May 9, 2025

Via Electronic Mail

Office of the Comptroller of the Currency
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Washington, DC 20219
prainfo@occ.treas.gov
Attn: Chief Counsel's Office, Comment Processing - Docket ID OCC-2011-0028

Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551
Attn: FR 4203; OMB No. 7100-0354

James P. Sheesley, Assistant Executive Secretary
Attention: Comments – Leveraged Lending Guidance
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: 1557-0315 Information Collection Renewal; Comment Request; Leveraged Lending

Ladies & Gentlemen:

PNC Bank, National Association ("PNC Bank") and its parent bank holding company, The PNC Financial Services Group, Inc. ("PNCFSG" and, together with PNC Bank and their affiliates, "PNC") appreciate the opportunity to submit this comment letter in response to the requests by the Office of the Comptroller of the Currency ("OCC") and the Board of Governors of the Federal Reserve System (the "Board") for comment under the Paperwork Reduction Act ("PRA"), 44 U.S.C. § 3501 *et seq.*,[1] on the collections of information in the Interagency Guidance on Leveraged Lending (the "Leveraged Lending Guidance") issued by the OCC, the Board, and the Federal Deposit Insurance Corporation (the "FDIC," and collectively with the OCC and Board, the "Agencies") in 2013.[2] PNC, one of the largest diversified financial institutions in the

[1] 90 Fed. Reg. 11651 (Mar. 10, 2025) (OCC); 90 Fed. Reg. 17597 (April 28, 2025) (Board).

[2] Interagency Guidance on Leveraged Lending, 78 Fed. Reg. 17766 (Mar. 22, 2013).

United States, has businesses engaged in retail banking, corporate and institutional banking ("C&IB") and asset management, providing many of our products and services nationally. Companies count on us to provide flexible and creative financing solutions designed to meet their short- and long-term needs. Our perspectives are informed by our deep experience in corporate lending and strong expertise in evaluating credit risk for corporate borrowers built over many years.

The PRA was enacted to reduce the burden on citizens and firms resulting from government information requests.[3] Under the PRA, the Agencies must seek public notice and comment on any proposed information collections, and the Office of Management and Budget ("OMB") Director must approve any information collection request.[4] OMB's review of information collection requests is the "cornerstone of the PRA" and essential to ensuring regulated entities are not overly burdened by unnecessary requests.[5] The Agencies last put out information collections associated with the Leveraged Lending Guidance for public comment in 2022.[6] The OCC's existing authorization from OMB to require information collections with respect to the Leveraged Lending Guidance will expire on July 31, 2025,[7] the Federal Reserve's authorization will expire on November 30, 2025,[8] and the FDIC's authorization will expire on February 28, 2026.[9] As of the date of this letter, only the OCC and the Board have published notices of renewal of this information collection request; however, PNC is addressing this letter to all three Agencies given the substance of this comment letter applies to the collections administered by all the Agencies.

As discussed further below, the Leveraged Lending Guidance, associated FAQs and agency supervisory actions (collectively, the "Leveraged Lending Supervisory Framework") have imposed burdens on banking organizations in a manner that outweighs the benefits of any prudential risk mitigation that the Agencies have sought to achieve. Among other things, the Leveraged Lending Supervisory Framework effectively requires banks to invest significant resources to maintain a parallel infrastructure to existing and effective business and credit evaluation processes. This parallel infrastructure produces loan classifications that are disconnected from actual credit risk

[3] *See* Tozzi v. EPA, 148 F. Supp. 2d 35, 38 (D.D.C. 2001).

[4] 44 U.S.C. § 3507(a)(1). The portions of the Leveraged Lending Guidance that are "information collections" under the PRA are, as determined by the Agencies, "the provisions that state that a financial institution should have (i) Underwriting policies for leveraged lending, including stress-testing procedures for leveraged credits; (ii) risk management policies, including stress-testing procedures for pipeline exposures; and, (iii) policies and procedures for incorporating the results of leveraged credit and pipeline stress tests into the firm's overall stress-testing framework." 78 Fed. Reg. 17766, 17769 (Mar. 22, 2013).

