United States Senate

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

[redacted]

October 20, 2025

The Honorable Travis Hill
Acting Chairman
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, D.C. 20429

Dear Acting Chairman Hill:

We are writing to request that the Federal Deposit Insurance Corporation ("FDIC") re-impose a moratorium on deposit insurance applications submitted by commercially owned industrial loan companies ("ILCs" or "industrial banks"). In the early 2000s, the FDIC imposed a moratorium after Walmart's proposed industrial bank raised broad public concerns.[1] This moment calls for a similar pause. A moratorium would provide Congress with an opportunity to address a long-standing crack in the wall separating banking and commerce before it becomes a chasm. Big Tech companies, automobile manufacturers, and large retailers have either filed, or have expressed interest in filing, applications with the FDIC. The separation of banking and commerce promotes competition across the economy, enhances financial stability, and protects our economic and political systems from concentrating too much power in the hands of a few corporate giants. That separation must be preserved.

The ILC Loophole Undermines the Separation of Banking and Commerce

Congress has long guarded the wall dividing banking and traditional commercial activities, generally prohibiting commercial companies from owning banks and prohibiting banks from engaging in commercial activities.[2] The separation of banking and commerce promotes competition across the economy by preventing banks from wielding their power to create money and their access to federal deposit insurance to unfairly compete with commercial companies. For example, a company could use a banking subsidiary to lend at below market rates to its commercial business lines, refuse to lend to its competitors, or sell failing assets to the banking subsidiary to shift losses to taxpayers. In addition, Big Tech firms' growing interest in becoming banks raises heightened concerns regarding the potential misuse of customer data and potential to wield their market dominance to squeeze competitors.[3] The separation also enhances financial

[1] Federal Deposit Insurance Corporation, "FDIC Places Six-Month Moratorium on Industrial Loan Company Applications and Notices," July 28, 2006, https://archive.fdic.gov/view/fdic/2831.
[2] Better Markets, "ILC Corporate Banks Are Unfair Competition and Endanger All Americans," July 28, 2025, https://bettermarkets.org/wp-content/uploads/2025/07/Better-Markets-Fact-Sheet-ILCs-July-28-2025-PDF.pdf.

stability, since it prevents risky commercial activities from disrupting the banking system and creating broader distress in the economy.

Industrial banks were initially established in the early twentieth century to provide small dollar loans to customers of modest means that were not being served by traditional banks, such as factory employees, miners, and other workers.[4] They were not initially allowed to accept deposits. Over time, ILCs were permitted to accept certain types of deposits and became eligible for federal deposit insurance.[5] Their activities started to closely mirror those of traditional banks. In 1987, Congress exempted ILCs from the definition of "bank" under the Bank Holding Company Act.[6] This exemption permits industrial banks to evade many of the activities and affiliation restrictions faced by traditional banks, including the prohibition on commercial ownership.[7] At the time, the largest ILC had approximately $410 million in assets and ILCs, on average, had less than $45 million in assets.[8] This legislation created a loophole for small local lenders in the few states that offered the ILC charter, primarily California and Utah.

The ILC industry has grown significantly over the past four decades. Between 1987 and 2006, ILC assets skyrocketed by nearly 5,000 percent and stood at more than $200 billion.[9] Walmart and Home Depot threatened to exploit this loophole by establishing and acquiring industrial banks, respectively.[10] Congress, regulators, and the broader public raised serious concerns about the implications of these proposed ILCs for competition, financial stability, and the concentration of corporate power. Walmart and Home Depot withdrew their proposals,[11] the FDIC imposed a moratorium in 2006,[12] Congress extended it in 2010,[13] and no commercially owned ILC

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3 Americans for Financial Reform, "Big Tech, Predatory Fintech, and Big Retail Would Reap Bonanza from Expanding the Industrial Bank Loophole," October 6, 2023, https://ourfinancialsecurity.org/news/blog-big-tech-predatory-fintech-and-big-retail-would-reap-bonanza-from-expanding-the-industrial-bank-loophole/.

4 Federal Reserve Bank of St. Louis, "Industrial Loan Companies Come Out of the Shadows," July 1, 2007, https://www.stlouisfed.org/publications/regional-economist/july-2007/industrial-loan-companies-come-out-of-the-shadows.

