CSBS Comments on House “Making Community Banking Great Again” Agenda

COMMENT LETTER

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March 28, 2025
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The Honorable French Hill
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Hill and Ranking Member Waters,

On behalf of the Conference of State Bank Supervisors (CSBS),1 I appreciate the opportunity to respond to the February 20 request to provide feedback on the "Making Community Banking Great Again" principles2 and legislation under consideration by the House Financial Services Committee. As you know, the states charter and are the primary regulator of 79% of the nation's banks, 92% of which are community banks.3 Community banks generally have assets under $10 billion, more traditional business models, limited geographic footprints, and less complex risk profiles. Our comments here amplify those of CSBS member and Arkansas Bank Commissioner Susannah Marshall during her testimony before the Committee's recent hearing on the same topic.4

State regulators recognize the need for a new regulatory and supervisory approach to foster the success of community banks across the country. We look forward to working with members of the Committee to strengthen community banks and the dual banking system.

"Making Community Banking Great Again" Principles

Improve the Bank Merger Process

Building on Chairman Hill's banking principles of tailoring and streamlining the bank merger process, state regulators recommend revising the Bank Merger Act's (BMA's) competitive effects requirements for mergers involving small local banks. Many rural areas have a limited number of small banks that represent the entire physical banking presence in the community. This often leads to rural markets being deemed highly concentrated, which can impede in-market mergers between small banks due to anticompetitive concerns. The result is often a small, rural bank selling to a larger, out-of-market bank with fewer ties to the local community.

State regulators propose amending the BMA's anticompetitive effects provision to facilitate beneficial local-to-local mergers.5 Specifically, a proposed merger transaction in which the resulting institution is $10 billion or less in total assets should automatically be presumed to not raise anticompetitive concerns. Further, this $10 billion threshold should be indexed to inflation to keep pace with economic growth.

Facilitate Responsible Innovation & Third-Party Relationships

To meet customer expectations, community banks often rely on third-party relationships to deliver innovative products and services. However, the banking industry has been hampered by vague guidance, regulation by enforcement, and heightened supervisory expectations regarding innovative technologies and business models. Community banks need clear standards and operational guidance for third-party relationships associated with traditional banking products and services (e.g., deposit gathering, payments, custody, or lending). These executable standards would benefit community banks, consumers, third-party service providers, and state and federal supervisors.

The Committee should encourage federal regulators to develop operational guidance that helps banks responsibly harness the benefits of new technologies while mitigating their associated risks and protecting consumers. Further, federal regulators should directly engage with state supervisors, banks, third-party service providers, consumer groups, and other stakeholders in developing these standards and operational guidance.

Revisit Outdated Static Regulatory Thresholds

Regulatory requirements are typically triggered by a bank's size or volume of activity. Indeed, there are more than 50 key regulatory thresholds and exemptions that are explicitly tied to a bank's assets.6 This means all banks, including community banks, face an increasing compliance burden as they grow, irrespective of changes to their business model or risk profile. These asset-based thresholds are often referred to as costly regulatory "cliffs." However, the compliance impact of these "cliffs" occurs well in advance of an institution crossing a particular regulatory threshold. Community banks must work with consultants, lawyers, and others to build out new systems, reporting capabilities, training programs, and more - well in advance of crossing a regulatory threshold. Too often, regulatory thresholds operate as an unnatural impediment to organic growth - institutions will choose to stay below the thresholds to avoid the significant compliance costs of exceeding the arbitrary regulatory barriers.

Moreover, many asset-based regulatory thresholds are static and do not contemplate economic growth, changes in industry composition, or a bank's underlying risk or complexity. The Committee should examine these regulatory thresholds and revise those that are outdated. In addition, the Committee should consider whether it would be appropriate to index these thresholds.

