

**PROMOTING THE HEALTH OF THE
BANKING SECTOR: REFORMING RESOLUTION
AND BROADENING FUNDING ACCESS
FOR LONG-TERM RESILIENCE**

HEARING
BEFORE THE
SUBCOMMITTEE ON FINANCIAL
INSTITUTIONS
OF THE
COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES
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Tuesday, September 9, 2025

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**PROMOTING THE HEALTH OF THE
BANKING SECTOR: REFORMING RESOLUTION
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FOR LONG-TERM RESILIENCE**

Tuesday, September 9, 2025

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:20 p.m., in room 2128, Rayburn House Office Building, Hon. Andy Barr [chairman of the subcommittee] presiding.

Present: Representatives Barr, Hill, Huizenga, Williams of Texas, Loudermilk, Rose, Timmons, Norman, Meuser, Kim, Fitzgerald, Flood, De La Cruz, Moore, Foster, Waters, Scott, Sherman, Green, Vargas, Casten, Lynch, and Beatty.

Chairman BARR. The Subcommittee on Financial Institutions will come to order.

Without objection, the chair is authorized to declare a recess of the committee at any time.

This hearing is titled “Promoting the Health of the Banking Sector: Reforming Resolution and Broadening Funding Access for Long-Term Resilience.”

Without objection, all members will have 5 legislative days within which to submit extraneous materials to the chair for inclusion in the record.

I now recognize myself for 5 minutes for an opening statement.

**OPENING STATEMENT OF HON. ANDY BARR, CHAIRMAN OF
THE SUBCOMMITTEE ON FINANCIAL INSTITUTIONS, A U.S.
REPRESENTATIVE FROM KENTUCKY**

Thank you to our witnesses for being here and for offering their expertise on this important discussion. Today we will explore a series of topics that focus on promoting a healthy banking industry for institutions of all sizes. We will examine ways to promote competition in the Federal Deposit Insurance Corporation’s (FDIC’s) resolution process for failed banks and explore how decisions made in response to the 2023 bank failures, such as the invocation of the systemic risk exception to guarantee all uninsured deposits, created unnecessary uncertainty at a time when clear guidance was especially necessary.

We will also look into potential reforms to the FDIC’s bidding process for failed banking assets and liabilities, with the goal of en-

sureing that community banks have a fair opportunity to acquire all or part of a failing institution—community banks and regional banks—particularly when such outcomes best serve the interest of local communities. More broadly, the least cost test should not operate as a rigid constraint that effectively limits participation in the resolution process to only the largest institutions. We want all institutions of all sizes to be able to bid on these failed banks.

We will also discuss how access to diverse funding sources allows banks to remain competitive and continue to serve their communities. The current misalignment in the regulatory treatment of brokered reciprocal and custodial deposits has placed handcuffs on small, well-managed financial institutions' ability to sustainably fund themselves, and reform is necessary.

I look forward to hearing from the witnesses about how legislation attached to this hearing would remove unnecessary barriers to bank funding, ensuring banks have access to diverse and stable sources of deposits that allow them to continue the lending activities that make our economy thrive. Restrictions on various deposit types, such as brokered, reciprocal, and custodial, should be based on actual risks to stability, not the whims of banking regulators.

Finally, we will highlight the imperative that Congress rightsize the capital framework for small and midsize banks in the post-Dodd-Frank world. Our capital regime has moved too far away from a tailored system, negatively impacting small and midsize banks and hindering their ability to survive and compete against larger institutions. We must reverse course on this as a diverse banking system is at the heart of a resilient and competitive banking sector.

On a bipartisan basis, Congress directed regulators in 2018 to tailor regulations based on an institution's size, risk profile, and complexity. However, under the Biden Administration, regulators failed to fulfill this statutory mandate, and we look forward to new leadership to ensure that a regulatory scheme designed for the biggest banks does not become the rules for all banks. Luckily, the regulators have the tools to further tailor regulations and reduce red tape hampering the growth of small and midsize banking institutions.

This committee will continue to urge the Federal banking agencies to use the authorities they currently possess to provide much needed relief for banks while protecting financial stability and safety and soundness. Community and regional banks have the unique ability to put necessary cash in the pockets of local businesses, and today's discussion will highlight the need for reform to guarantee long-term resilience and access to capital.

The overly burdensome regulations imposed by the Dodd-Frank Act and subsequent rulemakings from the Federal banking agencies have crippled community banks and midsize banks and regional banks through heightened capital and liquidity standards, narrower sources of funding, and a miscalibrated bank merger review process.

I look forward to hearing from our expert witnesses on these important topics and what we can do in Congress to reverse the negative impact of burdensome regulations.

With that, I yield back, and I now recognize the ranking member of the subcommittee, Dr. Foster, for 4 minutes for an opening statement.

OPENING STATEMENT OF HON. BILL FOSTER, RANKING MEMBER OF THE SUBCOMMITTEE ON FINANCIAL INSTITUTIONS, A U.S. REPRESENTATIVE FROM ILLINOIS

Mr. FOSTER. Thank you, Chairman Barr, and to our witnesses.

Today the subcommittee will examine topics that underpin the stability of the U.S. financial system. We will understand the avenues banks used to fund their operations, weather stress, and promote economic growth in our communities.

Alongside this hearing, we will consider changes to the resolution process to ensure that failing financial institutions wind down their operations in a way that minimizes disruption for customers and the broader financial system while preserving competition. I believe that these are timely important topics as this body and the administration look to make changes in the regulatory and supervisory framework governing the American banking system.

Throughout this process, we should promote updates that reflect the current state of the banking system, respond to changing technology and the composition of the banking system, and keep in mind the unique needs of small community banks and credit unions.

Technological innovation, while often beneficial, carries some risk. In 2023, we saw mobile banking technology on social media supercharge bank runs on Silicon Valley Bank, leading depositors to pull out nearly \$40 billion in deposits from the bank in under 48 hours. The failure of Silvergate and Silicon Valley Banks triggered runs on several other banks, ultimately forcing regulators to invoke emergency authorities to stem contagion. So I fear that this type of situation will become more common as technology reduces friction in banking and increases the speed of information across the country.

That said, the regional bank failures in 2023 started an important conversation about how to prevent rapid and large-scale bank failures from rippling across the economy. J.P. Morgan's acquisition of First Republic Bank raised questions about the appropriateness of FDIC's least cost resolution and whether there may be alternative approaches worth considering.

I would also like to thank Chair Barr and Hill for noticing Congressman Lynch's bill, the Failing Bank Acquisition Fairness Act, which would ensure that small institutions have an opportunity to bid on failing banks, assuming they can do so in a manner that is cost effective for the deposit insurance fund. Members of our committee have also sought ways to manage the risks associated with high levels of uninsured deposits which were a contributing factor to the failure of Silicon Valley Bank (SVB). Deposit insurance reform and expanded access to reciprocal deposits and other changes to the regulatory framework are among the proposals being considered in this hearing today.

So as our committee considers these issues, we must continue supporting the financial institutions in all of our communities. This includes more than 30 years of congressional support for Commu-

nity Development Financial Institution, CDFIs, and Minority Depository Institutions, MDIs, that serve low income and historically underserved communities.

Since its creation, the CDFI fund has supported more than 19 million loans, totaling more than \$300 billion, leveraging private capital to spur investments in infrastructure, childcare center, homeownership, and entrepreneurship across all 50 States.

I really appreciate the timing and subject of this hearing and look forward to hearing from the witnesses.

Chairman BARR. The gentleman yields back.

Today we welcome the testimony of Mr. Dory Wiley, president and CEO of Commerce Street Holdings, Dallas; Mr. James Barresi, partner in Squire Patton Boggs; Mr. Hugh Carney, executive vice president of Financial Institutions Policy and Regulatory Affairs of the American Bankers Association; Dr. Norbert Michel, vice president and director of the Cato Institute Center for Monetary and Financial Alternatives; and Mr. Robert James, president and CEO of Carver Financial Corporation, here on behalf of the National Bankers Association.

We thank each of you for taking time to be here. Each of you will be recognized for 5 minutes to give an oral presentation of your testimony. Without objection, your written statements will be made part of the record.

Mr. Wiley, you are now recognized for 5 minutes for your oral remarks.

