides, and to make a Just Economy a national priority and a local reality. NCRC and its members would be willing to engage ILCs only if they demonstrate a verifiable commitment to CRA and treating consumers fairly in a non-discriminatory manner.

While they might be relatively small in numbers, ILCs have a significant dollar amount of assets. According to the FDIC, as of March 2025, 23 ILCs have almost \$250 billion in assets. Since several are nationwide lending institutions, any safety and soundness concerns or episodes could create a possible run on their deposits and fears of contagion across the financial industry similar to the events a few years ago following the failures of Silicon Valley Bank and Signature Bank

and the bailout of First Republic Bank¹. Similarly, any ILC abusive practices could also impact thousands of consumers.

This letter will address:

- Safety and soundness concerns
- Inadequate CRA expectations for reinvestment activities
- Untested fair lending models and evasions of consumer protection laws

The FDIC has been ambivalent over the years regarding ILCs, sometimes receiving high volumes of ILC applications and sometimes imposing moratoriums as the FDIC RFI indicates² A cautious approach remains warranted. Until the FDIC establishes rigorous oversight and regulation regarding safety and soundness, CRA, and fair lending and consumer protection, the ILC charter should be used sparingly and only for narrow and tried-and-true activities.

Safety and Soundness Concerns Persist after Poor ILC Performance

Initially, policy makers proceeded cautiously regarding ILCs since the parent companies of industrial loan companies (ILCs) can be commercial entities. For six decades spanning the Great Depression through the 1980s, banking law outlawed the combination of commercial and financial companies in the wake of the widespread speculation and failure of these combinations leading up to the Great Depression. In 1987, Congress passed the Competitive Equality Banking Act (CEBA) that allowed commercial entities to own ILCs. Yet, Senator Jake Garn (R-UT), the author of this provision, stated that “it was never my intent, as the author of this particular section, that any of these industrial banks be involved in retail [commercial] operations.”³ However, ILCs became large scale retail lenders, several of whom engaged in unsafe and unsound lending.

¹ David Gura, *First Republic becomes the latest bank to be rescued, this time by its rivals*, NPR, March 16, 2023, <https://www.npr.org/2023/03/16/1163958533/first-republic-bank-silicon-valley-bank-signature-bank-bank-run>

² FDIC, *Request for Information (RFI) on Industrial Banks and Industrial Loan Companies and Their Parent Companies*, Federal Register, Vol. 90, No. 137, Monday, July 21, 2025, p. 34272, <https://www.federalregister.gov/documents/2025/07/21/2025-13589/request-for-information-on-industrial-banks-and-industrial-loan-companies-and-their-parent-companies>

³ Comment letter of Arthur E. Wilmarth, Jr., Professor of Law George Washington University Law School, April 10, 2020, <https://www.fdic.gov/regulations/laws/federal/2020/2020-parent-companies-of-industrial-banks-3064-af31-c-002.pdf> f, p. 4.

In its RFI, the FDIC asserts, “For the most part, the existing industrial banks (all but three became FDIC-insured between 1984 and 2006) fared similarly to other types of financial institutions during previous banking crises”⁴.

However, in an earlier publication, the FDIC documents that 21 industrial banks and loan companies have failed from 1985 through 2003. Most of these (19) operated as finance companies”⁵. Finance companies typically fund their retail lending activities with non-deposit sources of capital; the industrial banks with a finance company model may have had relatively low levels of deposits. As a result, they are typically less regulated than regular banks and were “newcomers to federal supervision” according to the FDIC⁶. Moreover, the industrial bank structure has resulted in less regulation since the parent companies of industrial banks are not subject to the consolidated supervision of the Federal Reserve System.

