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SPEECHES

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On Liberty, Limited Government, and Bank Supervision

by

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at

The Community Banking Research Conference

St. Louis, Missouri

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One of my favorite periods of history is the American Revolution. It fascinates me.

The confluence of events, ideas, leaders, and pure luck that led an ill-organized, agrarian collective of states to declare their independence from a military, economic, and industrial superpower. The triumph of republican ideals and individual freedoms over an established monarchy.

For all the high principles embodied in our founding, the United States remains . . . nearly 250 years later . . . an ongoing experiment in individual freedom and limited, democratically accountable government.

Even today, these principles are reflected in our financial markets. Capital allocation remains largely a function of free, competitive markets. Consumers have the freedom to choose from an array of financial products to fit their individual needs. Banks and other financial institutions can choose their chartering or licensing authority and develop business models that fit the needs of the markets they serve. Our dual banking system continues to

foster individual freedom and dynamic, innovative markets.

But I often wonder how our Founders would feel about the level of regulatory and supervisory intervention in our financial markets.

Could they reconcile the National Bank Act with the historic primacy of the states on local economic matters?

Would they accept the market interventions of the early 20th Century – the establishment of the Federal Reserve and the FDIC, deposit insurance, and federal supervision of state banks – given the complexity of financial markets and the impact of financial instability on consumers?

Could they conceive of the current administrative state and the effect of the federal bureaucracy on principles of democratic accountability . . . including the separation of powers within the federal government and the distribution of authority among federal, state, and local governments?

These questions may seem theoretical and academic . . . we are, after all, at a research conference. But I think our perception of the appropriate role of the federal government and the states, our commitment to individual liberty, and the importance of free markets to effective capital allocation remain paramount.

More importantly, these principles . . . embodied in our national DNA . . . should continue to inform our efforts to appropriately balance state and federal regulatory and supervisory expectations as our world, our technology, and our markets evolve.

The Role of Bank Supervision in Free Markets

The regulation and supervision of financial services are purposeful intrusions on free markets. In our efforts to mitigate risk and protect consumers, we necessarily distort the operations of those markets.

That does not mean that they are inappropriate. They are . . . in fact . . . absolutely critical.

Take the requirement to be approved for a bank charter. The responsibility to take and hold someone's money . . . their financial well-being . . . is built on trust. Financial institutions must demonstrate that they are prepared to honor that trust . . . to operate in a safe and sound manner and protect their customers . . . *before* a state will trust them with a charter.

Supervision helps ensure that banks continue to merit the confidence of the state in their operations, while promoting public confidence in the broader financial system.

Within this regulatory and supervisory framework, state and federal bank examiners occupy a unique position of power.

They are not elected leaders. They are not directly accountable to the public. They are tasked with evaluating the financial condition, governance, and compliance framework of the institutions they supervise. Those supervisory choices and the expectations they place on banks . . . the manner in which they exercise sound supervisory discretion . . . affects the availability of credit, the stability of the financial system, and the business models of the institutions they supervise.

And that discretion is an indispensable part of the job. Their work is not black and white. Bank supervision is not a math problem.

Because of the impact of bank regulation and supervision on the core principles that define American economic freedom, it is incumbent on state and federal governments to continually examine our supervisory model to ensure that it remains fair, transparent, and accountable.

Spoiler alert . . . there are no right answers to this complex balancing act.

Our approach to consumer protection . . .

Our willingness to foster innovation in financial services . . .

Our comfort with risk in an institution's business model . . .

The impact of all these choices on consumers, competition, cost of credit, and capital allocation . . .

The difficult policy choices across all these topics ebb and flow. 1 The answers are a function of economic conditions, individual choices, and election results.

With that very long backdrop, I would like to briefly explore some of the current debates in financial services policy against the framework of individual liberty, free markets, and limited, accountable government.

Limited Government, Free Markets, and Tailoring

Let's start with tailored supervision.

It has become a bit axiomatic . . . institutions should be regulated and supervised based on their size, risk, complexity, and business model.

What is difficult is deciding what that means in practice.

What level of risk is acceptable?

How do you define complexity?

