



June 18, 2026

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Benjamin W. McDonough, Secretary
Board of Governors of the Federal Reserve System
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Re: *Regulatory Capital Rules: Regulatory Capital and Standardized Approach for Risk-Weighted Assets; Regulatory Capital Rule: Category I and II Banking Organizations, Banking Organizations With Significant Trading Activity, and Optional Adoption for Other Banking Organizations*

The Conference of State Bank Supervisors (“CSBS”)¹ provides the following comments on the Notice of Proposed Rulemakings (“proposals” or “proposed rules”) issued by the Federal Deposit Insurance Corporation (“FDIC”), the Board of Governors of the Federal Reserve System (“FRB”), and the Office of the Comptroller of the Currency (“OCC”) (collectively, the “agencies”) titled *Regulatory Capital Rules: Regulatory Capital and Standardized Approach for Risk-Weighted Assets* and *Regulatory Capital Rule: Category I and II Banking Organizations, Banking Organizations With Significant Trading Activity, and Optional Adoption for Other Banking Organizations*.²

CSBS has long supported robust and high-quality capital requirements for the U.S. banking system that are appropriately tailored to the size, risk, and complexity of banking organizations. For this reason, state regulators support the proposals’ objectives to enhance the risk sensitivity, consistency, and transparency of the risk-based regulatory capital framework. While the proposals make progress towards enhancing the sensitivity of regulatory capital requirements, the agencies should take certain steps to further enhance risk sensitivity and consistency, particularly for smaller banks not subject to the proposed expanded risk-based approach (“ERBA”), and to ensure that the proposed capital framework does not lead to an unlevel playing field among banking organizations.³

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.

² OCC, FRB & FDIC, Proposed Rule, [Regulatory Capital Rule: Category I and II Banking Organizations, Banking Organizations With Significant Trading Activity, and Optional Adoption for Other Banking Organizations](#), 91 Fed. Reg. 14952 (Mar. 27, 2026) (hereinafter, “ERBA”); OCC, FRB & FDIC, Proposed Rule, [Regulatory Capital Rules: Regulatory Capital and Standardized Approach for Risk-Weighted Assets](#), 91 Fed. Reg. 15332 (Mar. 27, 2026) (hereinafter, “Standardized Approach”).

³ Unless otherwise specified, the term “smaller banks” refers to banking organizations that are subject to the revised standardized approach and that may opt in to ERBA, and the term “large banks” refers to banking organizations that are subject to ERBA.



CSBS recommends that the agencies:

- Revise the eligibility criteria for the Community Bank Leverage Ratio (“CBLR”) framework in light of the proposed revisions to the structure of the generally applicable capital rules.
- Adopt the proposed capital treatment of mortgage exposures and mortgage servicing assets (“MSAs”).
- Maintain the current treatment of unused credit commitments with a maturity less than one year, rather than increasing the credit conversion factor for these exposures, as proposed.
- Allow smaller banks to avail themselves of ERBA’s favorable capital treatment of investment grade corporate exposures.

In addition to these recommendations related to risk sensitivity and consistency, the agencies should make other changes to the proposed rules, including choosing appropriate methodologies for indexing regulatory thresholds and revising the treatment of exposures to nondepository trust companies.

I. The agencies should establish an expanded Community Bank Leverage Ratio framework in light of the proposed revisions to the structure of the generally applicable capital rules.

The proposed rules would fundamentally reshape how capital requirements apply across the banking industry, replacing the current dual-stack risk-based capital framework with a single-stack framework. This shift is premised upon the agencies adopting a new interpretation of the capital floor requirement in Section 171 of the Dodd-Frank Act (commonly referred to as the “Collins Amendment”). In light of this new interpretation, the agencies have the flexibility to and should establish an expanded CBLR framework for banks with more than \$10 billion in total assets.

- a. The current dual-stack capital framework reflects the agencies’ prior interpretation of the Collins Amendment requirement to establish generally applicable capital rules.*

Under the current dual-stack framework, all banks must calculate their risk-based capital ratios under the standardized approach, but the largest banks must also calculate them under the advanced approaches. The largest banks must then use the lower of the two approaches to assess their compliance with minimum capital requirements. The proposed rules would replace this structure with a single-stack framework in which the largest banks would use only ERBA, while smaller banks could either opt in to ERBA or remain under the standardized approach, as revised by the proposed rules.