Large scale lending associated with ILCs resulted in catastrophic and spectacular failures in the years leading up to the financial crisis. Freemont Investment and Loan, which made high volumes of subprime loans, failed. CIT-Group, a commercial lender as well as a subprime mortgage lender, failed. GMAC, the lending arm of GM, had to be bailed out by the Troubled Asset Relief Program (TARP)⁷. In 2006, this lender had \$135.1 billion in mortgage assets. By 2008, it was sixth-largest mortgage originator and fifth-largest mortgage servicer⁸.

Dramatically expanding beyond the original and narrow mandate of industrial banks would pose serious risks to the economy. In addition to safety and soundness concerns, ILCs pose anti-trust risks. ILCs would be tempted to be biased towards their commercial parents and refuse to lend or lend with onerous terms and conditions to the competitors of the parents. This distorts economic activity. If the ILC sector grows without rigorous anti-trust guardrails, the ILCs could reduce overall economic efficiency if they starved vigorous competitors of loans. ILCs could also experience rapid asset growth, risking the rise of systemically important firms that the federal government would consider too big to fail. In the mid-2000’s, Walmart applied for an ILC charter but withdrew it in the face of withering criticism regarding anti-trust and safety and soundness concerns.

ILCs Seek Minimal CRA Requirements

⁴ FDIC, RFI, p. 34273.

⁵ Mindy West, Senior Examination Specialist, The FDIC's Supervision of Industrial Loan Companies: A Historical Perspective, Last Updated: July 24, 2023, <https://www.fdic.gov/bank-examinations/fdics-supervision-industrial-loan-companies-historical-perspective>

⁶ Ibid.

⁷ Wilmarth, pp. 6-9.

⁸ Baird Webel and Bill Canis, TARP Assistance for the U.S. Motor Vehicle Industry: Unwinding the Government Stake in GMAC, September 13, 2012 (No. 7–5700) Congressional Research Service, p. 5 https://www.everycrsreport.com/files/20120913_R41846_e7676c5349186d9fbdbb960671742f3c80e07070.pdf

In response to the RFI's questions 10-12 regarding convenience and needs,⁹ over several years during which NCRC has commented on ILC applications, we have observed that ILCs tend to submit applications committing to narrow geographical coverage of its lending activities and choosing the CRA strategic plan option, committing to goals for just its community development activities although they were nationwide retail lenders in many instances.

We note that the 2023 update to the CRA regulations would have rectified these attempts to evade rigorous CRA requirements by updating CRA assessment areas to include areas with high lending volumes and to require that major lending and community development activities be covered under CRA exams. With the likely repeal of the 2023 CRA regulations, we are back in an era under which ILCs can evade CRA obligations scrutinizing most of its activities unless the FDIC expects ILC applicants to adhere to their statutory responsibilities to serve all communities in which they are chartered to do business.

Recent ILC applications do not inspire confidence regarding rigorous CRA compliance. Despite its status as a nationwide nonprime consumer lender, OneMain's CRA responsibilities would likely just cover areas near its wholly-owned industrial bank subsidiary located in West Valley City, Utah, not the 44 states where it makes loans¹⁰. Likewise, Stellantis' CRA assessment area will likely be confined to Utah¹¹.

The CRA exams of two of the three ILCs approved by the FDIC since 2008 reveal a troubling pattern of inadequate CRA requirements¹². A 2023 FDIC exam of Square Financial Services evaluates Square's compliance with its CRA strategic plan. It establishes an assessment area of the Salt Lake-Provo-Orem Utah Combined Statistical Area (CSA) although Square issues small business loans across the country¹³. By restricting the assessment area to the Salt Lake area, the evaluation assesses less than 1 percent of the lending activity of Square over a two year time period while Square issued more than 650,000 loans across the country¹⁴.

The exam applauded Square for exceeding its goal of 30 percent of small business loans in low- and moderate-income (LMI) census tracts in the Salt Lake area but it did not explain how the lender established the 30 percent goal and whether it used any peer or demographic benchmarks

⁹ FDIC, RFI, 34274-34275.