[5] Tozzi v. EPA, 148 F. Supp. 2d 35, 38 (D.D.C. 2001).

[6] 87 Fed. Reg. 31056 (May 20, 2022) (OCC); 87 Fed. Reg. 47212 (Aug. 2, 2022) (Board); 87 Fed. Reg. 59417 (Sept. 30, 2022) (FDIC).

[7] See OMB Control Number History: 1557-03156, Extension without change of a currently approved collection (July 25, 2022) (link).

[8] OMB Control Number History: 7100-0534, Extension without change of a currently approved collection (Nov. 9, 2022) (link).

[9] OMB Control Number History: 3064-0191, Revision of a currently approved collection (Feb. 13, 2023) (link).

and these classifications do not improve our processes for managing our business and credit risk; instead, the output of the parallel infrastructure required by the Leveraged Lending Supervisory Framework is used for the examination process. In addition, the Leveraged Lending Supervisory Framework suffers from various procedural flaws that are inconsistent with the President's recent executive order with respect to agency accountability.[10]

To adequately address the deficiencies present in the Leveraged Lending Supervisory Framework, PNC respectfully requests that the Agencies withdraw the Leveraged Lending Guidance entirely, which would avoid the need for OMB to review the information collection request submitted by the OCC and the Board and the need for the FDIC to submit a related information collection request notice. If the Agencies decline to do so, PNC respectfully requests that the OMB not approve information collection requests associated with the Leveraged Lending Supervisory Framework given the disproportionate burden it places on banking organizations compared to any perceived benefits.

This letter is organized as follows:

- Section I discusses the procedural and policy background behind the Leveraged Lending Supervisory Framework.
- Section II discusses the shortcomings of the Leveraged Lending Supervisory Framework in achieving its policy goals.
- Section III discusses the failure of the Leveraged Lending Supervisory Framework to keep pace with developments in credit markets.
- Section IV discusses the unjustified costs imposed by the Leveraged Lending Supervisory Framework.
- Section V discusses procedural flaws that undermine the legitimacy of the Leveraged Lending Supervisory Framework, including its inconsistency with recently issued executive orders.
- Section VI discusses the impact of repeal on safety and soundness.

[10] E.O. 14219, 90 Fed. Reg. 10583, § 2 (Feb. 25, 2025).

I. Background

The Leveraged Lending Guidance was issued by the Agencies in 2013 to set out "high-level principles related to safe-and-sound leveraged lending activities"[11] informed by the lessons of the 2008 global financial crisis.[12] The 2013 guidance replaced guidance issued in 2001 that shared a similar principles-based approach as the 2013 guidance but lacked many of the prescriptive standards used to define what is considered leveraged lending (e.g., debt to earnings ratios) found in the 2013 guidance.[13] The Agencies subsequently issued FAQs relating to the guidance in November 2014,[14] and began to vigorously implement the Leveraged Lending Guidance through supervision, examinations and public commentary.[15] These FAQs and implementation efforts reflected considerably less flexibility for banking organizations to make leveraged loans and considerably less deference to banking organizations' in-house expertise in credit evaluation than the text of the 2013 guidance.[16] According to public reporting, practices inconsistent with the guidance served as the basis for issuing matters requiring attention and matters requiring immediate attention in examination reports, which can have significant negative impact on a banking organization's supervisory ratings.[17]

The current Leveraged Lending Guidance sets out expectations for how banking organizations should manage risk when making loans to certain nonfinancial borrowers. There is no single definition of the transactions that would constitute leveraged lending, but the Leveraged Lending Guidance provides certain criteria for identifying leveraged lending, such as if debt to earnings before interest, taxes, and amortization ("EBITDA") ratios exceed certain thresholds. Among other things, the Leveraged Lending Guidance creates an expectation that banking organizations maintain underwriting procedures covering "minimum considerations" that reflect assumptions the Agencies deem appropriate about whether a borrower has sufficient cash flow to repay a loan, while deprioritizing the reliability of other sources of repayment, including the likelihood of support from a private equity sponsor and the extent to which covenants and collateral requirements in a lending agreement provide protection against default and for repayment of loans. As discussed further below, the standards used to evaluate these criteria appear

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[11] 78 Fed. Reg. 17766, 17766 (Mar. 22, 2013).