5 Written testimony of Scott G. Alvarez before the U.S. Senate Committee on Banking, Housing, and Urban Affairs, October 4, 2007, "https://www.federalreserve.gov/newsevents/testimony/alvarez20071004a.htm.

6 https://www.congress.gov/bill/100th-congress/senate-bill/790.

7 12 U.S. Code § 1841(c)(2)(H)

8 Written testimony of Scott G. Alvarez before the U.S. Senate Committee on Banking, Housing, and Urban Affairs, October 4, 2007, "https://www.federalreserve.gov/newsevents/testimony/alvarez20071004a.htm.

9 Federal Register, "Request for Information on Industrial Banks and Industrial Loan Companies and Their Parent Companies," July 21, 2025, https://www.federalregister.gov/documents/2025/07/21/2025-13589/request-for-information-on-industrial-banks-and-industrial-loan-companies-and-their-parent-companies#footnote-14-p34272.

10 New York Times, "Wal-Mart Applies for Banking License," The Associated Press, July 20, 2005, https://www.nytimes.com/2005/07/20/business/walmart-applies-for-banking-license.html; South Coast Today, "Home Depot Agrees to buy Home Lender, Anne D'Innocenzio, May 10, 2006, https://www.southcoasttoday.com/story/business/2006/05/10/home-depot-agrees-to-buy/50433726007/.

11 New York Times, "Wal-Mart Abandons Bank Plans," Eric Dash, March 17, 2007, https://www.nytimes.com/2007/03/17/business/17bank.html; American Banker, "ILC Debate's New Twist: Home Depot Drops Its Bid," January 25, 2008, https://www.americanbanker.com/news/ilc-debates-new-twist-home-depot-drops-its-bid.

12 Federal Deposit Insurance Corporation, "FDIC Places Six-Month Moratorium on Industrial Loan Company Applications and Notices," July 28, 2006, https://archive.fdic.gov/view/fdic/2831.

13 12 U.S. Code § 1844 (e).

applications were approved between 2006-2019.[14] That streak ended when Square and Nelnet had their ILC deposit insurance applications approved in 2020, although the parent companies for both ILCs predominantly engage in financial services.[15]

There are currently 23 industrial banks with $247.4 billion in total assets.[16] In recent years, there has been a wave of new commercial ILC applications filed with the FDIC, primarily from automobile manufacturers. GM, Ford, Nissan, and Stellantis have all filed applications.[17] Rakuten, a Japanese Big Tech company, has filed and withdrawn ILC applications on several occasions.[18] They may file again, which could spark applications from U.S. tech giants, like Amazon. Major retailers like Walmart may also try again, if the FDIC takes a more permissive approach. We are at a similar inflection point to 2006 and a moratorium is appropriate.

ILC Applications Often Fail to Meet the Statutory Standards for Approval

If the FDIC does not re-impose a moratorium, it must rigorously evaluate ILC deposit insurance applications against the legal standard for approval. Deposit insurance applications filed by industrial banks often violate one or more of the statutory factors prescribed by the Federal Deposit Insurance Act ("FDI Act"). If the FDIC Board of Directors continues to review these applications, it should do so faithfully and deny applications that are inconsistent with the statute.

Under the FDI Act, the FDIC Board is required to consider the following factors when reviewing deposit insurance applications[19]:

(1) The financial history and condition of the depository institution.
(2) The adequacy of the depository institution's capital structure.
(3) The future earnings prospects of the depository institution.
(4) The general character and fitness of the management of the depository institution.
(5) The risk presented by such depository institution to the Deposit Insurance Fund.
(6) The convenience and needs of the community to be served by such depository institution.
(7) Whether the depository institution's corporate powers are consistent with the purposes of this Act.