The agencies initially adopted a dual-stack capital framework in 2011 primarily because they read the Collins Amendment to require minimum risk-based capital requirements that are not less than the “generally applicable risk-based capital requirements” established by the agencies.⁴ Under Section 171(b)(2), the generally applicable risk-based capital requirements “serve as a floor” for any capital requirements that the agencies may require by precluding the agencies from adopting minimum capital requirements that are “quantitatively lower” than the generally applicable requirements.⁵

⁴ See 12 U.S.C. § 5371(b)(2). See also 12 U.S.C. § 5371(a)(2) (defining the term “generally applicable risk-based capital requirements”).

⁵ See 12 U.S.C. § 5371(b)(2).



Consequently, Section 171 has also commonly been referred to as the “Risk-Based Capital Floor” or the “Collins Floor.”⁶

When Dodd-Frank was enacted, the agencies already had a bifurcated capital regime under which large, complex banks were required to use the advanced approaches and smaller, less complex banks used the standardized approach under the “general risk-based capital rules” unless they opted in to the advanced framework.⁷ In 2011, the agencies interpreted the “generally applicable risk-based capital requirements” to mean the current “general risk-based capital rules” that they imposed at the time, including the standardized approach.⁸ They therefore treated the standardized approach as the common capital floor for all banks and retained that view when implementing Basel III in 2013,⁹ interpreting the Collins Amendment as requiring one set of minimum capital requirements that would subject all banking organizations to the same risk-based capital floor.

b. Under the agencies’ new interpretation of the Collins Amendment, a single capital floor need not apply to all banking organizations.

The proposed rules appear to adopt a new interpretation of the Collins Amendment. Rather than requiring one set of generally applicable capital requirements for all banking organizations, the proposal contemplates different capital requirements for different subsets of the industry. Indeed, unlike the current capital rules, the proposals do not explicitly designate either ERBA or the standardized approach as the methodology for the “generally applicable risk-based capital requirements.”¹⁰

The agencies do not explicitly articulate how the proposed single-stack structure complies with the Collins Amendment. One apparent rationale is that smaller banks may elect to comply with ERBA in lieu of the standardized approach, even if they are unlikely to do so in practice.¹¹ On that view, the

⁶ See OCC, FRB & FDIC, Final Rule, [Risk-Based Capital Standards: Advanced Capital Adequacy Framework-Basel II; Establishment of a Risk-Based Capital Floor](#), 76 Fed. Reg. 37620 (June 28, 2011) (“Basel II Capital Floor”).

⁷ See OCC, FRB, FDIC & OTS, Final Rule, [Risk-Based Capital Standards: Advanced Capital Adequacy Framework - Basel II](#), 72 Fed. Reg. 69288, 69297 (Dec. 7, 2007).

⁸ See Basel II Capital Floor, *supra* note 6, at 37622.

⁹ See OCC & FRB, Final Rule, [Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardized Approach for Risk-weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule](#), 78 Fed. Reg. 62018, 62021 (Oct. 11, 2013) (“Basel III”).

¹⁰ Compare 12 C.F.R. § 324.30(a) (“This subpart sets forth methodologies for determining risk-weighted assets for purposes of the generally applicable risk-based capital requirements for all FDIC-supervised institutions.”) with 12 C.F.R. § 324.30(a) (proposed) (“This subpart sets forth methodologies for determining standardized total risk-weighted assets. This subpart applies to any FDIC-supervised institution that elects to use this subpart under § 324.10(b).”) and 12 C.F.R. § 324.10(b) (defining minimum capital ratios as certain categories of capital divided by “selected total risk-weighted assets” and defining “selected total risk-weighted assets” as “either the FDIC-supervised institution’s standardized total risk-weighted assets or expanded total risk-weighted assets, as selected by the FDIC-supervised institution.”).