**STATEMENT OF DORY WILEY, PRESIDENT AND CEO,
COMMERCE STREET HOLDINGS**

Mr. WILEY. Thank you, Chairman.

Chairman Barr, Ranking Member Foster, members of the subcommittee, thank you for having me here today, and hopefully I can provide some small help in any way I can. Glad to be here.

I am Dory Wiley, president and CEO of Commerce Street Holdings, a Dallas-based investment bank that does mergers and acquisitions (M&A) advisory and investing in banks. For almost 40 years I have started banks, raised capital for banks, invested billions of dollars, raised billions of dollars for community banks, and advised through crises. These crises include the savings and loan (S&L) crisis of the eighties, where we lost over 1,000 banks; the Texas banking crash, where we lost over 200 bank failures. We have a roadmap of the scars on our back from those time periods. The 2008 Great Recession, with over 500 failures, and, of course, the 2023 failures that we are all familiar with of those four banks. Experience shows that we must make banking investable again. I think we forget that sometimes.

Now, first of all, I would like to say we have the best banking system in the world, in world history, and what we are doing is just fine-tuning what we have here, but we want to ensure fair investing, fair funding rules, and let these banks compete. We have to remember that. They are not utilities. We want them to compete. We are partnering with them on the government side.

The 2023 failures exposed some familiar problems: low equity capital, poor risk management, and shaky confidence. Now, however, most banks came through with shining colors. Most of them

did a very good job of asset liability management, credit underwriting, and holding high capital standards. These exceptions should not have happened, but they did.

We saw similar runs in broker deposits in 2008 and the 1980s, and the vast—the biggest issue, bank holding companies like Silicon Valley Banks had dangerously low capital, around 5.5 percent. These holding companies have to be a source of strength. When they do not have enough capital, they cannot—there is no room or margin for error. They cannot support their banks, just like during the Great Recession when things went wrong.

Now, Dodd-Frank's rules, amazingly banks have adapted quite a bit, but they cost banks \$60 billion a year, having crushed community bank profits; pushing opportunities outside the system; increasing, not necessarily reducing, systemic danger and risk, and this has turned away investors and talent, making banking less attractive. Congress should cut these regulatory burdens to bring investment capital back to banks.

Let me close by emphasizing an appeal to and the critical role of virtue in our financial system. George Washington wisely noted few men have the virtue to withstand the highest bidder, yet over my decades in banking I have witnessed the vast majority of bankers embody this virtue, running their institutions with integrity, prioritizing customers, and upholding trust. This is especially vital in the United States, the only Nation with a robust community banking system in the world. These banks are the backbone of our economy, fueling job creation, and nurturing small businesses that drive innovation and growth.

Our community bankers, together with regulators and, by extension, Congress, honor this principle, acting as stewards of public trust, ensuring capital serves Main Street, not just Wall Street. Let us continue to support and strengthen this virtuous foundation, ensuring our community banks, our banking system, in general, and our whole economy thrive for generations to come.

Thank you.

[The prepared statement of Mr. Wiley follows:]



COMMERCE STREET HOLDINGS, LLC
 1445 ROSS AVENUE, SUITE 2700
 WALLAS, TEXAS 75202
 214.545.6800
 WWW.COMMERCESTREETHOLDINGS.COM

**Written Testimony of Dory A. Wiley, President and CEO of Commerce Street Holdings, LLC
 Submitted to the Subcommittee on Financial Institutions and Monetary Policy House Committee on Financial Services
 Hearing: "Promoting the Health of the Banking Sector: Reforming Resolution and Broadening Funding Access for Long-Term Resilience"
 September 9, 2025, 2:00 p.m. EDT, Room 2128, Rayburn House Office Building**

**The Honorable Andy Barr, Chairman
 The Honorable Bill Foster, Ranking Member
 Subcommittee on Financial Institutions and Monetary Policy House Financial Services Committee
 2129 Rayburn House Office Building
 Washington, DC 20515**

Dear Chairman Barr, Ranking Member Foster, and Distinguished Members of the Subcommittee:

Thank you for the opportunity to submit written testimony for the hearing titled "Promoting the Health of the Banking Sector: Reforming Resolution and Broadening Funding Access for Long-Term Resilience" on September 9, 2025. My name is Dory A. Wiley, and I am the President and CEO of Commerce Street Holdings, LLC, a Dallas-based investment banking firm that has been a leader in advising banks in Texas and the Southwest since 1997. Since 1988, I have dedicated my career to the banking industry: starting banks, advising mergers and acquisitions (M&A), raising capital, reducing risk, fixing problem banks, helping Community Reinvestment Act compliance, and investing in financial institutions. My experience spans multiple crises: the 1980s Savings and Loan (S&L) Crisis, where over 1,000 institutions failed due to high interest rates and risky lending; the late 1980s/early 1990s and which included the Texas Banking Crash, with over 200 Texas bank failures driven by real estate and oil price declines; the 2008–2009 Great Recession, with over 500 bank failures including Washington Mutual (the largest bank failure in history); and the 2023 failures of Silicon Valley Bank (SVB), Signature Bank, and First Republic Bank as well as the voluntary liquidation of Silvergate Bank. Commerce Street Holdings and its predecessors have raised more startup capital for banks than any other firm nationwide, with our principals and affiliates investing over \$1.4 billion in community banks. We are a nationally ranked M&A advisor and as the largest sponsor of Small Business Investment Companies in the country, we are committed to fostering economic growth and stability in communities across America. The United States is the only country in the world with a robust community banking system, and its contribution to job growth and small businesses is often greatly underestimated.

This testimony is based on my nearly four decades of experience navigating these crises,

regulatory changes, and economic cycles. My recommendations reflect many of the priorities of bankers and trade associations, which advocate for a vibrant, community-focused banking sector that supports tailored regulation, reduced regulatory burdens, and economic growth while ensuring financial stability. The Dodd-Frank Act of 2010 has made banking, particularly community banking, costly to operate with more than \$60 billion annually in compliance costs (Mercatus Center, 2018) reducing attractive returns to investors, pushing opportunities away from banking, and increasing systemic risk through less-regulated channels. Congress needs to roll back excessive regulatory burdens to restore and maintain the American banking system's global leadership, making it investable again and attracting capital, allowing the best and brightest to build careers in the industry.

This testimony addresses seven key areas: (1) reforming the bank resolution process, drawing from historical crises; (2) the critical role of tangible capital; (3) improving access to diverse funding sources, recognizing the role of brokered deposits; (4) right-sizing the capital framework for small and mid-sized banks; (5) raising tiered banking thresholds from \$100 billion to \$250 billion; (6) streamlining bank M&A approvals, including credit union deposits in competitive analyses and decentralizing regulatory authority; and (7) revitalizing de novo banking to foster competition. I will also address concerns about regulatory consolidation and staff reductions. Banks are not utilities; while deposit insurance carries responsibilities, banks must be allowed to prosper or fail, with easier chartering to encourage competition that benefits consumers and the economy.

I. Reforming the Bank Resolution Process

The bank resolution process has significantly improved since the 1980s S&L Crisis, when over 1,000 institutions failed, costing taxpayers \$160 billion (FDIC), which includes the Texas Banking Crash, where over 200 banks collapsed due to real estate and oil price declines. The 2008–2009 Great Recession, with over 500 bank failures, and the 2023 failures exposed ongoing vulnerabilities, particularly low tangible capital at bank holding companies and poor interest rate risk management. As an investment banker who advised and invested in banks through these crises, I believe the focus should be on strengthening consumer confidence through education, ensuring robust contingent funding plans, and applying consistent policies to prevent deposit runs, particularly at systemically important institutions.

The March 2023 Bank Failures: Causes and Leadership Failures

The 2023 banking crisis was a stark reminder of systemic risks, echoing past crises. Silvergate Bank (\$11.4 billion in assets) liquidated voluntarily on March 8, followed by the failures of SVB (\$209 billion) on March 10, Signature Bank (\$110 billion) on March 12, and First Republic Bank (\$213 billion) in April. These failures, among the largest since 2008, shook confidence and revealed weaknesses like those in the S&L Crisis (interest rate mismatches), Texas Banking Crash (concentrated exposures), and Great Recession (inadequate capital).