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[14] Bank Policy Institute, "Tangled Up in Technicalities – An Historical Perspective on the Current ILC Debate," March 11, 2021, https://bpi.com/tangled-up-in-technicalities-an-historical-perspective-on-the-current-ilc-debate/.
[15] Federal Deposit Insurance Corporation, "FDIC Approves the Deposit Insurance Application for Square Financial Services, Inc., Salt Lake City, Utah." March 18, 2020, press release, https://www.fdic.gov/news/press-releases/2020/pr20033.html; Federal Deposit Insurance Corporation, "FDIC Approves the Deposit Insurance Application for Nelnet Bank, Salt Lake City, Utah Area, March, 18, 2020, press release, https://www.fdic.gov/news/press-releases/2020/pr20034.html.
[16] Federal Register, "Request for Information on Industrial Banks and Industrial Loan Companies and Their Parent Companies," July 21, 2025, https://www.federalregister.gov/documents/2025/07/21/2025-13589/request-for-information-on-industrial-banks-and-industrial-loan-companies-and-their-parent-companies#footnote-14-p34272.
[17] PYMNTS, "Industrial Loan Charters Surge as Nonbanks Move Into Financial Services," June 25, 2025, https://www.pymnts.com/news/banking/2025/industrial-loan-charters-surge-as-nonbanks-move-into-financial-services/.
[18] American Banker, "Rakuten backpedals on plan for credit union charter," Frank Gargano, September 2023, https://www.americanbanker.com/creditunions/news/rakuten-backpedals-on-plan-for-credit-union-charter.

[19] 12 U.S.C. 1816.

ILC deposit insurance applications often raise serious concerns under the risk to the Deposit Insurance Fund and convenience and needs factors.

First, since ILCs are exempt from the definition of "bank" under the Bank Holding Company Act, they are not supervised by any regulator on a consolidated basis. That means the activities of the parent company and all of the nonbank affiliates are generally out of the sight of regulators, even though those entities can pose serious risks to the bank and, in turn, the Deposit Insurance Fund.[20] A report by the Government Accountability Office (GAO) concludes, "Because of these differences in supervision, we found that, from a regulatory standpoint, ILCs in a holding company structure may pose more risk of loss to the Fund than other types of insured depository institutions in a holding company structure."[21]

General Motors Acceptance Corporation (GMAC), an industrial bank, should serve as a cautionary tale. In 1919, the auto manufacturer General Motors (GM) established GMAC to provide financing for its customers and dealers. Over the following decades, GMAC expanded its offerings to include more complex financial products, eventually becoming a significant player in mortgage markets. By the mid 2000s, GMAC held approximately $135.1 billion in mortgage assets and had become one of the largest mortgage originators and servicers in the U.S.[22] When the housing bubble burst in 2008, GMAC was bailed out to the tune of $17 billion.[23] During the crisis, Goldman Sachs and Morgan Stanley also converted their ILCs to bank holding companies to access government assistance. ILCs owned by General Electric and Target voluntarily closed, while two small ILCs failed.[24]

In addition, many proposed ILCs are deeply intertwined with, and functionally "captive" to, their corporate parent. For example, GM intends to open a new ILC. Its recent application to the FDIC demonstrated that its industrial bank would be heavily reliant on General Motors for operational support and customers. The bank would exclusively lend to people purchasing GM automobiles and would rely on GM customers for deposits as well. In effect, the bank would have no standalone value. Its value would stem from its relationship with GM's auto business. If GM or the bank failed, no one would want to purchase the bank. The FDIC would likely have to liquidate it, which is far more costly to the Deposit Insurance Fund.[25] In times of stress, GM may

[20] Better Markets, "ILC Corporate Banks Are Unfair Competition and Endanger All Americans," July 28, 2025, https://bettermarkets.org/wp-content/uploads/2025/07/Better-Markets-Fact-Sheet-ILCs-July-28-2025-PDF.pdf.
[21] Government Accountability Office, "Industrial Loan Corporations: Recent Asset Growth and Commercial Interest Highlight Differences in Regulatory Authority," July 12, 2006, https://www.gao.gov/assets/gao-06-961t.pdf.
[22] Congressional Research Service, "Government Assistance for GMAC/Ally Financial: Unwinding the Government Stake," January 26, 2015, https://www.congress.gov/crs-product/R41846.
[23] Government Accountability Office, "Troubled Asset Relief Program: Government's Exposure to Ally Financial Lessens as Treasury's Ownership Share Declines," August 2014, https://www.gao.gov/assets/gao-14-698.pdf.
[24] James R. Barth and Yanfei Sun, "A New Look at the Performance of Industrial Loan Companies and Their Contribution to the US Banking System," June 15, 2018, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3197316.
[25] Consumer Financial Protection Bureau, "Statement of CFPB Director Rohit Chopra, Member, FDIC Board of Directors, on the Proposed Rulemaking on Industrial Loan Companies," July 30, 2024, https://www.consumerfinance.gov/about-us/newsroom/statement-of-cfpb-director-rohit-chopra-member-fdic-board-of-directors-on-the-proposed-rulemaking-on-industrial-loan-companies/.