¹¹ See, e.g., Standardized Approach, *supra* note 2, at 15383, n. 151 (“While the expanded risk-based proposal leaves an option for all banking organizations to elect to use the expanded risk-based approach, the impact analysis in this standardized approach proposal assumes that covered banking organizations do not adopt the expanded risk-based approach.”).



minimum capital requirements, as determined using ERBA, would be the generally applicable capital requirements, and the standardized approach would merely be a method for determining that such requirements are satisfied.¹² That framework works only if banking organizations meeting the standardized approach are also highly likely to satisfy ERBA minimum capital requirements.

In short, the proposal reflects a new reading of Section 171 under which the agencies need not impose standardized capital requirements on all banks by default. If that reading is valid, the agencies are likewise free to adopt a simpler framework for small, non-complex banks, so long as it is calibrated such that banks meeting it are highly likely also to satisfy ERBA-based minimums. Indeed, that simpler framework need not even be risk-based.¹³ Under the agencies' new interpretation, a leverage-based framework such as the CBLR would suffice.

c. In light of their new interpretation, the agencies should adopt an expanded CBLR framework for community banks.

Since its establishment, the risk-based capital floor has been a source of compliance burden for both large and small banks, albeit in different ways. Larger, more complex banks have faced the operational expense and burden of maintaining two systems to calculate their capital requirements under two standards. Small, non-complex banks have had to comply with a risk-based regime whose complexity often exceeds its supervisory value for their business models.

Indeed, since Basel III was first implemented in the United States, CSBS and others have urged the agencies to adopt a simplified capital regime for small, non-complex banking organizations.¹⁴ The agencies previously indicated that legislation was needed because they viewed the Collins Amendment as requiring the same risk-based capital floor for all banks.¹⁵ Congress subsequently enacted Section 201

¹² See, e.g., Director Jonathan McKernan, Statement, [Proposed Amendments to the Capital Framework](#), FDIC Board Meeting (July 27, 2023) (“One alternative worth exploring is to make the expanded risk-based approach the generally applicable approach, but then give each smaller bank the option to keep its current standardized approach.... My understanding is that the so-called Collins Amendment would not preclude this approach.”).

¹³ See, e.g., John C. Dugan, Keith A. Noreika & Randy Benjenk, [Memo: Federal Banking Agencies' Authority to Allow Highly Capitalized Banking Organizations to Use a Simple GAAP-Based Capital Ratio As a Means to Comply with Risk-Based Capital Requirements](#), at 7 (Mar. 9, 2015).

¹⁴ See, e.g., CSBS, [Comment Letter re: Simplifications to the Capital Rule Pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996](#) (Dec. 26, 2017). See also Am. Bankers Assoc. et al., [Letter re: Application of Basel III Capital Rules to Highly Capitalized Banks](#) (Sep. 15, 2014).

¹⁵ See Basel III, *supra* note 9, at 62082. See also Acting Comptroller Keith Noreika, [Testimony of Acting Comptroller Keith Noreika before the Committee of Banking, Housing and Urban Affairs, United States Senate](#) (June 22, 2017) (“Congress also could simplify the capital requirements currently applicable to community banks by exempting banks that do not use models-based capital requirements from section 171 of the Dodd-Frank Act (the ‘Collins Amendment’). [T]he Collins Amendment may limit bank regulators from tailoring capital requirements to these smaller institutions.... Adopting this change would allow the federal banking agencies to tailor the capital rules to match the size and complexity of the institutions to which this provision applies....”); see also Governor Lael Brainard, [Identifying Opportunities for Reducing Regulatory Burdens on Community Banks](#), EGRPRA Outreach Meeting, Federal Reserve Bank of Chicago (Oct. 19, 2015) (“For smaller and less complex community banks . . . a commensurate improvement in safety and soundness of the institution may be achievable by simply holding a larger cushion of capital measured against a simpler definition of assets. To be workable, such an approach would



of the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 (“EGRRCPA”), which directed the agencies to establish the CBLR for banks with less than \$10 billion in total assets.¹⁶

However, under the agencies’ new interpretation of the Collins Amendment, they were never precluded from establishing a simplified capital framework in the first place. Because they had this preexisting authority, the agencies are not bound by the criteria set out in Section 201 limiting qualification for the CBLR to banks of a certain size or risk profile. Put differently, Section 201 merely directed the agencies to use their regulatory authority to create a tailored capital framework for a certain category of banks, but it did not limit or otherwise preclude them from making the framework available to a broader category of banks. The agencies may alter the CBLR qualifying criteria based on their pre-existing authority to establish a simplified capital framework for community banks.