And, perhaps most importantly, how do those definitions and the associated regulations and supervision affect banks and their customers.

What should not be up for debate is the impact that supervision has on institutions and their business models . . . particularly community banks.

CSBS recently analyzed 10 years of data from our Annual Survey of Community Banks. Our research confirms what bankers in the audience already know – community banks shoulder a disproportionately high cost of compliance compared to larger institutions. 2 Supervisory creep continues to snare community banks in regulatory frameworks meant for more complex regional or global banks. 3

The community banking business model is also under severe stress. Increased competition from nonbanks and difficulty accessing deposits and funding are ever present threats. Community banks continue to face rising personnel and technology costs, and succession planning is often a substantial impediment to continuity. More recently, headwinds in the form of inflation and other economic conditions have fueled uncertainty. 4

With all these costly and unnecessary constraints on profitability, it is not hard to see why we have lost more than 2,000 community banks over the last decade 5 . . . with very few *de novos* forming to take their place. 6 The

hesitancy of federal regulators to approve new business models and the lack of clear operational guidance to support bank/fintech partnerships have exacerbated the competitive challenge for community banks. Meanwhile, consumer demand for innovative financial products continues to grow, but much of that growth has occurred outside the banking sector.

If we want new capital to flow to community banks, we must reexamine our regulatory and supervisory framework for these institutions. The capital markets are sending us a clear signal . . . only larger banks with scale can compete in this regulatory environment and investments in other financial markets are preferred to new *de novo* formation. 7

If community banks are important to the financial fabric of the United States, we should all be concerned about this flow of capital. While global and regional banks serve important functions in our financial system, growth and prosperity in the United States begins with small businesses and farmers. Community banks propel this local economic growth that is the foundation of the larger United States economy.

So, how do we make the community banking sector a more competitive market for capital investment and innovative business models?

Adjusting static, asset-based regulatory thresholds that fail to grow with the economy is a great place to start. Concentration-based limits can be similarly problematic when they fail to consider an institution's business model, market, history of successful risk management, and variations in the components of the concentration. 8

We should fundamentally re-examine our IT, BSA/AML, CRA, and compliance regulatory frameworks. Are we prioritizing process in these areas over core financial risks? What financial stability and consumer protection risks are we seeking to mitigate? Are the associated benefits clear, and do they outweigh the costs of the regulatory mandates and supervisory expectations?

Take BSA/AML, for example. I am a former national security lawyer. No one wants to keep bad actors out of the financial system more than me. But we must balance national security and law enforcement demands 9 against the billions of dollars that financial institutions spend on BSA/AML reporting and compliance. 10It is incumbent on the federal government – which imposed these requirements on financial institutions – to periodically ensure that the BSA/AML framework has not become a strict liability straight jacket on innovation and growth in our community banks. 11

The lack of clear operational guidance on innovation and the proliferation of third-party risk management enforcement actions have limited the willingness of community banks to innovate and reach new markets. And, our capital and compliance frameworks have driven lending that used to occur in community banks to other institutions. 12

Appropriately tailored supervision promotes fairness, transparency, and accountability, and just like our regulatory framework, supervision must continuously evolve.

With our members, CSBS works to advance more efficient and effective supervision of state-chartered banks. Our training and certification programs for examiners start on "Day One" 13 and extend over the course of an examiner's career, including courses addressing the evolution of technology in financial services. This commitment to training and education helps ensure state examiners can address evolving risks in the financial services market with knowledge and perspective.

We are developing supervisory technology designed to relieve the data collection burden on examiners, provide more regular and more granular visibility into financial risks at banks and across the financial system, and

enhance the risk-scoping and effectiveness of exams . . . all while reducing cost of compliance. 14

With our members, subject matter experts, and industry, we have created cybersecurity compliance tools, like the Ransomware Self-Assessment Tool, 15 and new approaches to IT exams that avoid checklists and focus more directly on actual, identified risks at individual institutions.

We support efforts to improve the process for challenging federal supervisory determinations . . . changes that would contribute to more consistent exams and more accountable examiners. 16

Training, technology, and consistent engagement with our federal partners and industry help support the healthy evolution of our examination system, and in so doing, improve the fairness and transparency of supervisory results.

