Modification of Outdated, Burdensome Community Bank Regulatory Thresholds

COMMENT LETTER

Modification of Outdated, Burdensome Community Bank Regulatory Thresholds

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The Honorable Scott Bessent

Secretary of the Treasury
United States Department of Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

The Honorable Jerome H. Powell

Chair
Federal Reserve Board of Governors
20th Street and Constitution Avenue NW
Washington, DC 20551

The Honorable Travis Hill

Acting Chairman
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

The Honorable Rodney Hood

Acting Comptroller
Office of the Comptroller of the Currency
400 7th Street SW
Washington, DC 20219

The Honorable Russell T. Vought

Acting Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: *Executive Order 14219 – Modification of Outdated, Burdensome Community Bank Regulatory Thresholds*

Dear Secretary Bessent, Chair Powell, Acting Chairman Hill, Acting Comptroller Hood, and Acting Director Vought:

On behalf of the Conference of State Bank Supervisors 1 ("CSBS"), I commend your support of community banks and your call for tailored, common-sense regulations. We share your focus on Main Street institutions and commitment to ensuring that the financial system works for Americans in every part of the country.

In furtherance of Executive Order ("EO") 14219, 2 we offer several recommendations regarding current regulations that disproportionately burden community banks. Many of these regulatory requirements are triggered by asset or activity thresholds that are both static and outdated. However, they can be promptly revised at the discretion of the relevant federal agency or agencies. Moreover, where appropriate, they can and should be indexed to account for economic growth and changes in industry composition. Collectively, the following reforms would ease community bank compliance burdens, free up resources for local lending, and help restore the balance between risk management, safety and soundness, and regulatory and supervisory efficiency.

I. Modifying Outdated, Burdensome Regulatory Thresholds

a. FDICIA Audit Committee and Internal Control Assessment Thresholds

CSBS recommends raising asset thresholds associated with certain Federal Deposit Insurance Corporation Improvement Act ("FDICIA") regulatory requirements. 3 In particular, asset thresholds that trigger requirements for independent audit committees and internal control assessments are both artificially low and significantly dated. When these requirements were first implemented in 1993, both applied to institutions exceeding $500 million in total assets, capturing approximately 1,000 of the largest banks (roughly 7% of banks and 78% of industry assets). In 2005, the FDIC raised the internal control assessment threshold to $1 billion, noting that the threshold would still apply to roughly 7% of banks. 4 Since 1993 and 2005, the number of institutions subject to various FDICIA requirements has increased dramatically. Today, nearly 40% of banks, who collectively hold 98% of banking assets, exceed the $500 million threshold. Another 23% of banks, representing over 95% of industry assets, surpass $1 billion. FDICIA's regulatory requirements now extend far beyond the original policy scope. 5

Internal control assessments, while important for financial integrity, impose disproportionate documentation and attestation costs on smaller banks that already maintain robust, fit-for-purpose controls. These requirements can divert significant resources away from lending. Meanwhile, the audit committee requirement presents governance challenges, especially for rural banks. Smaller communities often lack a deep pool of eligible candidates to serve as outside, independent directors. Even where such individuals are available, concerns about personal liability can make it difficult to recruit and retain qualified directors. 6 As more institutions cross these outdated thresholds, the regulatory burden increasingly falls on banks least equipped to absorb it—those with straightforward operations and lean governance structures.

b. SAR and CTR Reporting Thresholds

Key elements of the Bank Secrecy Act ("BSA") and anti-money laundering ("AML") framework, notably Currency Transaction Reports ("CTR") and Suspicious Activity Reports ("SAR"), have not kept pace with inflation or underlying risk. The CTR and SAR thresholds, set at $10,000 7 in 1970 and $5,000 8 in 1996, respectively, should be raised given the growing complexity of transaction monitoring and filing expectations. Although the BSA permits CTR exemptions for certain customers, the eligibility criteria are restrictive, and many smaller banks find that few of their business customers qualify. The CTR and SAR requirements impose cumbersome processes on banks. However, it is questionable whether the current reporting framework meaningfully supports law enforcement or national security objectives. 9

Maintaining the financial system's integrity is paramount, but compliance resources must also be well-targeted. It also is incumbent on the federal government – who imposed these requirements on financial institutions – to periodically ensure that the BSA/AML framework continues to fulfill its primary purpose and that the cost of its reporting mandates are properly weighed against the benefits of the burdensome regime. 10 Industry estimates suggest that U.S. financial institutions spent $59 billion on BSA/AML compliance in 2023, 11 and state supervisors conducted more than 1,000 BSA compliance exams in the same year. 12 We appreciate Treasury's ongoing reviews of reporting requirements pursuant to the Anti-Money Laundering Act of 2020. We look forward to continuing that collaboration to modernize the overall BSA/AML framework in ways that improve efficiency, strengthen risk alignment, and support shared regulatory goals.

c. "Small Bank" and "Intermediate Small Bank" CRA Thresholds

CSBS encourages the federal banking agencies to raise the asset thresholds for determining whether a bank is evaluated as a Small, Intermediate Small, or Large Bank under the Community Reinvestment Act ("CRA"). These thresholds have been adjusted annually since 2005 based on changes in the Consumer Price Index ("CPI"). 13 While indexing these thresholds is a net positive, the CPI measure does not adequately capture broader macroeconomic or industry changes. Given ongoing banking industry consolidation and growth, an increasing number of institutions cross these CRA thresholds.14

