December 29, 2025

The Honorable Travis Hill
Chairman
Federal Deposit Insurance Corporation (FDIC)
550 17th Street NW
Washington, DC 20429

The Honorable Jonathan V. Gould
Comptroller of the Currency
Office of the Comptroller of the Currency (OCC)
400 7th Street SW, Suite 3E-218
Washington, DC 20219

RE: Prohibition on Use of Reputation Risk by Regulators, 90 Fed. Reg. 48,825 (proposed October 30, 2025); RIN 1557-AF34, RIN 3064-AG12; Docket ID: OCC-2025-0142

Dear Chairman Hill and Comptroller Gould:

The National Community Reinvestment Coalition (NCRC) appreciates the opportunity to comment on the proposed rulemaking to prohibit the use of reputation risk by regulators. NCRC expresses concern with the proposed rule as it will make it more difficult to investigate financial institutions for acts of lending discrimination. Banks and other lenders supervised by the FDIC or OCC will be less scrutinized for public claims of discrimination that pose potential harm to their reputation and business.

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.

The Role of Reputational Risk in Uncovering Lending Discrimination

The FDIC and OCC define *reputational risk* as "an action or activity, or combination of actions or activities, or lack of actions or activities, of an institution [that] could negatively impact public perception of the institution for reasons unrelated to the current or future financial condition of the institution." Supervisors already evaluate how certain activities or practices can impact an institution's reputation through traditional risk channels, such as credit risk, market risk, or operational risk. Reputational risk, as the proposed rule claims, plays no role in determining the safety and soundness of an institution.

However, it is inaccurate to state that the reputation of an institution—outside traditional risk channels—cannot have an impact on their safety and soundness. Lenders rely on the confidence of its depositors to continue its overall operations. If a bank's reputation became associated with an activity deemed negatively by society, such as lending discrimination, it is very likely that depositors would withdraw their funds and seek services from another lender. This would impact the financial condition of the bank and put them at risk of closure.

We express concern that the proposed rule will make it more difficult for regulators to investigate financial institutions if their reputation has been tarnished by allegations of discrimination within their community. For example, community groups and media institutions may accuse a lender of refusing to offer full services to residents in a majority of Black neighborhood. Under the proposed rule, the lender will not be further scrutinized for these allegations based on reputational risk alone.

Furthermore, we express concern about the compounding effects of this rule and the proposed rule by the CFPB to modify Regulation B of the Equal Credit Opportunity Act (ECOA). The Regulation B rule will eliminate the disparate impact standard and narrow claims of discouragement to merely be explicit acts or statements of discrimination. As stated above, a lender may develop a reputation for not opening bank branches in majority-minority census tracts, claiming that it would pose significant financial risk.

Without data as proof, the proposed rule would prevent the FDIC/OCC from investigating the lender further on this reputational claim alone. Furthermore, the proposed Regulation B rule would allow CFPB to dismiss claims of lending discrimination since there is no explicit intent by the lender to discourage access to their financial services, such as "we don't lend to minority-owned small businesses." These rules have a combined effect of allowing predatory lenders to commit more discrimination at the expense of low-to-moderate income communities.

As such, we ask that Bureau clearly answer our questions on the enforcement of this rule as it particularly relates to fair lending and consumer protection:

1. How will the examiner decide in practice when a controversy is <u>unrelated</u> to financial condition?
2. When widespread allegations of discrimination damage a bank's standing in the LMI community, will the examiners be instructed to treat them as compliance, legal, or operational risks? What guidance will you issue?
3. Many serious fair-lending and consumer protection problems first show up as community complaints, or media stories instead of immediate capital or earnings impacts. How will the implementation of this proposed rule ensure examiners still treat these community signals as exam input, rather than dismissing them as "reputational issues?"

NCRC
National Community Reinvestment Coalition

Conclusion

We urge the FDIC/OCC to reconsider this proposed rule and establish clear guidelines for what constitutes a reasonable reputational risk. We encourage a civil rights analysis of this rule to better understand its impact on lending to people of color and LMI populations. Should you have questions you may reach out to Manan Shah, Policy Advisor at [redacted] or Eden Forsythe, Chief Policy Counsel at [redacted].

Sincerely,

Jesse Van Tol

President & CEO

National Community Reinvestment Coalition