The one thing that cannot be done is the elimination of examiner discretion. Training can make the application of examiner discretion better and more consistent. Definitions can be tightened to improve transparency. Appropriate oversight and appeal mechanisms can improve accountability . . . but some degree of examiner discretion will always be warranted.

Take, for example, the management rating in the CAMELS system. Perhaps the ratings definitions can be adjusted. We should certainly work to eliminate double counting, and the M rating should be appropriately weighted compared to core financial risks in the other CAMELS components.

But management shortcomings *should* be captured in the composite rating for an institution.

Risks such as a dominant official, lack of succession planning, inadequate management controls, and other governance failures should be a factor in assessing overall institution risk.

Management risks such as these should impact a bank's deposit insurance assessment.

There simply is no one-size-fits-all definition of management that will capture all the nuance in a bank's governance and controls. In fact, when the FDIC sought to impose a one-size-fits-all governance model on larger banks, CSBS objected to the checklist focused nature of the proposal. 17 It simply went too far. Eliminating the management rating in CAMELS would be an opposite step in a similarly wrong direction.

Our community bankers have shown hope for the future. Last year, the Regulatory Burden component of the Community Bank Sentiment Index 18 was at its lowest point. Today, the component stands at its highest levels in history. 19

Treasury Secretary Scott Bessent has shown a keen interest in community banking. Federal Reserve Vice Chair for Supervision Miki Bowman – herself a former state supervisor and community banker – FDIC Chairman Travis Hill, and Comptroller Jonathan Gould have all signaled the importance of supervisory tailoring for community banks. Federal and state supervisors are actively reviewing several components of the bank supervision framework, and the third EGRPRA 20 process is underway.

We have a unique opportunity to reset the regulatory and supervisory balance for community banks, and state supervisors are prepared to work with our federal partners to develop a framework that is right-sized and resilient, even when the political winds in Washington, D.C., change direction. 21 My hope is that Congress and our federal partners approach the reforms necessary to support community banking with the same sense of urgency that propelled stablecoin legislation into law earlier this year.

Supervision, Innovation, and Consumer Choice

While we work to make our supervisory framework more fair, transparent, and accountable, we must also ensure that it does not pick winners and losers, undermining free market principles, limiting access to financial products, and increasing costs.

I am very concerned that federal regulation and supervision have been a significant constraint on bank innovation. We have spent so much time telling banks how risky innovation is . . . how challenging it is to manage third-party and digital asset risks . . . and taking enforcement actions that demonstrate those risks quite clearly . . . that we may have missed an opportunity to foster innovation by working cooperatively with the sector and helping to demonstrate how innovation can be effectively implemented.

That is not to say that innovation is not challenging. It is. It requires an institution to think critically about its business model, compliance obligations, and partnerships.

But tightly constraining innovation in banks does not eliminate demand for innovative financial products, it simply moves the demand elsewhere, restricts supply, and increases the cost of credit and other financial products.

I am worried that we may be repeating this pattern with stablecoins.

This summer, Congress passed a law that provides a national framework for payment stablecoins. 22 Banks can establish payment stablecoin subsidiaries, and nonbanks can also become payment stablecoin issuers under federal or state law. This national framework is vital to promote safety and soundness for uninsured stablecoins, improve BSA/AML compliance, and protect consumers.

The United States Treasury Department has indicated that the addressable stablecoin market could reach $2 trillion by 2028. 23 At present, the stablecoin market is about $300 billion.

If stablecoin growth comes at the expense of community bank deposits, the $1.7 trillion migration could have a corresponding $1.4 trillion impact on lending. 24 This deterioration in lending would almost certainly harm the small businesses, farmers, and consumers that rely on community banks.

Tokenized deposits are a possible competitive substitute for payment stablecoins that could help keep deposits in the banking system, but without guidance from the federal banking agencies, banks may be unwilling to risk the potential regulatory and supervisory fallout if regulatory perspectives change again.