¹⁰ National Community Reinvestment Coalition Opposition to Federal Deposit Insurance Application for OneMain Financial, June 25 2025,

¹¹ NCRC Comment Letter in Opposition to Stellantis Bank USA Application for Deposit Insurance, March 17, 2025, <https://ncrc.org/ncrc-comment-letter-in-opposition-to-stellantis-bank-usa-application-for-deposit-insurance/>

¹² The third lender to receive an ILC charter since 2008 was Thrivent Bank, Salt Lake City, Utah, which received its charter on June 20, 2024. It began operations in June of 2025 so it has not yet had its first CRA exam, p. 34273 of RFI.

¹³ CRA exam of Square Financial Services, Inc., March 2023, p. 2, https://crapes.fdic.gov/publish/2023/59177_230314.PDF

¹⁴ Square CRA exam, p. 8.

for goal setting (which would help the reader assess whether the 30 percent goal was rigorous)¹⁵. Moreover, no other geographical area served by Square benefited from a goal expressed as a percentage of loans in LMI tracts. Likewise, the community development lending, investment and services goal only applied to the Salt Lake area, depriving the rest of the country of any efforts by Square to offer community development activities¹⁶.

The 2022 CRA exam of Nelnet Bank, the second of three ILCs approved since 2008, is not only inadequate, it also does not address the allegations of abusive lending and servicing practices of Nelnet, a major student lender and servicer. As an internet-bank, Nelnet opted for two assessment areas of the Salt Lake City and the Ogden-Clearfield metropolitan statistical areas although it makes and services student loans across the country¹⁷. The CRA evaluation of Nelnet's strategic plan did not scrutinize the student lending of Nelnet, the proportion of loans for LMI students, nor the affordability or sustainability of those loans¹⁸. The exam mostly verified that Nelnet met or exceeded its goals for community development lending and investing¹⁹.

The exam also provided positive consideration for the 85 scholarships that Nelnet provided to LMI students attending community colleges and trade schools²⁰. However, while 85 students benefited, the exam did not consider harm to thousands of other students of Nelnet's lending and servicing practices. The CRA statute requires the federal agencies to consider low-cost education loans provided to low-income borrowers on CRA exams and the CRA regulation requires examination of consumer loans if they constitute the substantial majority of lending activity²¹. Yet, the FDIC allowed Nelnet to opt for a strategic plan and to omit consideration of lending and servicing activity in its plan. Nelnet is one of the largest student loan servicers and currently services loans for more than 16 million borrowers²².

In January of 2024, the Massachusetts Attorney General entered into a settlement agreement with Nelnet over allegations that Nelnet did not properly notify borrowers about recertification requirements associated with affordable Income-Driven Repayment (IDR) plans²³. Meanwhile,

¹⁵ Square CRA exam, p. 9.

¹⁶ Square CRA exam, pp. 7 and 8.

¹⁷ FDIC CRA exam of Nelnet Bank, November 2022, p. 2, https://crapes.fdic.gov/publish/2022/59205_221101.PDF

¹⁸ Nelnet CRA exam, p. 5.

¹⁹ Nelnet CRA exam, p. 6.

²⁰ Nelnet CRA exam, p. 7.

²¹ Community Reinvestment Act, USCODE-2013-title12-chap30.pdf, § 2903 (d). Financial institutions; evaluation, low-cost education loans, Page 1433, <https://www.govinfo.gov/content/pkg/USCODE-2013-title12/pdf/USCODE-2013-title12-chap30.pdf>, Lending test procedures under the CRA regulation, 12 CFR 345.22(a)(1) (Mar. 29, 2024), [https://www.ecfr.gov/on/2024-03-29/title-12/part-345#p-345.22\(a\)\(1\)](https://www.ecfr.gov/on/2024-03-29/title-12/part-345#p-345.22(a)(1))

²² Memo of Student Borrower Protection Center, March 2, 2022, p. 3, <https://protectborrowers.org/wp-content/uploads/2022/03/SBPC-IDR-Complaint-Memo-Nelnet.pdf>