[12] Proposed Guidance on Leveraged Lending, 77 Fed. Reg. 19417, 19418 (Mar. 30, 2012).

[13] *See* SR 01-9, "Interagency Guidance on Leveraged Financing," April 17, 2001, OCC Bulletin 2001-8, FDIC Press Release PR-28-2001.

[14] FAQs for implementing March 2013 Interagency Guidance on Leveraged Lending (Nov. 7, 2014) (link).

[15] *See* Ryan Tracy & Peter Rudegair, *Bank Regulators Step Up Pressure Over Credit* Risk, Wall St. J. (Nov. 24, 2015) (link); Ryan Tracy, *Feds Win Fight Over Risky-Looking Loans*, Wall St. J. (Dec. 2, 2015) (link).

[16] *See, e.g.,* FAQs for implementing March 2013 Interagency Guidance on Leveraged Lending, Q5 (Nov. 7, 2014) (link) ("The agencies have criticized institutions that originate non-pass leveraged loans. Leveraged loans originated with a non-pass risk rating would be inconsistent with safe and sound lending standards and the risk management criteria outlined in the guidance. Leveraged lending policies and practices should deter the origination of loans rated non-pass at inception, unless the origination is part of a risk mitigation strategy in which the origination is intended to improve an existing non-pass loan.").

[17] *See* Lynn Adler and Kristen Haunss, *TRLPC: Wall Street faces toughest regulatory challenge yet on new loan review,* Reuters (Jun. 23, 2015) (link).

to have been crafted with lending based on overall enterprise value in mind and do not appropriately reflect credit risk when applied to cash flow-based, covenant-protected and other types of loans.

While the Leveraged Lending Guidance itself uses language that indicates some flexibility in the application of these assumptions, in practice a banking organization's internal ratings of loan risk may be questioned by examiners if they do not adhere closely to the assumptions in the Leveraged Lending Guidance.[18] This practice is contemplated by the Leveraged Lending Guidance itself, which states, for example: "supervisors commonly assume that the ability to fully amortize senior secured debt or the ability to repay at least 50 percent of total debt over a five-to-seven year period provides evidence of adequate repayment capacity. If the projected capacity to pay down debt from cash flow is nominal with refinancing the only viable option, the credit will usually be adversely rated even if it has been recently underwritten."[19]

In addition to heightened scrutiny, loans that are within the scope of the Leveraged Lending Guidance are subject to significant procedural burdens that increase bank costs in ways that are not proportionate to any reduction in credit risk. For example, banks are required to complete and regularly refresh financial projections for leveraged loans outside of the bank's normal credit monitoring process solely to support examiner scrutiny of leveraged loans. This incremental, exam-driven process requires considerable time and resources. The Leveraged Lending Guidance also mandates an independent enterprise valuation function separate from functions where loans are originated.[20] Creating this separate infrastructure is costly and has the perverse effect of separating the individuals in the bank with the most knowledge of a borrower's business (e.g., the originators, credit underwriters, and portfolio managers) from the personnel developing financial valuations of the borrower.

In practice, the combination of one-size-fits-all criteria, the ambiguous definition of leveraged lending and an implementation approach from the Agencies that emphasizes strict adherence to the Guidelines over bank expertise, has caused the Leveraged Lending Supervisory Framework to metastasize into a costly and largely performative exercise with little risk management upside. Bank loan watch lists now capture many categories of loans that do not present the level of risk the guidance is intended to address, such as loans to investment-grade companies and prudently underwritten first-out loans to middle market companies and recurring revenue loans to growth stage companies. In PNC's first-out loans and recurring revenue loans that are structured as first-out/last-out transactions, for example, PNC would have a contractual priority claim on loan repayment through foreclosure on collateral in the event of default (through a blanket priority first lien claim on substantially all assets), but the Leveraged Lending Supervisory Framework does not account for this particular protection (i.e., structural and/or contractual seniority). As a result, these loans are assigned a regulatory loan

[18] *See* sources at n.16, n. 17 above.

[19] 78 Fed. Reg. 17766, 17769 (Mar. 22, 2013).