Transitioning from one CRA category to another, such as from Small to Intermediate Small Bank or Intermediate Small to Large Bank, entails significantly more complex reporting and supervision requirements and more advanced compliance infrastructure. A more comprehensive review that reflects inflation and structural industry shifts would ensure the framework remains appropriately tailored. The federal banking agencies could revise these thresholds as they seek comment on rescinding the 2023 CRA final rule and reinstating the prior CRA framework. 15

d. HMDA Reporting Thresholds

Home Mortgage Disclosure Act ("HMDA") data collection and reporting requirements 16 are particularly costly and onerous for small lenders, so much so that community banks may choose to limit their mortgage lending

activity to avoid triggering HMDA compliance. The problem is particularly acute given that the HMDA compliance threshold is quite low, applying to banks originating just 25 closed-end mortgage loans in each of the two preceding calendar years. While robust HMDA data is important for evaluating compliance with fair lending laws, a sample of 25 closed-end mortgage loans is not adequate to conduct fair lending analysis. The 25 closed-end loan threshold discourages community banks from extending additional credit to homebuyers in their communities, and it should be raised. 17

II. CSBS Research to Promote Tailored Community Bank Regulation

CSBS is committed to providing additional regulatory reform ideas to the federal agencies and Congressional policymakers. The annual Community Banking Research Conference – sponsored by CSBS, the Federal Reserve, and FDIC – is a premier source for such ideas. 18 The conference is a critical forum for community bankers, academics, policymakers, and bank regulators to explore a wide range of issues affecting the community banking sector, including the regulatory framework. Findings from the CSBS Annual Survey of Community Banks 19 are released at the conference each year.

In last year's survey, 89% of community bankers reported that government regulation is the highest external risk they face. 20 CSBS will soon publish research that confirms the smallest banks shoulder a disproportionately high compliance cost burden relative to their size. Using data from both the CSBS Annual Survey of Community Banks from the past 10 years and bank Call Reports, our research shows that smaller banks consistently attribute between 11%–15.5% of their personnel expenses to regulatory compliance, compared to 5.6%–9.6% reported by larger institutions. The annual personnel compliance cost difference between the smallest and largest banks ranged from 3.8%–8.2%, all of which were statistically significant differences. Moreover, beyond personnel expenses, statistically significant compliance cost burdens were also attributed to other expense categories, including data processing, accounting and auditing, and consulting.

CSBS recently opened the 2025 Annual Survey of Community Banks. 21 Importantly, this year's survey includes new questions asking banks to estimate the percentages of compliance expenses attributable to various groups of laws, regulations, or reporting requirements (*e.g.*, BSA/AML, safety and soundness, consumer compliance, etc.). Survey responses will offer critical data to policymakers on the costliest elements of the regulatory framework. We look forward to sharing this important research during the 2025 Community Banking Research Conference.

Conclusion

CSBS recommends raising these outdated regulatory thresholds to provide swift relief to our nation's community banks. We look forward to working with you on additional efforts to appropriately tailor community bank regulations and supervision.

Sincerely,

Brandon Milhorn

President and CEO

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  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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  EO 14219 directs federal agencies to rescind or modify regulations that, among other criteria, "impose significant costs upon private parties that are not outweighed by public benefits" and "impose undue burdens on small business and impede private enterprise and entrepreneurship." Exec. Order No. 14219, *Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative*, 90 Fed. Reg. 10583 (Feb. 19, 2025).

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  12 C.F.R. Part 363.

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  FDIC, Final Rule, *Independent Audits and Reporting Requirements*, 70 Fed. Reg. 71226 (Nov. 28, 2005).

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  As of 12/31/24. Data sourced from FDIC BankFind Suite.

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  In 2005, the FDIC introduced a hardship exemption to the audit committee requirement for institutions between $500 million and $1 billion. Under this exemption, a majority of—rather than all— audit committee members must be outside directors who are independent of management.

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  31 C.F.R. § 1010.311

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  12 C.F.R. § 353.3(a).

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  A 2024 GAO report found that law enforcement accessed only 5.4% of CTRs filed between 2014 and 2023. *See* U.S. Government Accountability Office, *Currency Transaction Reports: Improvements Could Reduce Filer Burden While Still Providing Useful Information to Law Enforcement* (Dec. 2024).

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  Quantifying the benefits of the BSA/AML framework is complicated by the lack of transparency associated with the program. While some opaqueness is understandably necessary to protect ongoing intelligence and law enforcement investigations, it increases the burden on the federal government to revisit the cost-benefit determinations associated with the significant BSA/AML reporting obligations imposed on all financial institutions.

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Forrester Consulting, *True Cost of Financial Crime Compliance Study, 2023: United States and Canada* (Nov. 2023).

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  CSBS, Profile of State Chartered Banking.

- 13

  For 2025, the Small Bank threshold is $402 million, Intermediate Small Bank threshold is between $402 million and $1.609 billion, and Large Banks are above $1.609 billion. *See* FFIEC, *Explanation of the Community Reinvestment Act (CRA) Asset-Size Threshold Change*.

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  For example, in 2005, nearly 72% of banks with 5.4% of industry assets were classified as Small Banks. Today, only 53% of banks with 1.8% of industry assets are Small Banks for CRA purposes.

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  FDIC, FRB, and OCC,Joint Release, *Agencies Announce Intent to Rescind 2023 Community Reinvestment Act Final Rule* (Mar. 28, 2025).

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  12 C.F.R. Part 1003.

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  In light of the DC District Court's September 2022 decision in *National Community Reinvestment Coalition v. CFPB* to vacate the 2020 HMDA rule's increased closed-end mortgage loan reporting threshold, future revisions would likely require a more nuanced and robust cost-benefit analysis.

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  The Community Banking Research Conference is now in its 13th year. Community Banking Research Conference.

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  CSBS, Annual Survey of Community Banks.

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  CSBS, *2024 CSBS Annual Survey of Community Banks*, Community Banking Research Conference (Oct. 2-3, 2024).

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  CSBS, 2025 CSBS Annual Survey of Community Banks.

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