Guidance could help banks clarify the insured status of underlying deposits and address challenges associated with capital and liquidity requirements, accounting, interoperability, third-party risk management, BSA/AML, and collaboration risks for blockchain networks that extend across multiple banks.

Some have attempted to downplay the significance of deposit outflows from community banks, arguing that money market funds had little impact on bank deposits or touting limits on the ability for stablecoin issuers to pay interest or yield. 25 I have already seen at least one study . . . sponsored by a crypto firm . . . that claims to support this proposition.26

Let’s not wait to find out. Tokenized deposit guidance from the federal agencies should proceed in tandem with the regulatory framework being drafted for stablecoins.

If not, we could end up with a competitive environment for banks like the 1980s, when outflows to money market funds drained bank deposits due to regulatory caps on interest that were lifted too late, forcing banks to raise rates rapidly and contributing to further deterioration of their financial condition.27

The technological challenges of establishing a tokenized deposit blockchain network are daunting, but guidance that supports banks who want to provide these services could preserve deposits and lending in the banking system, create competitive opportunities for innovative banks, and provide customers with more choice.

Preemption and the Rule of Law

The engagement of state supervisors with the public, their regulated institutions, and their governors and legislatures is well chronicled. In addition to safety and soundness and consumer protection, state supervisors often have a mandate to oversee the industry in a manner that promotes prudent economic development across their state. These relationships, their mission, and their primary focus on state financial markets foster local accountability.[28]

Federal agencies approach their responsibilities from a national perspective, often driven by a desire for financial stability and risk mitigation. Their perspective – certainly from their headquarters in Washington, D.C. – is far removed from the direct local accountability of state supervisors. They are also part of a vast federal bureaucracy that distributes political accountability through Congress, the President, and the Executive branch. So, for our last topic, I would like to spend a little time thinking about the importance of democratic accountability for federal bank supervision.[29]

Over the last several years, the Supreme Court has acted to limit the broad deference afforded federal agencies. Two recent decisions are of particular note: the overturning of *Chevron* deference and the ongoing development of the "major question doctrine."

The legal foundation for these cases is a simple premise: Congress passes the laws, and the Executive Branch is charged with their execution. When agencies go beyond their statutory mandate, they undermine core principles of democratic accountability. These agency actions displace Congress, and the political process, and effectively become the law. The Supreme Court's decisions in *West Virginia v. EPA*[30] and *Loper Bright*[31] are a judicial response to the perception of bureaucratic overreach . . . if not the reality.

Along with CSBS, many in industry raised concerns with efforts by the CFPB when we believed it had exceeded its statutory mandate. Some examples included the redundant nonbank registry rule,[32] rules released by blog instead of notice-and-comment,[33] and proposed reporting requirements for small business credit applications.[34]

If you care about democratic accountability of government, we should be similarly concerned with actions by the OCC that fail to comply with the law.

As states, we may not like the OCC's authority to preempt state banking laws that "prevent or significantly interfere" with the exercise of national bank powers. Nevertheless, Congress clearly granted the agency that authority.

But Congress also placed constraints around the scope of OCC authority and established a clear process that must be followed to preempt state law. That statutory process specifically includes a case-by-case analysis of the affected law, notice-and-comment procedures, a review of the designations every five years, and consultation with the CFPB when the OCC attempts to preempt equivalent laws in other states. The Supreme Court reaffirmed these principles of National Bank Act preemption last year in *Cantero v. Bank of America*.[35]

Despite the procedural requirements, the OCC simply reissued its preemption regulations in 2011 without acknowledging the limits imposed on it by law.[36] Fourteen years later, we are still waiting for the first notice-and-comment review of the OCC's preemption regulations, let alone the required five-year reexaminations.

We are similarly concerned with assertions in Interpretive Letter 1176 that the OCC may grant bank-like powers to national trust companies.37

Congress has been very specific when it adds authorizations to the National Bank Act, whether for credit card banks, fiduciary trusts, and, most recently, payment stablecoin issuers.38 Congress carefully delineated the authority of these institutions, and the OCC cannot grant new institutions powers that Congress did not authorize.