Causes:

1. *Interest Rate Risk and Speculative Bets:* The Federal Reserve's 525-basis-point rate hikes from March 2022 to September 2023 devalued long-term assets, with SVB's \$91 billion securities portfolio losing over 10% of its value, eroding capital. Similar losses hit Signature and First Republic. These banks failed in part because they made speculative assumptions on interest rates, holding large portfolios of low-yield, long-term securities without adequate hedging or interest rate risk policies, expecting rates to remain low, like the S&L failures in the 1980s due to unhedged rate hikes. Banks should be structured to profit regardless of interest rate movements, using proven asset-liability management tools. Such failures should never be allowed to happen; regulators, competent boards, management, and institutional investors must enforce rigorous interest rate risk management to prevent speculative exposures. The absence of these safeguards in 2023, as in prior crises, reflects a failure of oversight and governance as well as a lack of understanding of bank balance sheets - lessons long ago which were learned in previous crises. Most banks did a very good job of managing to a near-neutral exposure of interest rate risk, combining that with high capital ratios and good credit underwriting to navigate an extreme change in interest rate risk. The exceptions were glaring.

2. *Uninsured Core Deposits:* Contrary to assumptions about deposit stability, it was core deposit relationships with tech firms, startups, and high-net-worth individuals, many of which were uninsured (e.g., 93.8% at SVB exceeded the \$250,000 Federal Deposit Insurance Corporation (FDIC) limit)—that drove the rapid deposit runs, not wholesale deposits like brokered funds. SVB's core customers withdrew \$48 billion in 48 hours, amplified by digital banking platforms and social media panic, reminiscent of the 2008 runs on Washington Mutual.

3. *Weak Risk Management:* The banks failed to hedge interest rate risk or maintain

liquidity buffers, a recurring issue from the Texas Banking Crash's real estate overexposure. SVB's collapse was exacerbated by its inability to access the Federal Reserve's Discount Window promptly due to an untested contingent funding plan. Testing these plans is critical, as seen in the 2008–2009 failures.

4. Regulatory Oversight Gaps: Regulators identified risks but failed to act decisively, as during the S&L Crisis, when lax oversight allowed risky lending. The Federal Reserve rated SVB "satisfactory" until June 2022, despite concerns raised in 2021, and failed to enforce robust interest rate risk mitigation.

5. Contagion: Digital platforms and social media accelerated runs, with SVB losing \$48 billion in two days due to withdrawals of core deposits, like the panic-driven runs of the Great Depression, which created our regulatory system, and the Great Recession

6. Leadership Failures: Treasury Secretary Janet Yellen's response in 2023 echoed with missteps from past crises, such as unclear messaging during the S&L Crisis. Her statement that the FDIC would not offer "blanket insurance" for all deposits, despite the \$19 billion bailout of SVB and Signature depositors, undermined confidence, particularly for community banks with 45% of the total uninsured deposits (banks under \$10 billion). This fueled outflows, as in 2008 when depositors fled smaller banks. The FDIC's 1933 mission stabilized the system through assurance, not arbitrary limits. Yellen should have declared, "Your deposits are safe. We may fail the equity and the bank itself, but your deposits will transfer to a new bank." The Conference of State Bank Supervisors (CSBS) has highlighted the perception that uninsured deposits at TBTF banks are favored, driving depositors from community banks, as seen in the Texas Banking Crash. In 2010, CSBS supported the Transaction Account Guarantee (TAG) program for unlimited deposit insurance on non-interest-bearing accounts to prevent deposit flight. In February 2025, Arkansas Commissioner Susannah Marshall testified that small rural businesses should not fear community bank deposit safety. Inconsistent protection of large depositors in smaller bank failures, as in 2008–2009, increases systemic risk. The CSBS 2025 Annual Survey, due October 2025, will recommend deposit insurance reforms. Consumer education is critical, as public misunderstanding fueled runs in 2023, 2008, and the 1980s.

Preventive Measures:

- *Consumer Confidence and Education:* Strengthen public understanding of deposit insurance, as the Texas Bankers Association (TBA) and CSBS advocate, learning from the S&L Crisis and Great Recession. The TBA's 90-day blanket insurance or TAG-like program could prevent runs.
- *Test Contingent Funding Plans:* Mandate testing to ensure liquidity access, as failures in 2023 and 2008 showed untested plans exacerbate crises.
- *Federal Reserve Lifelines:* The 2023 Bank Term Funding Program (BTFP) helped, but banks need pre-pledged collateral for the Discount Window, as CSBS recommends.
- *Leadership Confidence:* Clear messaging, unlike in past crises, is essential.

Deposit Insurance Fund and Resolution Framework

The Deposit Insurance Fund (DIF) protects depositors up to \$250,000 and resolves failed banks under the "least cost" mandate. The 2023 systemic risk exception (\$19 billion) echoed the 2008 bailouts, raising fairness concerns. The TBA's 90-day blanket insurance and CSBS's TAG support could stabilize community banks, as in 2010. The least cost mandate needs to be revised as it biases against smaller community banks and continues to create systemic risk.

National Deposit Caps and Waivers

FDIC deposit caps limit concentration but restrict acquisitions, as seen in the Texas Banking Crash. A transparent waiver system would attract bidders, including nonbank capital, as in 2008.

Recommendations

1. *Enhance Consumer Education:* Develop campaigns to clarify deposit insurance, reducing panic-driven runs.
2. *Adopt Temporary Deposit Insurance:* Implement TBA's 90-day blanket insurance or TAG-like program, as CSBS supports.
3. *Mandate Contingent Funding Plan Testing:* Ensure timely liquidity access, learning from 2008 and 2023.
4. *Enforce Interest Rate Risk Management:* Require near neutral exposure to changes in interest rates to ensure profitability in all rate environments.
5. *Clarify Systemic Risk Exception Criteria:* Define objective triggers for fairness.
6. *Broaden Bidding:* Include nonbank capital and shelf charters.
7. *Strengthen Deposit Insurance Fund:* Use risk-based assessments.
8. *Enhance Safety and Soundness:* Mandate interest rate risk stress and contingent funding tests.
9. *Improve Discount Window Access:* Adopt CSBS's holistic policy process.
10. *Project Confidence:* Reinforce the FDIC's mission with clear messaging.

II. The Critical Role of Capital in Banking Resilience

Having advised banks through the S&L Crisis, Texas Banking Crash, Great Recession, and 2023 failures, I have seen that high tangible capital and rigorous safety and soundness are critical. The Dodd-Frank Act's \$60 billion annual compliance costs (Mercatus Center, 2018) have made banking, especially community banking, less profitable, driving capital to other areas of the market.

This shift increases systemic risk as banks' indirect exposure amplifies vulnerabilities, unlike the regulated transparency of bank lending. Congress should roll back excessive regulations to restore investor appeal.

Balancing Regulation and Capital Access

Dodd-Frank's costs have deterred investors. Since 2008, start up/de novo approvals have plummeted due to high capital and compliance burdens, reducing competition. At Commerce Street, we've seen investor demand decline as return opportunities have decreased. A balanced approach supports capital raises, making banking investable again.

Recommendations

1. *Mandate Interest Rate Risk Hedging*: Ensure profitability in all rate environments.
2. *Ease De Novo Restrictions*: Reduce capital and compliance burdens to make investing attractive.
3. *Balance Oversight and Access*: Streamline regulations to restore investor appeal.
4. *Stress Test Capital and Interest Rate Risk*: Prevent speculative exposures.

III. Improving Access to Diverse Funding Sources

Access to diverse funding is critical, but regulatory barriers limit options. Brokered deposits are not inherently risky; SVB's core customers withdrew \$48 billion in 48 hours, showing that wholesale deposits can be more stable. Regulators must assess each bank's funding strategy based on management's execution capabilities.

Regulatory Framework

Brokered deposits are vital for community banks, as CSBS notes. The FDIC's 2020 exemptions for exclusive relationships and flexible rate-caps support stability, but the 2024 proposed rule risks limiting their use. CSBS recommends 12-24 months to unwind brokered deposits under Prompt Corrective Action (PCA). Reciprocal and custodial deposits face complexity and scrutiny, while Federal Reserve facilities like the BTFP require testing.

Technology's Impact

Digital platforms accelerated 2023 runs, as in 2008, highlighting the need for updated rules. FinTechs offer new funding channels but require clear oversight.