[20] 78 Fed. Reg. 17766, 17773 (Mar. 22, 2013).

classification that is inconsistent with the actual risk-level of PNC's first-priority exposure.

The Leveraged Lending Supervisory Framework's stated goal was macroprudential, that "financial institutions should ensure they do not unnecessarily heighten risks by originating poorly underwritten loans," that is, loans of the flavor that contributed to the 2008 global financial crisis.[21] However, as discussed further below, this focus on pre-2008 loan types has not been adjusted to reflect changing credit market practices. The Leveraged Lending Guidance also includes components focused on individual banking organization safety and soundness.[22] As already mentioned, the outcomes of the current Leveraged Lending Supervisory Framework do not appear to be well-correlated with actual credit risk.

II. The Leveraged Lending Guidance Failed to Achieve its Policy Objectives (either Real or Speculative) and is Inconsistent with Current Administration Policy

There is almost no evidence that the Leveraged Lending Supervisory Framework has achieved its macroprudential policy goal of reducing risky lending.[23] It may be true, as indicated in a study by the Federal Reserve Bank of New York, that the Leveraged Lending Supervisory Framework resulted in a significant pullback in leveraged lending by the most sophisticated banking organizations, with their market share cut roughly in half from November 2014 to November 2015.[24] However, leveraged lending did not in fact decline due to the new framework; it actually grew and shifted to less-regulated nonbank lenders.[25] It is also far from clear that the Agencies accurately estimated the magnitude of the macroprudential or safety-and-soundness risks that motivated the current Leveraged Lending Supervisory Framework when it was adopted in 2013-2014. The Government Accountability Office has found that, based on experience during the market turmoil associated with COVID-19 and regulators' own analyses, stress in the leveraged lending sector has not presented a meaningful risk to financial stability or the

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[21] 78 Fed. Reg. 17766, 17771 (Mar. 22, 2013).

[22] *See* Sooji Kim, et al., *Macroprudential Policy and the Revolving Door of Risk: Lessons from Leveraged Lending Guidance*, Fed. Res. Bank NY: Staff Report No. 815, at 3 (May 2017) (link) ("While components of the guidance were microprudential in nature, the stated goal of the interagency guidance was macroprudential: to ensure that federally regulated financial institutions conduct leveraged lending activities in a safe and sound manner so that these activities do not heighten risk in the banking system or the broader financial system through the origination and distribution of poorly underwritten and low-quality loans.").

[23] *See* Brett Waxman and Greg Baer, The Banking Agencies and Leveraged Lending: A Case Study in the Hazards of "Macroprudential" Regulation, Bank Policy Institute (Mar. 7, 2019).

[24] Sooji Kim, et al., *Macroprudential Policy and the Revolving Door of Risk: Lessons from Leveraged Lending Guidance*, Fed. Res. Bank NY: Staff Report No. 815, at 3 (May 2017) (link) ("The effect of the guidance on LISCC banks' leveraged lending business was meaningful. Compared to the pre-guidance period, the market share of these institutions in the post clarification period declined by 11.0 and 5.4 percentage points depending on whether it is measured by the number or volume of leveraged loans, respectively. This decline is meaningful, particularly if one takes into account that it happened over about one year (November 2014 – December 2015). Nonbank lenders appear to have been the main beneficiaries of this response . . . .").

[25] *Id. See also* Financial Stability Board, *Vulnerabilities associated with leveraged loans and collateralised loan obligations*, at 6-7 (Dec. 19, 2019) (link).

soundness of large banking organizations.[26] The Financial Stability Oversight Council annual report, issued contemporaneously with the Leveraged Lending Guidance, found little evidence of leveraged lending posing a financial stability risk.[27] The minutes of the Federal Open Market Committee from 2015, shortly after the adoption of the Leveraged Lending Guidance, also indicate leveraged lending did not pose a systemic risk.[28]

On the other hand, the Trump administration has articulated a policy priority to encourage lending by banking organizations and promote economic growth. Treasury Secretary Bessent, in recent remarks at the Economic Club of New York, said that while "private credit is exciting… We also have to get the regulated entities lending again. I think that they can coexist."[29] Secretary Bessent also said in his confirmation hearing that it is crucial to avoid unduly constraining small and regional banking organization lending in order to drive "generalized Main Street prosperity."[30] The Leveraged Lending Supervisory Framework's effect in driving lending to the nonbank sector is inconsistent with that policy.