As we speak, the OCC is reviewing numerous applications for new uninsured trust charters, many of them tied to digital asset business models. In many ways, this was an expected result from the GENIUS Act, as these trusts can provide custodial and reserve support to payment stablecoin issuers or for other digital assets.

To ensure a level playing field for traditional banks, however, the OCC must avoid granting these new, uninsured trusts bank-like authorities . . . the ability to take deposits, lend, and engage in payment activities. Only Congress can grant the OCC this authority, and it is simply not found in the National Bank Act.

Given the inherent authority of the states to charter trusts and banks, the preemptive impact of the National Bank Act, and the competitive impact that the exercise of this illusory authority would have on traditional banks, this is clearly a "major question" that only Congress can answer.

The OCC must construe its chartering authority narrowly and rescind Interpretive Letter 1176.

Conclusion

Bank supervision helps protect free markets and promote individual liberty by providing consumers with access to responsible financial products at competitive prices. It must also evolve . . . responding to economic conditions, new innovations, and the electoral will of the public.

To promote public trust . . . in our financial institutions and our bank supervisors . . . it is vital that we continue to avoid the politicization of supervisory tools . . . to exercise regulatory and supervisory powers in a manner that is fair, transparent, and accountable.

By committing to these principles . . . by carefully balancing consumer choice, financial stability risks, and economic opportunity . . . by revisiting our regulatory and supervisory choices with an honest and open-mind . . . we can continue to support a thriving financial services market — a market that supports the health of the community banks that are the foundation of the United States economy.

Thank you.

- 1

  See Roger Lowenstein, "*How U.S. Capitalism Is Different – and What That Means*," *The Wall Street Journal* (Sept. 1, 2025).

- 2

  [1] Using 2015-24 data from the CSBS Annual Survey of Community Banks and Call Reports, our research shows that smaller banks consistently attribute 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. Statistically significant compliance cost burdens were also

attributed to other expense categories, including data processing, accounting and auditing, and consulting. *See* Tom Siems, "*Do Banking Regulations Disproportionately Impact Smaller Community Banks*," CSBS (July 29, 2025).

- 3

  See Statement of North Dakota Department of Financial Institutions Commissioner and FSOC State Banking Supervisor Representative Lise Kruse (Sept. 10, 2025).

- 4

  In 2024, 89% of community bankers cited government regulation as the highest external risk they face, tying for first with the rising cost of funds. The share of community bankers listing regulation as an "extremely important" or "very important" risk has risen consistently over the last few years, up from 81% in the 2023 CSBS Annual Survey and from 77% in the 2022 survey. *See* CSBS, *2024 CSBS Annual Survey of Community Banks*, presented at the 12th Annual Community Banking Research Conference (Oct. 2-3, 2024). Community banks responding to the Third Quarter 2024 Community Bank Sentiment Index survey noted government regulation, cyber threats, and the cost/availability of labor among their top concerns. *See* CSBS, *Community Bank Sentiment Index* (Oct. 8, 2024); s*ee also Testimony of Arkansas State Bank Department Commissioner Susannah Marshall*, "Make Community Banking Great Again," Hearing Before the U.S. House Committee on Financial Services, 119th Cong. (Feb. 5, 2025).

- 5

  In 2014, there were more than 6,100 community banks. At the end of 2024, there were about 4,050. FDIC, *BankFind Suite*.

- 6

  FFIEC, *National Information Center*; s*ee also* Marshall Testimony, *supra* note 4 at 2 ("We have heard these statements for decades. Yet over the last 10 years, we have lost nearly 2,000 community banks – one-third of their 2014 numbers. Only 62 de novo community banks were formed over that same period.").

- 7

  FDIC, *FDIC Community Banking Study*, Chapter 5, "Regulatory Change and Community Banks" (Dec. 2020) ("[T]he pace of regulatory change and the volume of actions make plausible the idea that some community banks, and particularly the smaller institutions among them, may have elected to exit particular business lines, or even the banking industry itself, partly because of costs associated with regulatory compliance.").

- 8

  See Kruse Statement, *supra* note 3.

- 9

  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).