²³ Office of the Attorney General, Major Student Loan Servicer Nelnet To Pay \$1.8 Million For Alleged Failure To Sufficiently Communicate With Borrowers About Maintaining Access To Affordable Payments, January 11, 2024,

the Domina Law Group continues to represent borrowers in a class action lawsuit against Nelnet²⁴. The United States Department of Education found that Nelnet was the second to last servicer in terms of keeping borrowers out of default during 2021, which was one of the years covered by the FDIC's CRA exam²⁵. When conducting the CRA exam, the FDIC probably did not consult with the Department of Education, the Massachusetts Attorney General or the law firm involved in the class action lawsuit. The exam's discriminatory and other illegal practices review concludes succinctly, "The bank's compliance with laws relating to discrimination and other illegal credit practices was reviewed, including the Fair Housing Act and the Equal Credit Opportunity Act. Examiners did not identify any discriminatory or other illegal practices."²⁶

CRA imposes an affirmative obligation on banks to meet credit needs consistent with safety and soundness. An important part of complying with safety and soundness is ensuring that loans are fair and sustainable for borrowers so that large-scale defaults or delinquencies do not imperil the soundness of the financial institution. Moreover, it is not possible for a bank to meet legitimate credit needs when its practices amount to extracting substantial amounts of onerous payments and wealth from borrowers. The current state of ILC CRA examination is failing at meeting the core statutory obligations of CRA, certainly in the case of a large scale, nationwide company like Nelnet. Square's CRA exam is likewise inadequate in the scope of its coverage.

The most recent CRA exam of the non-traditional federal savings bank, State Farm, contrasts with Nelnet's and Square's in that the exam evaluated a significant portion of State Farm's loans beyond its one assessment area of Bloomington, Illinois. As an insurance company, State Farm makes several types of loans (such as home mortgage, consumer, and credit card) available through its network of 18,000 agents across the country²⁷. The exam states that since customers in the Bloomington area accounted for just 1.5 percent of total deposits, the exam included expanded review areas (ERAs) across five states that accounted for about 17 percent of deposits and 19 percent of loans²⁸. The exam stated that "ERAs are areas where State Farm Bank has a significant volume of lending activity but does not have a banking office and therefore is not required to be delineated as an assessment area according to the regulation."²⁹ The exam then conducted a borrower distribution analysis in the five statewide ERAs.

Notable features of the State Farm exam is that it choose to conduct lending analyses beyond the physical location of the headquarters office. Perhaps this is an implicit recognition that the conventional designation of assessment areas is not adequate for non-traditional banks that lack a

<https://www.mass.gov/news/major-student-loan-servicer-nelnet-to-pay-18-million-for-alleged-failure-to-sufficiently-communicate-with-borrowers-about-maintaining-access-to-affordable-payments>

²⁴ Domina Law's Nelnet Class Action Over Student Loans to Proceed, May 23, 2019, <https://www.dominalaw.com/legal-blog/2019/may/domina-laws-nelnet-class-action-over-student-loa/>

²⁵ Memo of Student Borrower Protection Center, p. 3.

²⁶ Nelnet CRA exam, p. 8.

²⁷ OCC 2018 State Farm CRA exam, <https://occ.gov/static/cra/craeval/jan19/714640.pdf>, p. 6

²⁸ State Farm CRA exam, p. 8.

²⁹ State Farm CRA exam, p. 8.

branch network. While it would have been preferable to cover the majority of lending activity, this exam nevertheless established a precedent that should be expanded. A shortcoming of this exam is that it did not assess community development activity beyond Bloomington. Banks and their trade associations have advocated for consideration of community development activity beyond office headquarters and branch networks³⁰. Through intermediaries and non-profit community development organizations, it should be possible for non-traditional banks to offer community development financing beyond branches or headquarter offices.