III. The Leveraged Lending Supervisory Framework Has Not Kept Pace with Market Developments

The Leveraged Lending Supervisory Framework, as developed in 2013-2014, generally focused on earnings, specifically EBITDA, as a measure of creditworthiness. Since that time, a significant market has developed to lend to technology-based software companies. These companies utilize cash flow to invest in the technology product, with value accretion driven, in part, by the growth and stability of annualized recurring revenue streams ("ARR"). PNC, alongside numerous other lenders in the market, has developed significant experience with evaluating creditworthiness based on the stability of these ARR for growth-stage and technology companies. Under this approach, companies without significant earnings can be creditworthy based on contracts with customers that result in predictable revenue streams (e.g., the software subscription contracts). The predictability of such revenue streams gives lenders confidence in the borrower's cash flow to repay the loan. ARR is supported by a number of other lender tools to underwrite creditworthiness, such as (i) evaluation of the borrower's customer retention against established benchmarks to validate the predictability of the recurring revenue, gross margins, and variability of cost structures; (ii) the presence, strength, and support record of a private equity sponsor; (iii) conservative loan to value positions; and (iv) covenants that provide downside protection for first-out lenders.

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[26] Government Accountability Office, Agencies Have Not Found Leveraged Lending to Significantly Threaten Stability but Remain Cautious Amid Pandemic, GAO-21-167 at 33 (Dec. 2020) (link).

[27] Financial Stability Oversight Council, *2013 Annual Report*, at *144 (2013) (link).

[28] *See, e.g.,* Meeting of the Federal Open Market Committee on October 27-28, 2015 at 86-87 (link).

[29] David Lawder and Ann Saphir, US Treasury's Bessent defends Trump tariff upheaval, vows 'maximum sanctions', Reuters (Mar. 6, 2025).

[30] Hearing to Consider the Anticipated Nomination of Scott Bessent, of South Carolina, to be Secretary of the Treasury, Senate Committee on Finance (Jan. 16, 2025) (link).

Over the past decade, ARR lending has been validated as a proven and sound model. However, because the Leveraged Lending Supervisory Framework incorporates default assumptions based only on an EBITDA lending framework, it does not accurately gauge the quality of ARR lending. For example:

- The Leveraged Lending Guidance states that "[g]enerally, a leverage level after planned asset sales (that is, the amount of debt that must be serviced from operating cash flow) in excess of 6X Total Debt/EBITDA raises concerns for most industries" and covenant protections should generally be put in place to avoid such a situation. Lenders to firms with low earnings but consistent revenues may not require such protection.

- Similarly, the Leveraged Lending Guidance generally assumes a borrower must have capacity to repay 50% of senior loans *or* 100% of all debt within a 5–7 year period.[31] Repayment in this way is not always appropriate with respect to early-stage or growing businesses that require a ramp-up period.

This pattern has played out with other loan types that have grown in popularity since 2013. As discussed above, the Leveraged Lending Supervisory Framework generally encourages banks to evaluate borrower credit quality using enterprise-level metrics such as overall earnings and debt repayment timelines. Although these metrics may be appropriate for a lender with limited seniority that is reliant on a borrower remaining as a going concern for full repayment, this approach does not account for variances in individual lender structural, collateral or contractual seniority positions. For example, in addition to health of the borrower, first-out lenders rely on the strength of their contractual seniority in the underlying collateral and the over-collateralization of their obligations; their risk is managed through the presence of sufficient collateral and a priority right to that collateral, which the Leverage Lending Guidance does not take into account.

As a result, loans that are otherwise safe and sound and help further economic growth by providing financing to growing companies may be rated as non-pass by banking organizations seeking to comply with the Leveraged Lending Supervisory Framework (and avoid adverse examination findings), with the consequence that banking organizations are less able to issue value-creating, low-risk loans.