- 10

  Industry estimates suggest that U.S. financial institutions spent $59 billion on BSA/AML compliance in 2023. *See* Forrester Consulting, *True Cost of Financial Crime Compliance Study, 2023: United States and Canada* (Nov. 2023).

- 11

  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 of proof on the federal government to periodically revisit the cost-benefit determinations associated with the significant BSA/AML reporting obligations imposed on all financial institutions. *See, e.g.*, FinCEN, Notice and Request for Comments, *Agency Information Collection Activities: Proposed New Information Collection; Survey of the Costs of AML/CFT Compliance*, 90 Fed. Reg. 47132 (Sept. 30, 2025); *see also* FDIC, OCC, NCUA, *Order Granting Exemption from Customer Identification Program (CIP) Rule* (June 27, 2025).

- 12

  See FDIC Community Banking Study, *supra* note 7. In 2008, for example, nonbank mortgage companies accounted for 39% of mortgage originations and 4% of mortgage servicing balances. In 2022, nonbank mortgage companies accounted for about 66% of originations and 54% of mortgage servicing balances. *See* FSOC, *Report on Nonbank Mortgage Servicing* (2024) ("In the years after the 2007-09 financial crisis, banks pulled back from mortgage origination and servicing in part due to heightened regulation and sensitivity to the cost and uncertainty associated with delinquent mortgages. On the regulatory front, the revised capital rule issued by the banking agencies in 2013 imposed stricter capital requirements on [mortgage servicing rights]. This rule made mortgage servicing a less attractive business line for some banks.").

- 13

  CSBS, "*Day One: Online Examiner Training*" (online training modules).

- 14

  CSBS, *Catalyst Initiative* (launched July 28, 2025) ("The Bank Financial Data innovation challenge focuses on developing a proof of concept for a more modern system. Once developed, this proof of concept could lead to a pilot program that CSBS can implement and operate in conjunction with a member state agency.").

- 15

  CSBS, *Ransomware Self-Assessment Tool*, version 2.0 (last updated Oct. 15, 2024) ("The Bankers Electronic Crimes Taskforce, state financial regulators, and the United States Secret Service collaborated to develop this tool to help financial institutions periodically assess their efforts to mitigate risks associated with ransomware and identify gaps for increasing security. This document provides executive management and the board of directors with an overview of the institution's preparedness towards identifying, protecting, detecting, responding, and recovering from a ransomware attack.").

- 16

See FDIC, Notice of Guidelines, *Guidelines for Appeals of Material Supervisory Determinations*, 90 Fed. Reg. 33942 (July 18, 2025).

- 17

See CSBS, Comment Letter re: *Guidelines Establishing Standards for Corporate Governance and Risk Management for Covered Institutions with Total Consolidated Assets of $10 Billion or More* (Feb. 7, 2024).

- 18

The *Community Bank Sentiment Index* is an index derived from quarterly polling of community bankers across the nation. As community bankers answer questions about their outlook on the economy, their answers are analyzed and compiled into a single number. An index reading of 100 indicates a neutral sentiment, while anything above 100 indicates a positive sentiment, and anything below 100 indicates negative sentiment.

- 19

For Third Quarter, 2025, the Regulatory Burden component of the Community Bank Sentiment Index inched up one point (114) from the previous quarter, staying above 100 for only the third time in the survey's history. The indicator was below 30 for fifteen consecutive quarters from early 2021 to late 2024, but is up 94 points from one year ago.

- 20

The Economic Growth and Regulatory Paperwork Reduction Act of 1996, 12 USC § 3311 (requiring the federal banking agencies and FFIEC to review federal financial regulations every 10 years).

- 21

See Brandon Milhorn, "Benefits of Dual Banking System Supervision in Uncharted Waters" Federal Reserve Bank of Atlanta Banking Outlook Conference (Feb. 27, 2025) ("Wild swings in supervisory expectations and regulatory requirements [driven by politicization of federal regulation] undermine stability and certainty for financial institutions and pose a special hardship for community banks. Banks faced with these extreme changes incur significant legal, operational, and technological costs to meet new, ever-changing compliance demands.").