Recommendations

1. *Modernize Brokered Deposit Rules*: Retain 2020 FDIC exemptions.
2. *Enhance PCA Flexibility*: Allow 12–24 months to unwind brokered deposits.
3. *Promote Reciprocal Deposits*: Simplify rules to ensure larger deposits.
4. *Clarify Custodial Deposits*: Provide guidance for fintech partnerships.
5. *Encourage Innovation*: Support FedNow while ensuring safety.
6. *Enhance Federal Reserve Access*: Mandate liquidity testing.
7. *Tailor Funding Oversight*: Authorize regulatory judgment.

IV. Right-Sizing the Capital Framework for Small and Mid-Sized Banks

The capital framework must reflect small and mid-sized banks' risk profiles. Dodd-Frank's rules, costing \$60 billion annually, strained community banks. S.2155 provided relief, but further tailoring is needed.

Dodd-Frank and S.2155

S.2155 raised the threshold for enhanced standards to \$250 billion, but Category III/IV banks face misaligned Basel III rules. The Community Bank Leverage Ratio (CBLR) for banks under \$10 billion is underutilized due to its 9% ratio and examiner overreach.

Recommendations

1. *Enhance CBLR Flexibility*: Lower to 8% or allow tiered ratios.
2. *Reduce Examiner Overreach*: Standardize capital requirements.
3. *Simplify Reporting*: Overhaul call reports.
4. *Tailor Category III/IV Rules*: Exempt from Basel III.
5. *Incorporate 2023 Lessons*: Require stress tests.

V. Raising Tiered Banking Thresholds from \$100 Billion to \$250 Billion

Raising the threshold to \$250 billion would exempt regional banks from enhanced standards, enabling competition with larger banks and private credit. The 2023 failures showed risks stem from poor risk management, not size alone. Safety and soundness principles should guide oversight.

Recommendations

1. *Apply Safety and Soundness Principles*: Enforce capital, liquidity, and hedging.
2. *Tailor Oversight to Risk Profiles*: Focus on risk factors.
3. *Support Regional Bank Competitiveness*: Allow flexibility with risk-based oversight.
4. *Leverage Existing Policies*: Strengthen stress testing.

VI. Streamlining Bank M&A Approvals and Decentralizing Regulatory Authority

Bank M&A is essential, but delays and centralization create a “barbell” system, reducing the number of potential acquirers. My experience in the Texas Banking Crash and Great Recession shows streamlined approvals foster resilience.

Centralization of Regulatory Authority

Regulatory authorities have shifted to Washington, D.C., delaying approvals. Regional regulators are better suited for straightforward deals. CSBS recommends including nonbanks and credit unions in competitive effects analysis, preserving HHI safe harbors, and revising Summary of Deposits data.

Including Credit Unions in HHI Calculations

CSBS recommends including credit union deposits (\$2.3 trillion in 2024, NCUA) in HHI calculations to reflect their competition with banks. This is fair, as credit unions like Navy Federal (\$165 billion) offer similar services, but in rural areas (20–30% deposit share, Federal Reserve), their inclusion could overstate concentration, blocking community bank mergers. Tailored HHI adjustments ensure fairness without penalizing local banks.

Staff Reductions and Institutional Knowledge

Staff cuts and inexperience erode effectiveness, as seen in the post-S&L Crisis, risking inconsistent decisions.

Concerns About Regulatory Consolidation

Consolidating regulators risks inefficiencies, harming the number of potential acquirers of community banks. Competition among agencies fosters innovation.

Current M&A Challenges

The DOJ’s focus on deposit share ignores private credit and FinTech’s. CSBS proposes exempting mergers under \$10 billion from competitive effects analysis.

Recommendations

1. *Decentralize M&A Approvals*: Delegate to regional offices.
2. *Enhance Transparency*: Provide clear feedback.
3. *Modernize Merger Reviews*: Include credit unions and nonbanks.
4. *Incorporate Credit Union Deposits in HHI*: Use tailored adjustments.
5. *Exempt Small Mergers*: Amend the Bank Merger Act.
6. *Standardized Checklists*: Ensure consistency.
7. *Lower Capital Requirements*: Reduce for rural banks.
8. *Retain Staff*: Preserve expertise.
9. *Oppose Consolidation*: Maintain agency competition.
10. *Streamline Approvals*: Set clear timelines.

VII. Revitalizing De Novo Banking

The decline from 18,000 banks in 1980 to under 4,700 by 2025 reflects consolidation, failures, and a near-absence of de novo banks. My experience starting banks during the S&L Crisis, Texas Banking Crash, and post-2008 era shows that regulatory burdens stifle competition. Easier chartering fosters competition, benefiting consumers and helping economic activity.

Decline in Bank Numbers and De Novo Activity

From 1998–2007, 1,300 de novos were chartered; post-2008, only 14 (FDIC). Dodd- Frank’s costs and high capital requirements deter investors, driving capital to other investment opportunities.

Impact of Strict De Novo Rules

High capital thresholds block new entrants, reducing competition and lending, as private credit dominates. CSBS notes excessive scrutiny stifles innovation.

Balancing Risk and Innovation

De novo rules are overly restrictive, as 2023 failures involved larger banks, not small de novos. Relaxed rules can restore the number of potential investors in community banks.

Recommendations

1. *Streamline De Novo Applications*: Simplify FDIC reviews.
2. *Lower Capital Requirements*: Reduce to \$10–20 million for low-risk plans.
3. *Encourage Innovative Models*: Balance safety with innovation.
4. *Support Community Banking*: Prioritize underserved areas.

Recommendations

1. *Tax Parity*: Tax bank-like operations.
2. *Align M&A Oversight*: Apply bank-like scrutiny.
3. *Protect Community Banks*: Support tax-paying banks.

Conclusion

The 2023 failures, like those in the S&L Crisis, Texas Banking Crash, and Great Recession, highlight the need for robust capital, rigorous risk management, and confident leadership. Brokered deposits are not inherently risky; regulators should assess funding strategies individually. Banks are not utilities—prosperity and failure must be allowed, with easier chartering to foster competition and encourage investment into the sector. 80% of new jobs come from small businesses, and 75% of small businesses are banked by community banks. By reforming resolutions, strengthening capital, improving funding, tailoring rules, streamlining M&A with fair HHI calculations, revitalizing de novo banking, easing overly burdensome reporting and data collecting, we can make banking investable again, restoring its global leadership and appeal to top talent.

Chairman BARR. Mr. Barresi, you are now recognized for 5 minutes.

**STATEMENT OF JAMES B. BARRESI, PARTNER, SQUIRE
PATTON BOGGS**

Mr. BARRESI. Thank you, Chairman Barr, Ranking Member Foster, and members of the subcommittee, for the opportunity to testify here with you today. My name is Jim Barresi. I lead the financial services practice at Squire Patton Boggs, which is a global law firm. I am here today in my personal capacity, not on behalf of my firm or any client of our firm.

I am here in hopes to share with you practical insight that I have obtained for spending more than 30 years laser focused on advising Main Street banks and also having on two occasions during that time period spent multiple years embedded in-house as the deputy general counsel of a—what started as a small regional bank that after a string—a long string of large acquisitions ultimately became a very safe and well-regarded super-regional bank that competes with the largest banks in the country.

Turning to the state of our U.S. banking system. For a long time, our banking system has been both the envy of the world and the engine for economic growth in the United States, but the laws and regulatory framework that govern it are antiquated now. They need updating to function effectively in a fast moving digital era. We need to be able to move quickly, because sometimes, as we saw in the spring of 2023, the inability to move with dexterity itself can be dangerous. So we are hopeful that this committee will continue to be assertive in adopting change, like it did with the Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act, and we are greatly appreciative of that.

I would like to use the auto industry as a quick illustration for what we have in mind. The auto industry, of course, is regulated like the financial services industry, but in the last few decades, you have seen widespread adoption of innovative tools, like air bags, automatic emergency braking, lane keeping assistance, blind spot monitoring, and many others. I do not think there is any doubt that these tools improve safety and the efficient operation of our transportation system, but it is much harder to do that in bank land than it is in other regulated industries because of the multi-layered, overlapping regulatory regime and structure we have and because of the trepidation that our regulatory regime has historically shown to innovation.