IV. The Leveraged Lending Guidance Has Imposed Significant Costs on Banking Organizations Without Meaningful Justification, Inconsistent with the Requirements of the PRA

The PRA requires that information collections be designed to minimize unnecessary burdens on regulated entities. In the context of the Leveraged Lending Guidance, information collections that implicate the PRA include requirements that banking organizations maintain underwriting policies, risk management procedures and

[31] *Id.* at 17774-75.

stress-testing procedures, in each case consistent with the standards set out in the Leveraged Lending Guidance.

As discussed above, it is not clear what benefits the Leveraged Lending Guidance provides. There may be some upside in forcing banking organizations to take conservative credit positions in that banking organizations are less likely to suffer losses, but this comes with macroeconomic costs and drives activity outside the regulatory perimeter. Any financial stability benefits to the Leveraged Lending Supervisory Framework are either speculative or refuted by recent experience and analysis. Moreover, the ratings outcomes currently driven by the Leveraged Lending Guidance have only a limited correlation to the actual risk of loans, especially for loan types developed since 2013.

Leaving aside the negative externalities of the Leveraged Lending Supervisory Framework, the burdens of complying just with the information collections of the regime are significant and almost certainly outweigh any benefits which, in hindsight, are hard to discern. PNC's internal estimates indicate that work associated with complying with the Leveraged Lending Guidance roughly doubles the person hours required to evaluate a loan. For example, a typical middle market credit would require approximately 15-18 person hours for the underwriting if the borrower of the loan is not within the scope of the Leveraged Lending Guidance, but a minimum of 30-36 person hours for the same underwriting if the borrower is within the scope of the guidance. In issuing the Leveraged Lending Guidance, the Agencies themselves calculated the information collection components of the guidance alone would impose an annual ongoing burden of between 530 to 1,706 hours per regulated entity.[32] Although this burden is already significant, it is far lower than the costs we experience in practice. PNC dedicates approximately 33,000 to 39,600 total person hours annually to underwrite loans that fall within the scope of the Leveraged Lending Guidance. These hours, let alone those of other personnel at PNC involved in related work, significantly exceed the Agencies' estimate.

V. The Leveraged Lending Guidance Was Implemented Through a Flawed Administrative Process That Is Inconsistent with Longstanding and Recent Executive Orders

The Leveraged Lending Guidance also suffers from procedural flaws that should result in its withdrawal by the Agencies or, if the Agencies fail to act, rejection of its informational collections by the OMB.

First, the Leveraged Lending Guidance was issued pursuant to a notice and comment process but styled as guidance rather than a rulemaking. Accordingly, the Leveraged Lending Guidance was issued without going through the Congressional Review Act process and without a cost-benefit analysis.[33] In 2017, in response to an

[32] *Id.* at 17769.

[33] The Agencies noted a comment on the lack of a cost-benefit analysis when adopting the final guidance but declined to engage in a cost-benefit analysis prior to the final guidance being issued. 78 Fed. Reg. 17766, 17769 (Mar. 22, 2013).

inquiry from Senator Pat Toomey, the GAO found that the Leveraged Lending Guidance was, in fact, a "general statement of policy" and, thus, a rule for purposes of the Congressional Review Act and should have been subject to congressional review.[34] The Agencies have never resubmitted the Leveraged Lending Guidance/Rule for congressional review. This procedural history is inconsistent with the legislative history of the Congressional Review Act ("CRA"), which was intended to provide Congress the opportunity to oversee all agency actions that fall within the CRA's broad definition of a rule.[35]

Moreover, since 2007, in accordance with Executive Order 12866, the OCC has submitted significant guidance documents to OMB for review along with a brief statement of the need for such guidance document.[36] Agencies are also required to develop guidance documents, even insignificant ones, in a manner consistent with the principles outlined in Executive Order 12866.[37] While the Leveraged Lending Guidance was submitted to the OMB for purposes of the PRA, it is not clear the applicable procedural formalities and principles of Executive Order 12866 were satisfied, in particular it is not clear the agencies adequately considered costs and benefits of the guidance.

