NYLIB | NEW YORK LEAGUE OF INDEPENDENT BANKERS

September 26, 2025

<u>VIA EMAIL: COMMENTS@FDIC.GOV</u>

Jennifer M. Jones
Deputy Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: Proposed Rule Adjusting and Indexing Certain Regulatory Thresholds— <u>RIN 3064-AG15</u>

Dear Deputy Executive Secretary Jones:

I am the President of the New York League of Independent Bankers ("NYLIB"), a trade organization representing community banks in the New York City tri-state area. I write to provide comments on the proposed rule "Adjusting and Indexing Certain Regulatory Thresholds," published in the Federal Register on July 28, 2025.[1] As an organization of independent bankers, NYLIB has direct experience with compliance burdens and risk-management considerations tied to these thresholds. NYLIB strongly supports the FDIC's proposal to raise the Part 363 thresholds to account for historical inflation, as well as its proposal to index those thresholds to inflation going forward. In fact, NYLIB writes to urge the FDIC to consider setting even higher initial thresholds than the FDIC has proposed.

NYLIB appreciates the FDIC's recognition that static thresholds can become outdated due to inflation. As the FDIC notes, the original intent behind Part 363 was to "help ensure sound financial management of the institutions posing the greatest potential risk to the Deposit Insurance Fund."[2] The initial $500 million threshold that the FDIC set in 1993 thus included only about 7 percent of depository institutions, who together held three-quarters of U.S. banking assets.[3] These were truly the largest depository institutions – institutions that today one might characterize as posing systemic or near-systemic risk to the Deposit Insurance Fund. Community banks were exempted entirely from these thresholds.

While inflation has been relentless since 1991, the $500 million threshold for the Part 363 annual report never has been adjusted.[4] And the $1 billion threshold for the Part 363 assessments of the effectiveness of internal control over financial reporting and independent public account attestation report has not been adjusted since 2005.[5]

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[1] Adjusting and Indexing Certain Regulatory Thresholds, 90 Fed. Reg. 35,449 (July 28, 2025).
[2] *Id.* at 35,454; *see also id.* at 35, 455 (a "key underlying objective" of Part 363 is to "achiev[e] sound financial management at insured institutions posing the greatest risk to the Deposit Insurance Fund.")
[3] *Id.* at 35,454.
[4] *Id.* at 35,454 & n.45.
[5] *Id.* at 35,454.

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The effect of not adjusting these thresholds for inflation is that every year – and every decade – more and more community banks have been captured by the thresholds, despite the FDIC's original intention only to capture the largest depository institutions posing the greatest potential risk to the Deposit Insurance Fund. The $500 and $1 billion thresholds today capture not only virtually all community banks, but also capture the *smallest* of community banks – institutions whose tiny size means their failure would pose no risk to the Deposit Insurance Fund. The result of failing to adjust the thresholds over time has been to burden and disadvantage community banks, which face disproportionate compliance costs relative both to their financial resources and the risks they pose to the Deposit Insurance Fund.

As the FDIC itself has noted, community banks are the lifeblood of local economies.[6] Yet every year the number of community banks dwindles, with detrimental effects to U.S. small businesses and to American economic dynamism writ large. The FDIC should do everything it can to strengthen the community banking sector and to reverse its decline. It would be appropriate for the FDIC to consider ***significantly higher initial thresholds than the $1 and $5 billion thresholds it has proposed – thresholds that would exempt all or most community banks, such as $10 and $15 billion or even $15 and $20 billion***. Promulgating significantly higher thresholds would return Part 363 to its original focus of "help[ing] ensure sound financial management *of the institutions posing the greatest potential risk* to the Deposit Insurance Fund."

NYLIB thanks the FDIC for taking steps to address the long-standing issue of outdated Part 363 thresholds and for considering stakeholder input.

Respectfully,

[redacted]

Edward T. Lutz
President, NYLIB

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