What we are asking Congress to do here is to build the financial equivalent of an interstate highway system that enables our banks of various types, just like various types of vehicles on the road, to move with efficient capability and the speed to safely deliver financial products to those throughout the United States.

So we have a host of recommendations in our written testimony. I will not repeat them all here, but just to highlight some you for you. First, with respect to the bank resolution process, it is way too rigid, and it is not competitive for anyone other than the biggest banks in the country. It needs to be modified to enable smaller players to participate effectively in auctions. It needs to enable those banks to show up and have their capital capacity evaluated.

For example, if they show up with private capital sources or the ability to bring additional capital to the table to effect transactions, and there are techniques like virtual data rooms that could be maintained on a real-time basis to enable bidders to act. Deposit insurance, of course, is part and parcel of any discussion on improving resolutions, and I will not rehash that here, other than to note that our deposit insurance systems need some updating and I have in my written testimony and I am happy to address some ideas that are not expensive for the system and that could be utilized.

Third, I think the 2023 bank failures identify issues with liquidity in two respects. One, access to reliable emergency liquidity for banks that are in difficulty, and we can proactively combat the stigma at the Federal Reserve's Discount Window and improve the operational readiness of each of the Federal Reserve (Fed) and the Federal home loan banks so that they can act to process large volumes of requests and prioritize among them.

Finally, to harmonize some of the collateral practices across all the Fed regional banks and the Federal Home Loan Banks (FHLBs).

Broker deposits and reciprocal deposits, we have an outdated system. Fortunately, we have unwound a system that treated them very—or would have treated them very unfairly in 2024, but it still needs to be updated to enable the proper use of these tools which provide a great deal of liquidity.

Bank mergers are also important on the agenda, and I think that they demonstrate the need and ability of community banks to grow and serve our country.

Chairman BARR. The gentleman's time is expired.

Mr. BARRESI. Thank you.

[The prepared statement of Mr. Barresi follows:]

Written Testimony of James Barresi
Hearing before the United States House of Representatives
Committee on Financial Services
Subcommittee on Financial Institutions

Hearing Entitled: Promoting the Health of the Banking Sector:
Reforming Resolution and Broadening Funding Access for Long-Term Resilience
September 9, 2025

Thank you, Chair Barr, Ranking Member Foster, and Members of the Subcommittee, for the opportunity to testify today.

My name is James Barresi. I lead the financial services practice at Squire Patton Boggs, a global law firm that serves business enterprises, financial intermediaries and governments around the world. I am appearing here in my personal capacity and not on behalf of my firm or any client.

Background

For more than thirty years, I have dedicated my career to primarily serving Main Street financial institutions. My experience, which is briefly outlined below, shapes my testimony, which is intended to be practical and reflect what actually happens in the “real world” of commercial banking outside of Washington, D.C. and Wall Street.

Context for Testimony

In addition to my experience as a long-time outside advisor to financial institutions on strategic, transactional and regulatory matters, I have twice spent multi-year stints serving as the Deputy General Counsel of commercial banking clients. This includes working for a \$9 billion Midwest-based bank that leveraged strong management and support from institutional investors, including private equity, to complete a string of merger of equals transactions and become a leading super-regional bank, successfully managing such growth and the implementation of new technology in the process. During the Great Financial Crisis, I advised Main Street banks attempting to manage exposure to Lehman Brothers, Bear Stearns and others, and led our law firm’s representation of the U.S. Department of Treasury on multiple, significant projects, including the Troubled Asset Relief Program (T.A.R.P.). In 2023, I advised: (i) clients with exposure to Silicon Valley Bank, Signature Bank, First Republic Bank and others, and (ii) community and regional banks all across the U.S. that struggled to successfully execute their contingency funding plans and to retain insured and uninsured deposits that were flowing rapidly to banks deemed Too Big to Fail.

I have advised: (i) buyers and sellers and boards of scores of healthy, troubled and failed banks, (ii) two banks that failed; and (iii) several other banks that were recapitalized by private capital while on death’s doorstep, preserving the life blood of the communities they serve and jobs for many employees. Also, I have advised countless banks in raising all forms of capital and liquidity and many investors in banks, in both good times and bad times. In recent years, I have spent significant time advising financial technology firms, commercial banks struggling to fund

and deploy financial technology (including both traditional banks and banks that offer embedded banking), and investors who invest risk capital in all of the above.

Given the global nature of my law firm and our practice, I have had many opportunities to work or interact with foreign banks operating in the U.S., U.S. banks operating abroad and non-U.S. banks operating exclusively in foreign markets. Thus, I have some practical experience comparing our U.S. banking system with that of certain other countries.

In short, I have a lot of practical experience helping commercial banks attempt to navigate the maze of laws, regulations and rules promulgated in Washington so they can serve their communities and attract the capital needed to do so. I intend to focus on that practical experience, and do not intend for this testimony to be political, academic or otherwise theoretical.

Our Banking System Has Fueled American Growth and Prosperity, in Part Because Our Regulatory Regime Has Kept it Strong and Stable, but Modernization (and Streamlining) is Needed

Based on my experience, as outlined above, I believe the U.S. is incredibly fortunate to operate a banking system that is both: (i) the envy of the world; and (ii) the engine for America's historic prosperity. Our banking system has consistently demonstrated characteristics that many of us describe with pride as "American." It has been resilient, service-minded, creative, growth-oriented, and it includes a wide variety of financial institutions with different attributes, resources and business plans. Our diverse banking system has enabled prosperity, upward-mobility and stability across wide and very different swaths of America including, among many others, large corporations and small businesses in every industry imaginable, schools, charitable organizations, hospital systems and, of course, citizens in every economic bracket and in big cities and small towns all across America.

America's banking industry has benefitted from a strong and just legal system and a regulatory regime that has, for the most part, helped keep it safe, sound and stable. Regulatory agencies have served as valuable partners to the banks they oversee and the American public. However, like many industries, the banking industry is struggling to adapt to technological change and innovation that is occurring at the fastest pace in human history. In my opinion, the nature of our bank regulatory regime makes it significantly more difficult for banks to adapt to technology and innovation than for companies in most other industries, including in many heavily regulated industries.

For the last century, Congress and regulatory agencies have consistently added layer after layer of laws, agencies, regulations and rules, without either eliminating laws and regulations designed for eras and environments that no longer exist or updating the regime to make it more efficient. This approach has made our system extraordinarily complex, layered, bureaucratic, slow and expensive. In short, many aspects of our regulatory regime are antiquated and ill-designed to deal with the modern world of real-time digital banking. Moreover, our bank regulatory agencies and the dedicated professionals they employ too often operate with inadequate technological resources. As a result, our system routinely slows and sometimes thwarts innovation and banks' ability to leverage technology. As the pace of technological progress increases, this problem becomes worse, and the technological gap between: (i) our laws, regulations, and regulatory

agencies (on the one hand); and (ii) the banks they regulate, as well as the environment in which they compete (on the other hand), grows larger at an ever-increasing rate.

Hopefully, we are on the brink of positive change. I commend Congress for its broad, bipartisan passage of the GENIUS Act, which represents dramatic change and innovation in finance. While the GENIUS Act is not perfect from the perspective of most banks, and much remains to be done from a regulatory perspective, it is a strong step in the right direction. It is absolutely imperative to America's financial success that Congress continue to take bipartisan action to implement common sense regulatory reform and facilitate innovation and the greater use of technology in our financial system, including by our regulatory agencies as well as our banks.

American Innovation in Practice -- The Art of the Possible

In the digital age, Congress and bank regulatory agencies have often viewed financial innovation and technology with trepidation and skepticism (and sometimes, the apparent belief that technological innovation should be micro-managed and significantly delayed because it might create risk). To the contrary, innovation and technology are core components of safety and soundness. They should be pursued with thoughtful zeal.

To illustrate: I was born and raised in Detroit Michigan, the historic home of the U.S. auto industry. Innovation and technology in the auto industry have, in modern times, led to widespread adoption of air bags, automatic emergency braking, lane-keeping assistance, blind spot monitoring, and other automated safety features. Does anyone doubt that these innovations improve safety or the efficiency of transportation?