More recently, President Trump issued Executive Order 14219 directing agencies, including the OCC, "to review all regulations subject to their sole or joint jurisdiction for consistency with law and Administration policy" and to identify regulations that, among other things, "impose significant costs upon private parties that are not outweighed by public benefits" or "impose undue burdens on small business and impede private enterprise and entrepreneurship."[38] Under Executive Order 14219, regulations are defined to include guidance documents,[39] and the Administrator of the Office of Information & Regulatory Affairs is directed to consult with agency heads to modify or rescind such regulations.[40] As discussed above, the Leveraged Lending Guidance is both

[34] Letter from Susan A. Poling, General Counsel, GAO to Senator Pat Toomey (Oct. 19, 2017) (link). The question of whether the Leveraged Lending Guidance is consistent with the informal rulemaking requirements of the Administrative Procedure Act (APA) was not decided by the GAO and is distinct from whether it is subject to review under the Congressional Review Act.

[35] *See* 142 Con. Rec. H3005 (daily ed. Mar. 28, 1996) (statement of Rep. McIntosh).

[36] See E.O. 13422, 72 Fed. Reg. 2763 (Jan. 18, 2007) (amending E.O. 12866, 58 Fed. Reg. 190 (Sep. 30, 1993) to add review of significant guidance documents). Significant guidance documents are those that, among other things, would have an annual impact on the economy of more than $100 million or adversely affect in a material way the economy or a sector of the economy. The Leveraged Lending Guidance imposes a material adverse impact on the banking sector because of the way it has driven market share to nonbank lenders.

[37] See E.O. 12866, § 2(a) (as modified by E.O. 13422, § 2(a) to add "and guidance documents") ("Because Federal agencies are the repositories of significant substantive expertise and experience, they are responsible for developing regulations and guidance documents and assuring that the regulations and guidance documents are consistent with applicable law, the President's priorities, *and the principles set forth in this Executive order*.) (emphasis added); E.O. 12866, § 1(a) ("In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating.").

[38] E.O. 14219, 90 Fed. Reg. 10583, § 2 (Feb. 25, 2025).

[39] *Id.* at § 6(e).

[40] *Id.* at § 2(d).

inconsistent with current administration policy *and* imposes unjustified costs on regulated parties. It would be unreasonable to continue to impose such costs on regulated entities when the guidance should be rescinded through the Executive Order 14219 review process.

VI. The Repeal of the Leveraged Lending Guidance Will Not Lead to Unsupervised or Unsound Lending

Repeal of the Leveraged Lending Guidance would not change in any way the general obligation of banks to engage in safe and sound lending practices. Nor would it alter the Agencies' statutory or regulatory examination and supervisory authorities. The Agencies would continue to be able to examine bank procedures for underwriting loans, to assign risk ratings and to monitor the adequacy of reserves against loan losses. The Agencies also would retain the same enforcement tools they currently possess for addressing lending practices that are unsafe or unsound.

The primary impact of repealing the Leveraged Lending Guidance would be to adjust the substantive benchmarks against which examiners assess the safety and soundness of bank lending. Rather than focusing on one-size-fits-all, outdated and overly prescriptive standards, examiners would assess lending according to actual risk profile. This focus on actual loan risk, in turn, would reduce costs incurred by banks in maintaining incremental, exam-driven credit assessment infrastructure built and maintained solely to satisfy the Leveraged Lending Supervisory Framework. The balance between examiner discretion and bank expertise would also be recentered by the repeal of the Leveraged Lending Guidance's overly prescriptive standards.

A modification of the guidance, such as a return to the 2001 version of the guidance would not achieve the same benefits. In the first place, returning to an even older set of standards risks worsening the existing lag between the Leveraged Lending Guidance and modern lending practices. The 2001 guidance also reflects a similar broadly worded and principles-based approach that can lead to inconsistent, even capricious, outcomes across different examiners. Finally, keeping any form of the guidance in place would not reduce the major compliance costs incurred by banks; the need for surplus infrastructure to facilitate examinations and compliance would remain.

We appreciate your consideration of our comments. Please do not hesitate to contact me with any questions.

Sincerely,

[redacted]

Ursula C. Pfeil

Deputy General Counsel, Regulatory Affairs
The PNC Financial Services Group, Inc.