also look to shift assets onto the bank and leverage the federal safety net for its benefit, further increasing risks to the DIF.

ILC applications also tend to violate the statutory factor related to the convenience and needs of the community. In reviewing applications, the FDIC is supposed to evaluate whether the proposed bank will offer new products or services that would meet a community need or improve upon the existing products or services the community has access to already. This factor pre-supposes that the bank intends to serve a community, such as a geographic region or customers in a specific business line (e.g. auto borrowers nationally).[26] But ILCs that exclusively serve the customers of the parent company do not serve a "community" at all. At GM's proposed ILC, for example, a customer that prefers Ford automobiles, but prefers GM's lending rates and customer service, could not finance the purchase of a Ford automobile at GM's bank. Only GM's auto customers can access the credit offered by the ILC. Everyone else is excluded.

In addition, proposed ILCs rarely offer new products or services to a community or improve upon existing products or services. For many of the proposed auto manufacturer ILC applications, the company already has a financial subsidiary that offers credit to purchasers.[27] The entire purpose of the proposed ILC is to gain access to cheaper funding in the form of taxpayer insured deposits. It is not even clear that the parent company's customers would benefit from this cheaper funding, as the financial benefits of the federal safety net may simply accrue to the executives and shareholders of the parent company.

While ILCs are subject to Community Reinvestment Act (CRA) requirements, they are held to a lower standard than traditional banks. In 1977, Congress enacted the CRA to redress the effects of redlining, the practice of denying loans and other financial services to entire neighborhoods based on race, by affirmatively requiring banks to lend to all the communities in which they are chartered to do business. Commercially owned ILCs are often national in scope, or comprise several states, but their CRA requirements only apply to the immediate area where their headquarters are located.[28] The vast majority of corporate ILCs are headquartered in Utah, where corporate parents often have no substantial community ties. For example, GM is headquartered in Michigan, while Walmart is headquartered in Arkansas, but both filed deposit insurance applications in Utah. In addition, when a bank receives a poor CRA evaluation, regulators may place restrictions on the types of activities their holding company may conduct as the firm remediates their CRA program. No equivalent penalty exists for commercial ILCs.[29]

Conclusion

[26] *Id.*

[27] For example, see Ford Credit Bank; GM Financial Bank; Stellantis Bank USA; and Nissan Bank U.S., LLC.

[28] National Community Reinvestment Coalition, "NCRC Comments on Square's Proposed CRA Strategic Plan Outline how Square Exploits the ILC Charter to Avoid Reinvestment Obligations," October 15, 2024, https://ncrc.org/ncrc-comments-on-squares-proposed-cra-strategic-plan-outline-how-square-exploits-the-ilc-charter-to-avoid-reinvestment-obligations/.

[29] Americans for Financial Reform, "AFREF, Consumer Federation of America and Prof. Art Wilmarth," September 22, 2025, https://ourfinancialsecurity.org/government/afref-cfa-prof-wilmarth-submit-letter-to-the-fdic-warning-of-the-dangers-of-industrial-loan-company-bank-charters/.

The FDIC should impose a moratorium on reviewing new commercially owned ILC applications for federal deposit insurance. Congress should then use that pause to pass legislation closing the ILC loophole. If the FDIC does not impose a moratorium, and continues reviewing applications, it must rigorously adhere to the statute. Many ILC applications do not pass muster and must be denied under the law.

Sincerely,

[redacted]

Elizabeth Warren
Ranking Member
Committee on Banking,
Housing, and Urban Affairs

[redacted]

Andy Kim
United States Senator