The FDIC has the authority when approving strategic plans or the charter applications of ILCs to require more comprehensive CRA exams than the inadequate exams reviewed here. In the case of Square, communities outside of the one assessment area are missing lending and other reinvestment activity that Square has the capacity to offer. This is also true in the case of Nelnet. In addition, there is the woeful lack of considering the likely persistence of abusive and wealth extracting servicing activity that should negatively impact Nelnet's rating.

The FDIC's Statement of Policy Provides Authority to Require Robust CRA Plans and Evaluations for ILC Banks

The FDIC statement of policy regarding applications for deposit insurance provides the FDIC with authority to provide considerably improved CRA strategic plans and/or regular exams. The statement of policy states, "The essential considerations in evaluating this factor (convenience and needs) are the deposit and credit needs of the community to be served, the nature and extent of the opportunity available to the applicant in that location, and the willingness and ability of the applicant to serve those financial needs."³¹ For a nontraditional bank such as ILCs, the credit needs of the communities to be served do not stop at the headquarters location of the ILC, but extend across all the geographical areas in which it makes loans and conducts business. In addition, its ability to serve needs is not confined to its headquarters location since it has established an infrastructure enabling it to serve customers either nationally or across several states.

The FDIC could require the submission of robust CRA plans for ILCs. A CRA plan aiming to satisfy the willingness and ability standard would also establish quantitative performance goals for its various products and for the majority of its lending activity. An applicant could describe previous years' volumes of loans and other products for LMI borrowers and communities and could identify and describe feasible increases in these products for LMI populations. The descriptions should also include how these products are affordable and would not result in unsustainable debt levels. Finally, goals regarding whether the applicant will offer percentages of

³⁰ Brad Blower, "The Banking Lobby's Cynical And Hollow Challenge To The Community Reinvestment Act Rule," NCRC, February 15, 2024,

<https://ncrc.org/the-banking-lobbys-cynical-and-hollow-challenge-to-the-community-reinvestment-act-rule/>

³¹ FDIC Applications for Deposit Insurance, Statement of Policy, Federal Register, Vol. 63, No. 161, Thursday, August 20, 1998, p. 44760, <https://www.govinfo.gov/content/pkg/FR-1998-08-20/pdf/98-21488.pdf>

loans to LMI borrowers and census tracts equal or greater than the aggregate or its peers (with peers identified) in its assessment areas would enable the public to judge the adequacy of its commitment to affirmatively and continually serve credit needs per the CRA mandate. The applicant should describe its rationale for its goals, including recent past performance relative to peers and/or aggregate and how it thinks its product offerings might improve upon the comparisons in future years.

The FDIC could also encourage the negotiation of Community Benefit Agreements (CBAs) as part of ILC charter applications. NCRC works with our members and financial institutions on a collaborative process to create CBAs where nonprofit and bank leaders discuss community needs and opportunities for CRA-related financing. CBAs commit banks to increasing CRA activity and directing it to where it is needed most. One would be hard-pressed to think of a more ideal model of CRA implementation. Yet, the regulators do not have a consistent process for recognizing these commitments and measuring bank progress towards completing them.

Fair lending and Consumer Protection Law Compliance Lacking

The FDIC statement of policy regarding deposit insurance lacks a section asking applicants to describe in detail how they will comply with fair lending and consumer protection law. This is particularly important in the case of fintechs (internet-based financial companies) seeking ILC charters. A number of fintechs use newer underwriting techniques that are controversial; some do not seem to have clear objective criteria for assessing creditworthiness. Carol Evans of the Division of Consumer and Community Affairs in the Federal Reserve System cautions against the use of data that does not seem to have a clear connection to a borrower's creditworthiness. For example, some lenders have used an applicant's level of education although the predictive power of this variable for underwriting is questionable. In other cases, using data such as the credit scores of an applicant's online social network of friends and acquaintances could perpetuate discrimination since traditionally underserved consumers may have acquaintances with lower-than-average credit scores. Yet an applicant's acquaintances' readiness for loans has nothing to do with the applicant's qualifications³².