- 22

Guiding and Establishing National Innovation for U.S. Stablecoins Act, P.L. 119-27, 119th Congress (July 18, 2025) *codified at* 12 U.S.C. § 5901-5916.

- 23

See Treasury Borrowing Advisory Committee Presentation, "*Digital Money*," (Apr. 30, 2025).

- 24

For Second Quarter, 2025, institutions under $10 billion had an average net loans and leases to deposits ratio of 83.6%. *See* FDIC Quarterly Banking Profile, Time Series Spreadsheets (Aug. 26, 2025).

- 25

See "Gould Details 'Changed' OCC, Focus on Stablecoins," *Capitol Account* (Sept. 10, 2025) ("[S]ome of that anxiety is perhaps overstated") (comparing development of money market funds and PayPal to stablecoins); *see also* "Gould touts OCC debanking moves, reassures on stablecoin," *ABA Banking Journal* (Sept. 10, 2025) ("If it looks like deposits are dramatically fleeing the federal banking system, that would be a source of concern at the OCC and I'm sure across other federal banking agencies too, and we would have, I think in large measure, control over whether or not that actually happened…. If there were going to be any material impact to deposits as a result of stablecoin issuance, I don't think that would happen overnight.").

- 26

[1]*See* Charles River Associates, Stablecoins' impact on community bank deposits (July 18, 2025).

- 27

[1]*See* Thomas P. Vartanian, Money-Market Funds and the S&L Crisis, *The Wall Street Journal* (Sept. 15, 2025).

- 28

[1]*See* Marshall Testimony, *supra* note 4.

- 29

[1]*See* Milhorn Remarks, *supra* note 21.

- 30

[1] 597 U.S. 697, 721-23 (2022) (emphasizing importance of "clear congressional authorization" for federal agency assertions of authority over "extraordinary cases" given the "economic and political significance" of the assertion). (citing FDA v. Brown and Williamson Tobacco Corp., 529 U.S. 120, 159-160 (2000) and Utility Air Regulatory Group v. EPA, 573 U.S. 302, 324 (2014)).

- 31

[1] Loper Bright Enterprises v. Raimondo, 603 U.S. 369 (2024) (overturning *Chevron* deference).

- 32

[1] CSBS, AARMR, NACCA, NACARA, and MTRA, Joint Comment Letter re: *Proposed Rulemaking – Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders* (Mar. 31, 2023).

- 33

[1]*See**CFPB Targets Unfair Discrimination in Consumer Finance* (Mar. 16, 2022); *see also**ABA, trade groups sue CFPB for exceeding its statutory authority* (Sept. 28, 2022).

- 34

  [1]*See* CSBS, Comment Letter re: *Small Business Lending Data Collection Under the Equal Credit Opportunity Act (Regulation B)* (Jan. 6, 2022).

- 35

  [1] Cantero v. Bank of Am., N.A., 602 U.S. 205 (2024).

- 36

  [1]*See* OCC, Final Rule, *Office of Thrift Supervision Integration; Dodd-Frank Act Implementation*, 76 Fed. Reg. 43549 (July 21, 2011).

- 37

  [1]*See* OCC, Interpretive Letter 1176 (Jan. 11, 2021).

- 38

  [1] For example, in 1977, a federal district court rejected the OCC's efforts to charter a national bank whose activities would be limited to the fiduciary services provided by a trust company—holding that the OCC lacked authority to charter an institution that would not engage in the business of banking, including receiving deposits. National State Bank v. Smith, No. 761479 (D. N.J. Sept. 16, 1977), *rev'd on other grounds*, 591 F.2d 223 (3d Cir. 1979). In response to this defeat, the OCC requested from Congress an amendment to the National Bank Act that would specifically authorize the Comptroller to charter national trust banks. Congress adopted the requested amendment in 1978 as part of the Financial Institutions Regulatory and Interest Rate Control Act ("FIRIRCA"), 12 U.S.C. § 27(a). *See also* 12 USC § 27(b) (expressly authorizing the approval of national banks organized to exclusively act as a "bankers' bank");12 U.S.C. §§ 1841(c)(2)(D) and (F) (including uninsured trusts and credit card banks in the definition of "bank").