The same can be done in banking, but Congress and regulatory agencies must be willing to do the financial version of building the Interstate Highway System, like the Bureau of Public Roads and later the Federal Highway Administration did more than half a century ago.

To continue this analogy, tankers carrying hazardous substances on our highways are regulated differently from school buses carrying children and small sport utility vehicles carrying lawyers with briefcases. Regardless, when a crisis occurs on a road, it is imperative that first responders arrive outfitted with appropriate tools, resources and training to safely administer aid and prevent further damage based on the risks involved. Stated differently, a slow-to-arrive tow truck may be sufficient to assist with a flat tire on my SUV, but it is not appropriate to handle a tanker containing hazardous substances that is on fire under a highway bridge where seriously injured people need an immediate airlift to a trauma center. Of course, the inverse is also true.

It is imperative that Congress take bipartisan action to empower bank regulatory agencies to leverage technology in a manner that provides early warning of: (i) potentially catastrophic financial risks (such as the high concentrations of uninsured deposits combined with long dated bond portfolios at Silicon Valley Bank) and (ii) the most probable and efficient solutions to such risks. It is equally important to ensure that bankers and regulators are focused on real, financial risks and not a litany of highly qualitative items that have relatively little impact on financial risk but consume tremendous time and valuable resources.

**Recommendations for Congress to Promote Innovation and Competitiveness Banking on
Topics Related to this Hearing**

I. The Bank Resolution Process Should be Updated, and the FDIC Needs More Advanced Tools

The failures of Silicon Valley Bank, Signature Bank, and First Republic Bank in the spring of 2023 revealed vulnerabilities in: (i) the resolution process that has served us well for decades; and (ii) the tools available to the FDIC and other bank regulators. High concentrations of uninsured deposits, long-dated bond portfolios, the inability to quickly obtain liquidity from the Federal Reserve Discount Window and other factors were both amplified and accelerated by social media, networked depositors, and digital banking. Deposit outflows occurred at unprecedented speed (e.g., \$42 billion was reportedly withdrawn from Silicon Valley Bank on March 9, 2023 alone). Stated differently: in the context of bank runs, speed kills, and money moves fast in the digital era. We need to update our resolution process and outfit bank regulators with appropriate technology and personnel with experience using such technology to enable them to better predict (and prevent or mitigate) liquidity crises with the speed at which they now occur. Solutions lie, in part, in pre-crisis work, in part, in partnership with third-party professional support and, in part, in technology.

First, thinly staffed bank regulatory agencies should benefit from advanced artificial intelligence and other tools that may aid in predicting problems (and optimal solutions) with more accuracy and speed and in automatically tracking corrections.

Second, clients who evaluated potential emergency acquisitions of and/or investments in the banks that failed in the spring of 2023 explained that the financial information provided to them came from manual downloads from these banks, that the data was incomplete at best and, in some cases, the data was quickly updated on multiple occasions with materially different information. At the very least, this slows down potential buyers and investors in circumstances that require speed. More likely, this causes potential buyers and investors to question their knowledge of the distressed bank and materially reduce the price of any offer or to simply walk away.

Third, more complex, modern accounts and relationships (coupled with complex rules governing deposit insurance) may make it difficult for the FDIC to quickly make deposit insurance coverage determinations. Delays in making deposit insurance coverage determinations can lead to customer fear and exacerbate digital bank runs.

Finally, in the spring of 2023, the FDIC was not in a position to evaluate or consider the capital capacity of potential buyers (e.g., the ability of potential buyers to supplement their existing capital with capital available from partners, such as private investors) to complete acquisitions out of receivership. As a result, I understand it may be easier or more expedient to sell a troubled bank to the bidder with the biggest balance sheet, which can exacerbate our existing and ever-growing Too Big to Fail problem.

II. Recommendations re: Resolution Process

In a world where bank runs happen digitally and at break-neck speed, our resolution process needs to be updated to keep pace. I recommend:

1. Outfitting bank regulators, including the FDIC, with state-of-the art technology, such as better and more up-to-date artificial intelligence tools (and related training, including retention of expert personnel) to enable earlier and more accurate predictions of: (a) deposit runs and bank failures; (b) corrective measures most likely to prevent bank runs and failures; and (c) automated tracking of the implementation of such corrective measures. Regulators should also be equipped to consider and evaluate such analyses provided to them by the banks they regulate. Such tools may also enable the FDIC to more quickly evaluate complex account arrangements and make faster decisions regarding deposit insurance coverage;
2. Establishing a "Liquidity SWAT team" at the FDIC (or via key vendors to the FDIC) to help troubled banks access liquidity faster and more effectively from the Federal Reserve Discount Window and/or Federal Home Loan Banks ("FHLBs"), all of which, I understand, have distinct operating methodologies and idiosyncrasies with respect to acceptable collateral, collateral discounts per type of collateral, pledging mechanics, and others. Below I address routine "testing" or "tapping" the Discount Window by banks and the operational readiness improvements that clearly were needed and appear to be in process at the Federal Reserve;
3. Making it easier for the FDIC to retain expert outside resources specializing in artificial intelligence, bank mergers and acquisitions and bank capital raising. This recommendation requires improving the FDIC's existing contracting process, which, I understand, is so cumbersome that many outside contractors are unwilling to work with it;
4. Simplifying existing bank resolution plans, which, in many cases, are so complex that they cannot be executed quickly;
5. Requiring all banks with at least \$50 billion in total assets to maintain a virtual data room with up-to-date, critical information of the type customarily analyzed by buyers of troubled banks. Using outside assistance from bank M&A experts to determine data room contents and technology to facilitate efficient monitoring of data rooms to ensure they are complete and current;
6. Requiring the FDIC, as Receiver, to consider the ability of bidders to bring additional capital resources (e.g., private equity) to a transaction and to conduct a marketing and sale process that is conducive to participation by private equity and other institutional investors;
 - a. Amending "control" rules under the Bank Holding Company Act, which are overly restrictive, unnecessarily complicated and create impediments to resolutions by impairing the ability of a buyer to bring third party capital to a transaction. This also results in exacerbating our existing (and growing) Too Big to Fail problem by quickly consolidating failed banks with banks that have the largest balance sheets versus other potential acquirors who are able to raise additional capital;

- b. Shelving charters and other techniques that would attract private capital to the resolution process would also be helpful and facilitate a more effective process for selling banks out of receivership;
- 7. Appointing a Chief Innovation Officer (or similar officer) at the FDIC and allocating appropriate resources to such officer to innovate on: (i) regulatory matters generally, such as charter types and deposit insurance; and (ii) preventing and quelling rapid bank runs and contagion. Although the following is beyond the topic of resolutions, such Chief Innovation Officer should also focus on financial products and streamlining regulation to facilitate efficiency.

III. FDIC Deposit Insurance

Of course, no serious discussion of FDIC resolution can fail to refer to deposit insurance reform. The most effective way to improve resolution outcomes is to prevent resolutions. Our system of fractional banking is heavily dependent on confidence, and effective FDIC deposit insurance is a key to confidence.

Our deposit insurance system has worked extraordinarily well since it was implemented in 1934, and it has contributed mightily to the stability of the banking system in the United States. But it must be updated to continue to function so effectively in the digital era. The FDIC's report on deposit insurance reform contains reasonable recommendations, as do the reports of certain other commentators. Reforming the deposit insurance program is challenging and risks increasing moral hazard, on the one hand, and enabling the continued migration of deposits to Too Big to Fail banks, on the other hand. I recommend somewhat modest, targeted reform, - paid for, in full, by risk-based assessments on the banking industry, including:

1. Insurance on non-interest bearing transaction accounts of up to \$5 million;
 - a. Increased risk-based assessments should include, among other things, consideration of the amount of uninsured deposits maintained at a bank;
2. Establishing a program to sell, for an appropriate risk-based premium (or permit sale by private insurers of), excess deposit insurance coverage. Banks could choose to use such coverage, or not, based on their business models and circumstances;
3. Evaluating reciprocal deposit programs and issuing a "Good Housekeeping Seal of Approval" (i.e., confirming a particular program satisfies requirements to qualify for FDIC deposit insurance coverage) or a determination that the program does not work and why.