Fintech applicants for ILC charters need to describe how they would make sure that any underwriting of this nature would not result in discrimination. In addition, they need to describe how internet-related disclosures would not shortcut the usual TILA-RESPA disclosures regarding loan terms and conditions.

³² Carol A. Evans, Associate Director, Division of Consumer and Community Affairs, the Board of Governors of the Federal Reserve System, Keeping Fintech Fair: Thinking About Fair Lending and UDAP Risks, p. 5, in Consumer Compliance Outlook, Second Issue, 2017, A Federal Reserve System Publication Focusing on Consumer Compliance Topics, <https://www.consumercomplianceoutlook.org/2017/second-issue/keeping-fintech-fair-thinking-about-fair-lending-and-udap-risks/>

An ILC charter option must not be used mainly to evade state interest rate and consumer protection laws. Recently, One Main Financial applied for an ILC charter as large-scale consumer lender. NCRC member, the Woodstock Institute, maintained that One Main Financial advertises an interest rate that is just under the cap allowed by Illinois state law but that its fees are not included in the interest rate calculations, calling into question whether the rate actually complies with Illinois law. Furthermore, if One Main Financial is granted an ILC charter, it would be able to exceed the Illinois interest rate cap³³.

The internet can be alluring in its simplicity and speed. However, how would ILC applicants ensure that they were not employing unfair, deceptive, and abusive advertising? The FDIC would not want to invite a rash of new and unscrupulous market activity targeting vulnerable populations unfamiliar with banking and lending. The FDIC needs to carefully consider any ILC chartering procedure to ensure that internet-based lenders interested in the ILC charter are genuinely serving consumers with affordable and sustainable products instead of evading or ignoring fair lending and consumer protection laws.

Conclusion

Is the ILC charter going to be used in a legitimate manner to serve credit and community needs in a robust and sustainable manner or will it be abused by lending institutions mainly interested in evading state law, seeking minimal compliance with CRA, and engaging in risky and abusive practices that result in unaffordable loans for consumers and unsafe and unsound loans for lending institutions? The answer to this question hinges on the FDIC's decisions on how it will design the ILC application and chartering process and whether that process allows ample time for all stakeholders to consider complex compliance issues. We urge the FDIC to carefully consider information obtained from this RFI and to conduct additional research before proposing any changes to the ILC chartering and application process. Over several years, NCRC has observed cursory ILC applications that do not sufficiently address CRA, fair lending, and consumer compliance obligations. We have also not observed FDIC decision orders that insist on rigorous CRA and fair lending practices and requirements that promote healthy increases in reinvestment activity and that protect consumers and communities. We hope this changes starting with this RFI.

Thank you for the opportunity to offer our input on this important matter. If you have any questions, kindly contact me on [REDACTED] or Josh Silver, Senior Fellow, on [REDACTED]

³³ Comment letter of the Woodstock Institute, June 3, 2025, p. 1, <https://woodstockinst.org/financial-institutions/comment-letter-protesting-onemain-financials-bank-charter-application/>

Sincerely,

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National Community Reinvestment Coalition (NCRC)

Association of Neighborhood and Housing Development, Inc. ANHD
Urban Land Conservancy
Woodstock Institute
African American Chamber of Commerce of Montgomery County
The Pittsburgh Community Reinvestment Group
Delaware Community Reinvestment Action Council Inc.
Housing Oregon
Tulson Center for Community Excellence
Prosperity Indiana
The United South Broadway Corporation
Georgia Advancing Communities Together
Affordable Home Ownership Foundation Inc.
Kingdom Community Development Corporation
PathStone Corporation
New Jersey Citizen Action
BLDG Memphis
Fair Housing Center of Central Indiana
River Cities Development Services
ACT! Albany Community Together, Inc.
Woman Under Construction Network