The agencies can and should exercise this authority to adopt a simplified capital framework for community banks, including by expanding the CBLR framework to render a broader category of banks eligible to comply with the CBLR instead of the proposed risk-based capital rules. Specifically, the agencies should: 1) make a one-time adjustment to the CBLR’s \$10 billion asset threshold to account for economic growth, inflation, and changes in the banking industry; and 2) index the CBLR threshold to nominal GDP or the GDP deflator and adjust it on a regular basis, consistent with the indexing approach proposed by the agencies for other dollar-based thresholds.¹⁷ These changes would ensure that the CBLR meets its intended regulatory scope and purpose, responsibly replacing a static regulatory cliff with a dynamic threshold that adjusts to reflect growth in the U.S. economy and banking industry.

II. The agencies should adopt the proposed capital treatment of mortgage exposures and MSAs.

States are the primary regulator of nearly 80% of U.S. banking organizations and all nonbank mortgage companies, providing a unique and holistic supervisory view into mortgage activity across the bank and nonbank sectors. The proposed changes to mortgage risk weights, coupled with the removal of the capital deduction for MSAs above a certain amount, should support greater bank participation in mortgage lending and servicing, and ultimately provide consumers with a wider range of residential mortgage-related options.

The proposal would make mortgage risk weights more risk sensitive by tying them to loan-to-value ratios and whether repayment depends on property-generated cash flows.¹⁸ This more risk-sensitive

need to . . . meet the objectives of the Collins amendment.”); *see also* Governor Daniel K. Tarullo, [Tailoring Community Bank Regulation and Supervision](#), Independent Community Bankers of America 2015 Washington Policy Summit (“More generally, it is worthwhile for the bank regulatory agencies to consider possibilities for a broader simplification of capital requirements for smaller community banks.... In doing so, of course, we must be mindful of the Collins Amendment, which requires that minimum leverage and risk-based capital requirements be established for all insured depository institutions and bank holding companies, and that the minimum applicable requirements not be less than ‘generally applicable’ requirements.”) (Apr. 30, 2015).

¹⁶ Pub. L. 115–174, 132 Stat. 1296, Title II, Section 201. Given that Congress deemed a bank that maintained the requisite leverage ratio to be in compliance with generally applicable capital requirements, it is quite clear that Congress viewed the CBLR as an exception to the Collins Amendment mandate to impose a generally applicable capital requirement on all banks. *See* Section 201(c)(1)(A).

¹⁷ Standardized Approach, *supra* note 2, at 15364.

¹⁸ *Id.* at 15338.



and granular framework would reduce mortgage risk-weighted assets by 30%, materially lowering the capital required to support residential mortgage lending.¹⁹ The proposal would also improve the capital treatment of MSAs by eliminating the current threshold-based CET1 deduction for MSAs and instead apply a 250% risk weight to these assets.²⁰

In addition to lending directly to homebuyers and servicing their mortgages, a wide range of large, regional, mid-sized, and community banking organizations play a critical role in the mortgage market by providing working capital warehouse lines to nonbank mortgage companies. As discussed in Section IV, ERBA and the standardized approach would apply different capital treatments to investment grade corporate credit exposures, allowing banking organizations subject to ERBA to support warehouse credit facilities with less capital than those subject to the standardized approach. To avoid creating an unlevel playing field, the capital rules should provide consistent treatment for warehouse lending to the nonbank sector, regardless of a bank's size or applicable risk-based capital framework.

III. The agencies should maintain the existing treatment of unused credit commitments with a maturity less than one year, rather than increasing the credit conversion factor for these exposures, as proposed.

The proposal would apply a 40% credit conversion factor ("CCF") to all commitments that are not unconditionally cancelable irrespective of their maturity, rather than the current 20% CCF for commitments with a maturity of less than one year ("short-term commitments") and 40% CCF for commitments with a maturity of more than one year ("long-term commitments"). The agencies justify this flat 40% CCF treatment because it would "remove any regulatory incentive to structure transactions around this [one-year] line."²¹ However, the agencies provide no evidence that banks currently structure credit commitments around the one-year line under the existing capital rules.