Legislation Under Committee Consideration

FAIR Audits and Inspections for Regulators {FAIR) Exams Act[7]

State regulators support efforts to ensure bank examinations are timely, objective, and based on transparent standards. The FAIR Exams Act would set key deadlines for federal financial regulators to provide final examination reports, among other time-sensitive tasks. For noncomplex exams (e.g., exams that do not have a BSA/AML component), state regulators recommend extending the turn-around time from 60 days to not later than 90 days. Particularly for joint examinations, there are situations where this additional time is necessary to reconcile exam findings between state and federal regulators.

State regulators recommend requiring the newly created "Director of the Office of Independent Examination Review" have experience in bank examination.

State regulators also recommend incorporating heightened safeguards to protect the confidentiality of any supervisory information provided to the Office of Independent Examination Review and to ensure confidentially is maintained in any mandated reporting from the Office to Congress. Exam results are protected by confidentiality laws because they include highly sensitive, market-moving information.

Releasing bank supervisory information can impact an individual institution's safety and soundness or financial stability more broadly. Exam confidentiality also promotes more open and honest conversations regarding the operating conditions of the institution between institutions and their supervisors. As such, it is vital that Congress maintain the confidentiality of bank examination information.

Promoting New Bank Formation Act[8]

Over the last 10 years, we have lost nearly 2,000 community banks with only 62 de nova community banks formed over the same period. As chartering authorities, state regulators see how the absence of new bank formation can harm communities across the country. The U.S. economy and financial system need new banks to fuel economic growth and meet American businesses' and consumers' diverse financial needs.

Newly formed banks need sufficient capital tailored to their business models and risk profiles. A new bank typically loses money in its early years as management works to execute its business plan and generate revenue to offset staff and technology costs. Attracting additional investment capital while operating at a loss would be challenging and could unnecessarily distract management's attention from the important task of running the institution. Indeed, allowing banks to open with inadequate capital could discourage initial investors as a bank's viability would depend on raising additional capital before profitability has been achieved.

We look forward to working with you to address these concerns as the legislation is considered by Congress.

Small Business Loan Data Collection Legislation[9]

The CFPB's small business loan data collection final rule[10] went well beyond the requirements established by Congress in Section 1071 of the Dodd-Frank Act.[11] Unfortunately, the final rule will impose significant new compliance obligations and costs that will disproportionately impact smaller financial institutions and their small business borrowers. We welcome Congressional action to restore an appropriate balance to this reporting requirement.

Thank you again for the opportunity to share state banking regulators' views on the "Making Community Banking Great Again" principles and legislation pending before the Committee. We look forward to working with you as the Committee moves forward with its community banking agenda.

Sincerely,

Brandon Milhorn
President and CEO

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  1 CSBS is the nationwide organization of state banking and financial regulators from all 50 states, the District of Columbia, and the U.S. territories.

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  Rep. French Hill's Banking Principles - "Make Community Banking Great Again" (Nov. 14, 2024).

- 3

  As of Dec. 31, 2024, there are 3,555 state-chartered banks with aggregate assets over $8.2 trillion. These banks vary in asset size, from global systemically important banks, regional and mid-sized banks to smaller institutions.

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  Testimony of Susannah Marshall, Make Community Banking Great Again, U.S. House Financial Services Committee, 119th Cong. (Feb. 5, 2025).

- 5

  12 U.S.C. § 1828(c)(S)(B).

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  See, e.g., Congressional Research Service, Over the Line: Asset Thresholds in Bank Regulation (May 3, 2021).

- 7

  H.R. 940, Fair Audits and Inspections for Regulators (FAIR) Exams Act.

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  H.R. 478 Promoting New Bank Formation Act.

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  H.R. 941. the Small Lenders Exempt from New Data Excessive Reporting (LENDER) Act: H.R. 976. the 1071Repeal to Protect Small Business Lending Act; H.R. , the Bank Loan Privacy Act.

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  CFPB, Final Rule, Small Business Lending Under the Equal Credit Opportunity Act (Regulation B), 88 Fed. Reg.

35150 (May 31, 2023).

- 11

  15 U.S.C. § 1691c-2.

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