Failure to update our deposit insurance program incentivizes deposit migration to the largest banks in the U.S. and exacerbates our growing Too Big to Fail problem. Sensible, limited deposit insurance reform could be paid for by the industry in the form of increased, risk-based assessments, in an effort to minimize any potential increase in moral hazard. The overwhelming majority of bankers to whom I speak (and I speak to several every day) highlight this issue as the single most impactful lever Congress could pull to mitigate risk to the financial system.

It is also worth noting that payment stablecoins, as contemplated by the GENIUS Act, are expected to pull deposits from the banking system and further tilt the playing field in favor of the largest banks because such banks will have superior technological and other resources to compete for stablecoin business.

IV. Liquidity and the Importance of the Lender of Last Resort

The events of March 2023 underscored how critical it is for institutions to have predictable and immediate access to emergency liquidity. Our system of lender-of-last-resort facilities – including the Federal Reserve’s Discount Window and the FHLB System – must function seamlessly to prevent liquidity shortfalls from cascading into systemic crises.

1. Discount Window Preparedness

The Federal Reserve’s April 2023 review of Silicon Valley Bank concluded that the bank was not operationally ready to access the Discount Window in a timely manner. Vice Chair for Supervision Michael Barr wrote that the failure was a “*textbook case of mismanagement*,” noting that inadequate collateral pre-positioning and lack of operational readiness left the bank unable to draw liquidity when it was most needed. This may be true for Silicon Valley and many other banks. My discussions with clients who attempted to use the Discount Window for emergency funding in March of 2023 also reveal a substantial lack of operational readiness at the Federal Reserve at that time.

Since then, I understand that the Federal Reserve and many financial institutions have taken steps to improve, including:

- Pre-positioning collateral, and
- Conducting periodic test borrowings (typically in nominal amounts) to develop experience with Discount Window use.

That said, I still hear from some clients that the process is not yet smooth or fast. Also, it is important to confirm that, in addition to being able to quickly process many liquidity requests, the Federal Reserve can effectively prioritize requests from the most to least important and urgent. I understand from clients that this was an issue in 2023. Immediate and automated access to data for banks making emergency funding requests, and other tools, as discussed above, would seem necessary.

Of course, persistent stigma associated with the Discount Window continues to inhibit its effectiveness. In my experience, clients continue to be very concerned about the stigma of utilizing the Discount Window for more than a small test. Industry participants have proposed stronger confidentiality protections to normalize the Discount Window as a prudential tool rather than an act of desperation.

2. FHLBs vs. Federal Reserve on Collateral Expertise

A critical distinction frequently raised by clients is the comparative experience of the FHLBs versus the Federal Reserve in processing funding requests. I understand that the FHLBs’ deep experience with processing and funding transactions, coupled with its continuous, member-specific data pipelines, enables it to ingest and value mortgage collateral quickly. By contrast, I understand the Federal Reserve historically required more extensive legal and operational setup

before collateral could be pledged and transactions could be processed and funded. I understand that the Federal Reserve has been working to close this gap. It is important that the gap be closed quickly.

Some clients have advised us that harmonizing eligible collateral, loan to collateral value discounts and data requirements between each of the FHLBs (which, I understand, use different methodologies) and the Federal Reserve Discount Window would allow collateral to be shifted seamlessly between the two systems, reducing friction and strengthening the resilience of the lender-of-last-resort framework.

3. Lender of Last Resort: Recommendations

Based on the above and on my experience advising financial institutions attempting to access liquidity shortly before failure, I offer the following recommendations:

- a. Normalize Discount Window usage by requiring periodic test borrowings and integrating bank operational readiness into supervisory ratings, which many banks already do;
- b. Require “operational readiness” at the Federal Reserve – and at each of the FHLBs – to handle with dexterity (and prioritize among) large volumes of liquidity requests during periods of extreme stress;
- c. Evaluate whether it is feasible to harmonize collateral and funding practices between each of the FHLBs and the Federal Reserve, including common collateral types and haircuts and data standards;
- d. Enhance and enforce confidentiality and communications around Discount Window usage, to the extent possible, to mitigate stigma;
- e. Clarify the FHLBs’ crisis role, balancing their housing mission with their repeatedly demonstrated prowess at funding liquidity requests quickly and efficiently;
- f. Coordinate resolution policy to align FHLB super-lien practices with FDIC loss-allocation objectives.

4. Brokered and Reciprocal Deposits

Brokered deposits have long served as a vital tool for banks to access diversified funding sources, enhancing liquidity and supporting lending activities across the economy. In the digital banking era, they are often very granular and insured. A 2023 attempt to dramatically restrict brokered deposits, under safety and soundness pretexts, would have impaired the ability of community and regional banks to access liquidity that is needed to enable competition with larger institutions and maintain liquidity generally. Brokered deposits were not the cause of the liquidity problems at Silicon Valley Bank, Signature Bank and First Republic Bank. Bank regulators have more than sufficient authority to manage issues related to brokered deposits by evaluating rapid growth and underwriting quality in its exam process, and statutory restrictions on brokered deposits should be repealed.

Similarly, reciprocal deposits are a valuable tool that community and regional banks can use to expand deposit insurance coverage and compete with larger banks. Proposals to increase

the amount of reciprocal deposits permitted for community and regional banks make practical sense and help mitigate our growing Too Big to Fail problem.

The Role of Bank Mergers in a Healthy Banking Sector

Bank mergers are essential for maintaining a dynamic and resilient banking system that includes institutions of varying sizes and business models, among other things. Mergers enable banks to afford technology that is needed to properly serve customers in the digital age and compete with non-bank providers of financial services. Mergers also enable banks to achieve economies of scale and enhance operational efficiency so they can better compete in an evolving financial landscape and attract the capital needed to serve customers and communities. Bank mergers can lower loan costs for consumers, foster innovation in services, and strengthen cybersecurity and data privacy measures. Mergers can also solve challenging succession planning problems for banks.

Without viable merger options, the banking sector risks becoming a “barbell” system, dominated by a few very large banks at one end and small, community-focused institutions at the other who may struggle to “future proof” their business models. A barbell structure could reduce overall competition, limit credit availability in underserved areas, and hinder economic growth by creating “zombie banks” that struggle to attract capital and remain viable or vibrant. Such a system might also exacerbate financial instability, as mid-sized banks often bridge the gap between local needs and national-scale operations, providing balanced credit access and services.

Bank mergers are sometimes criticized as anti-competitive or harmful to consumers, but the “real world” evidence is clear they are a necessary ingredient for sector health and innovation. I consistently see clients struggle to afford technology unless they can use it in scaling their business, including through mergers. As the CFO of a regional bank recently told me: “Technology platforms that enable us to serve customers where and when they want are expensive. You can’t cut enough expense to pay for them. You have to use them to scale the business.”

Moreover, mergers play a critical role in addressing succession planning challenges faced by many community banks, where aging leadership and limited internal talent pools threaten long-term viability. In my advisory experience, numerous smaller institutions have turned to mergers as a strategic solution to ensure seamless transitions, preserving institutional knowledge and community ties while accessing broader resources from acquiring entities. More streamlined merger processes should facilitate “friendly” acquisitions that resolve succession gaps without disrupting local services. Regulatory barriers, such as protracted reviews, have exacerbated succession planning issues at community banks, deterring potential partners and risking abrupt closures. By expediting approvals for transactions demonstrating clear succession benefits, policymakers can support sustainable banking models that prioritize continuity and stability.

Most major Western countries have a relatively small number of banks. The U.S. has approximately 4,500 banks, even more credit unions (many of which provide all the services offered by many banks), and a very large number of specialty finance and other private lenders and payments businesses. I understand from Kcefe, Bruyette & Woods, a leading investment bank that serves the financial sector, that more than half of all loans made in the U.S. in 2024 were made by non-banks. I have confirmed this is accurate for many types of loans such as mortgages and shared national credits. Regardless, it is unmistakably clear that most areas of the U.S. are not

suffering from a lack of financial services providers, and competition is fierce. Of course, underserved communities do remain in the U.S., and they are often best served by community banks, many of which need to be able to merge to obtain the scale necessary to attract capital or leverage technology to serve customers or to succession plan in a manner that enables them to continue to operate effectively.