Relative to larger institutions, banks with assets under \$10 billion have a greater proportion of short-term commitments, which is likely due to credit commitments to agricultural borrowers. Credit commitments in agriculture are usually structured to align with the production cycle, resulting in a short-term, generally 12-month, structure. The proposed higher CCF for short-term commitments would result in a disproportionately negative impact for smaller banks and the agricultural borrowers they serve. For these reasons, CSBS strongly recommends that a final rule maintain the existing 20% CCF for short-term commitments.

¹⁹ *Id.* at 15371.

²⁰ *Id.* at 15335.

²¹ *Id.* at 15344.



IV. The agencies should allow smaller banks to avail themselves of ERBA’s favorable capital treatment of investment grade corporate exposures.

The proposed standardized approach would reduce the risk weights for corporate exposures from 100% to 95% and from 100% to 90% for all other exposures.²² These revisions would free an estimated \$226 billion in aggregate capacity to support additional commercial lending and asset purchases.²³

ERBA would make the same revisions but go further by assigning a 65% risk weight to corporate exposures deemed investment grade under a banking organization’s internal credit risk rating system.²⁴ The agencies did not extend this favorable capital treatment of investment grade corporate exposures in the standardized approach proposal, citing added complexity and operational burden.²⁵

To the extent standardized approach banking organizations conduct the type of credit risk assessment outlined in ERBA,²⁶ they should be permitted to use the favorable 65% risk weight for investment grade corporate exposures. They should not, however, be required to opt in to the entire ERBA framework in full to obtain the capital benefit for this discrete category of exposures. CSBS recommends that the agencies either: 1) incorporate the 65% risk weight for investment grade corporate exposures into the standardized approach; or 2) allow standardized approaches banking organizations to elect ERBA’s treatment for these exposures only, rather than the entirety of ERBA.

V. The agencies should index relevant thresholds to promote consistent regulatory scope and purpose over time.

CSBS supports indexing certain dollar-based thresholds in the capital rules to account for economic growth and inflation over time. Without regular adjustment, static thresholds can quickly become outdated and no longer serve their intended scope or purpose.

CSBS further encourages the agencies to tailor the indexing methodology to the purpose of each threshold. Thresholds tied more closely to changes in the price of a particular good or service should be indexed to CPI-W (*e.g.*, residential mortgage exposures), while thresholds tied to broader changes in the U.S. economy or financial system should be indexed to nominal GDP or the GDP deflator (*e.g.*, bank asset threshold for enhanced public disclosure requirements).²⁷

VI. The agencies should treat exposures to nondepository trust companies as corporate exposures rather than depository institution exposures.

The proposed rules would treat certain nondepository trust companies as depository institutions for purposes of risk weighting banks’ exposures to these companies. This approach would produce

²² *Id.* at 15341.

²³ *Id.* at 15385.

²⁴ ERBA, *supra* note 2, at 14974.

²⁵ Standardized Approach, *supra* note 2, at 15341.

²⁶ ERBA, *supra* note 2, at 14975.

²⁷ Standardized Approach, *supra* note, at 15364 (Question 53).



nonsensical results because the resulting risk weights would bear little relation to these companies' actual creditworthiness. It would also create an unlevel playing field in the trust services market.

The proposed rules would apply a special risk weighting scheme to depository institution exposures to reflect the fact that depository institutions present reduced credit risk relative to other financial institutions or companies.²⁸ The proposals define "depository institution" by reference to Section 3 of the Federal Deposit Insurance Act ("FDIA").²⁹ Because the FDIA definition of "depository institution" includes "national banks" regardless of their activities, the proposed rules would likely treat OCC-chartered nondepository trust companies ("national trust companies") as depository institutions.³⁰ As a result, exposures to national trust companies would be assigned risk weights ranging from 30% to 150%.³¹

By contrast, state-chartered nondepository trust companies would likely not be considered "depository institutions" under the proposed rule. Under the FDIA, "depository institution" is defined, *inter alia*, to include a "state bank," and the FDIA definition of "state bank" is limited to entities that are "engaged in the business of receiving deposits other than trust funds."³² As a result, exposures to state-chartered trust companies would fall outside of the depository institution exposure risk weighting scheme and would be treated as corporate exposures generally subject to a risk weight ranging from 65% to 95%. The proposals' disparate treatment of exposures to national trust companies and state trust companies has no basis in the relative creditworthiness of these companies. It merely reflects differences in statutory definitions that exist for reasons entirely unrelated to capital adequacy.

Moreover, this disparate treatment would distort competition in the trust services market by giving national trust companies a competitive advantage over their state counterparts. Under the proposed depository institution exposure scheme, national trust companies would almost always qualify as Grade A bank exposures because the framework relies on capital measures designed for actual depository institutions, not nondepository trust companies. Minimum capital ratios that apply to banks, under the risk-based capital rules or Prompt Corrective Action ("PCA") framework, are not reliable measures of the capital adequacy of nondepository trust companies because they do not capture the risks associated with the off-balance sheet asset management of activities that dominate the trust company business model.³³ As a result, a trust company's risk-based and leverage capital ratios will far exceed, by many multiples, both the minimum capital requirements and the PCA well-capitalized threshold.

The evolving risk profile of national trust companies should also preclude any preferential capital treatment for exposures to these entities. In recent years, the OCC has taken steps to expand the activities in which national trust companies may engage, extending beyond their fiduciary scope and

²⁸ ERBA, *supra* note 2, at 14964-7.

²⁹ *Id.* at 14965.

³⁰ See 12 U.S.C. §§ 1813(c)(1) (defining "depository institution" to include "any bank"), (a)(1)(A) (defining "bank" to include "any national bank").

³¹ ERBA, *supra* note 2, at 14966.

³² 12 U.S.C. § 1813(a)(2).

³³ See, e.g., OCC, [Supervision of National Trust Banks: Revised Guidance: Capital and Liquidity, OCC Bulletin 2007-21](#) (June 26, 2007).



purpose. Indeed, the OCC maintains that uninsured national trust companies may primarily or even solely engage in non-fiduciary activities, including banking activities.³⁴ National trust companies that engage in these non-fiduciary activities pose heightened risks, and these firms should not be rewarded with preferential capital treatment.

Exposures to national trust companies, as Grade A bank exposures, would be assigned a 40% risk weight, if not a 30% risk weight, regardless of whether that capital treatment reflects their actual credit risk. In fact, many large national trust companies have actually opted in to the CBLR based on how the OCC has implemented the CBLR framework,³⁵ even though Congress clearly did not contemplate that large investment management firms would be “qualifying community banks.” The proposals would assign a 30% risk weight to exposures to CBLR banks, and these national trust companies would benefit from a reduced risk weight merely because they elected to comply with a capital regime that was never intended nor designed for them.

As proposed, the capital rules would give national trust companies a competitive advantage over state trust companies by assigning lower risk weights for reasons entirely unrelated to relative creditworthiness. CSBS opposes treating exposures to national trust companies as depository institution exposures. To ensure consistent treatment of nondepository trust companies, CSBS urges the agencies to treat all such exposures as corporate exposures. This approach would better advance the proposals’ objectives of simplicity, transparency, and consistency.

Conclusion

CSBS supports the agencies’ efforts to reform the current regulatory capital framework in a manner that enhances its risk sensitivity, consistency, and transparency. The proposals make significant progress towards achieving these aims while ensuring that the risk-based regulatory capital regime maintains robust and high-quality capital requirements for the banking system. State supervisors encourage the agencies to adopt our proposed recommendations to further enhance the sensitivity and consistency of the proposed capital framework and to ensure that banks of all sizes operate on a level playing field.

Sincerely,

Brandon Milhorn
President & CEO

³⁴ See, e.g., OCC, Final Rule, [National Bank Chartering](#), 91 Fed. Reg. 9977 (Mar. 2, 2026) (replacing the well-established “fiduciary activities” limitation for national trust companies with the nebulous “operations of trust companies and activities related thereto.”); see also OCC, [Interpretive Letter 1176: OCC Chief Counsel’s Interpretation on National Trust Banks](#) (Jan. 11, 2021) (asserting national trust company activities can include or consist of non-fiduciary activities).

³⁵ As of March 31, 2026, 15 uninsured national trust companies were opted in to the CBLR framework.