Additionally, historical data shows that mergers motivated by financial distress can lead to improved earnings and capital ratios, while those aimed at expansion enhance efficiency and risk management. In a post-financial crisis era, mergers have contributed to a more stable system by enabling stronger institutions to absorb weaker ones, as seen in responses to regional bank failures. However, overly restrictive policies could discourage these transactions, pushing the industry toward the barbell outcome where only the largest banks thrive through scale advantages, and smaller banks face barriers to growth.

Mergers also create opportunities to attract capital to the industry and, capital is, of course, necessary to fund loans and otherwise support communities and economic growth generally.

Lack of Timeliness, Transparency, Consistency, and Predictability in Regulatory Approvals

In recent years, the regulatory approval process for bank M&A, involving the FDIC, OCC, Federal Reserve, and DOJ, in addition to state bank regulators, suffered from significant duplication, and deficiencies in timeliness, transparency, consistency, and predictability. These duplications and deficiencies deter progress and contribute to the barbell risk described above. Delays in approval lead to increased costs, operational risks, staff attrition, and deal uncertainty for both acquirers and targets. This environment breeds mistrust of regulatory agencies and may cause potential buyers to avoid transactions that may help troubled or struggling institutions and the communities they should be serving.

In the recent past, regulatory agencies appear to be acting more responsibly with merger applications and not “slow-walking” them. Reforms like firm 120-day shot clocks, objective standards, and coordinated guidelines could streamline processes, ensuring mergers support a diverse sector without inappropriate and unproductive hurdles. While some view stricter scrutiny as protective (e.g., to curb consolidation), a balanced approach would promote competition and stability by enabling progress.

In summary, a more timely, transparent, consistent, and predictable approval process is crucial to harness mergers’ benefits, incorporate broader competitive analyses beyond deposits, and prevent a barbell system that could stifle the banking sector’s dynamism.

Conclusion

In conclusion, the U.S. banking industry is changing rapidly due to advancements in technology, extraordinary competition from non-banks, and other developments. To enable banks to continue to serve as an engine of U.S. growth and prosperity, Congress and regulatory agencies must update antiquated laws, regulations and rules. Congress has a real opportunity – as demonstrated by enactment of the GENIUS Act – to legislate in a bipartisan manner to reform the FDIC resolution process, liquidity and the lender-of-last resort policies, and the bank merger application and review process to enable our community and regional banks to continue to thrive in this period of rapid and dramatic change. Also, providing legislative mandates (and related

funding) to the bank regulatory agencies to leverage technology, rather than avoid the inevitable advancement, is necessary for the continued safe and sound evolution of our banking industry and the ultimate success of our broad banking system.

Chairman BARR. Thank you very much and we will get to more of your testimony in Q&A, I am sure.

Mr. BARRESI. Thank you.

Chairman BARR. Mr. Carney, you are now recognized for 5 minutes.

STATEMENT OF MR. HUGH CARNEY, EXECUTIVE VICE PRESIDENT OF FINANCIAL INSTITUTION POLICY AND REGULATORY AFFAIRS, AMERICAN BANKERS ASSOCIATION (ABA)

Mr. CARNEY. Chairman Barr, Ranking Member Foster, and members of the subcommittee, thank you for the opportunity to testify on promoting the health of the banking sector. I am Hugh Carney, executive vice president for regulatory affairs at the American Bankers Association, which represents banks of all sizes and business models across the country.

I have spent the past 20 years working in prudential regulatory matters, both at the Office of the Comptroller of the Currency and at ABA. My remarks today focus on four priorities: indexing regulatory thresholds, modernizing the resolution framework, updating funding statutes, and recalibrating capital standards. These changes will make regulations more predictable, transparent, and risk focused, while preserving the vibrancy and competitiveness of the American banking system.

For decades, many regulatory thresholds stayed fixed, even as the economy has grown. For example, heightened auto requirements established by the FDIC in 1993 become operational when a bank's assets reach \$500 million. Back then it meant the more stringent requirements only applied to 7 percent of banks. Today it applies to 41 percent. Dozens of thresholds have drifted the same way.

This drift creates three problems. First, it burdens institutions never meant to be captured; second, it discourages organic growth; and third, it dilutes regulatory resources. The solution is indexing.

ABA recommends, after a one-time adjustment to correct for past inaction, linking asset-based thresholds to nominal gross domestic product (GDP), which reflects the size of the economy and the scale of the banking sector. If the FDIC's \$500 million auto threshold had been indexed, it would be \$2.2 billion today, restoring its original scope. Indexing is a low-cost, high-impact reform that allows regulators to focus on where the risk really is.

We applaud the FDIC's recent proposal to index some of its regulatory thresholds and urge other policymakers to consider this issue, including Congress, since some thresholds are set by statute.

Shifting to bank resolutions. The bank failures of 2023 showed that resolution rules must evolve. Earlier this year, ABA formed a task force in deposit insurance and resolution issues. The task force recommends three reforms to bank resolution policy. First, broaden the least-cost test so regulators can consider costs that a particular bank resolution may impose on the public, including potential costs of contagion and impacts on relevant communities. Second, allow greater community bank participation of failed bank resolutions through consortium bids and flexible evaluation standards. Third, improve transparency in the bidding process by publishing clear qualification criteria and timelines. These changes will help main-

tain stability, preserve local access to financial services, and reduce long-term systemic costs.

Funding rules also need to be modernized. One example of an outdated law in need of modernization is the statute governing broker deposits, which has not been updated in over 35 years. Since the statute was enacted, regulatory, market, and technological changes have reconfigured banking and the provision of financial services. The result is that, today, a deposit classified as brokered is stigmatized based on an arbitrary interpretation of what entities are deposit brokers rather than a deposit's actual risk characteristics or a bank's broader liquidity risk management.

ABA recommends repealing section 29 of the Federal Deposit Insurance Act (FDIA) and replacing it with a framework that limits asset growth for banks that are less than well capitalized. This preserves the original purpose while allowing healthy banks to maintain access to stable, diverse funding sources.

Finally, I would like to address capital. It is important to recognize that capital rules are not just bank rules. They directly affect borrowers, businesses, and the functioning of the capital markets. That is why the 2023 Basel III Endgame Proposal generated such strong public concern. Miscalibrated capital standards can raise borrowing costs, reduce credit availability, and restrict liquidity in the economy.

As the agencies reconsider Basel III Endgame, we urge a capital-neutral framework that removes excess gold plating that has been layered on top of international norms and remove double counting with the stress testing framework. In addition, we encourage rapid finalization of the proposed changes to the enhanced supplementary leverage ratio to restore to its role as a backstop. Moreover, we encourage revisiting leverage requirements more generally, including excluding low risk assets from leverage ratio calculations and reducing the community bank leverage ratio to 8 percent at most.

Finally, we recommend recognizing mutual capital certificates as capital without unnecessary compliance burdens. Taken together, indexing, modernizing resolution standards, updating funding policy, and recalibrating capital standards will make the banking industry safer, more competitive, and better equipped to serve customers.

Thank you for your attention, and I look forward to your questions.

[The prepared statement of Mr. Carney follows:]

Testimony of
Hugh Carney
On Behalf of the
American Bankers Association
Before the
Financial Institutions Subcommittee
Of the
House Financial Services Committee
September 9, 2025



Testimony of
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House Financial Services Committee

Chairman Barr, Ranking Member Foster, and Members of the Subcommittee, thank you for the opportunity to testify at today's hearing entitled: "Promoting the Health of the Banking Sector: Reforming Resolution and Broadening Funding Access for Long-Term Resilience." My name is Hugh Carney, Executive Vice President at the American Bankers Association (ABA). The ABA is the voice of the nation's \$25 trillion banking industry, which is composed of small, regional and large banks that together employ approximately 2.1 million people, safeguard \$19.7 trillion in deposits and extend \$13.1 trillion in loans.

My remarks will focus on four proposed changes to the existing regulatory regime that will make regulations more predictable, transparent, and risk-focused while preserving the vibrancy and competitiveness of the American banking system: (1) indexing regulatory thresholds; (2) modernizing the resolution framework; (3) updating funding statutes; and (4) recalibrating capital standards.

I. Indexing Regulatory Thresholds

For decades, many regulatory thresholds have stayed fixed in nominal terms, even as the economy has grown. These thresholds were typically set during very different economic conditions and have not been updated to reflect significant changes in the banking sector. As a result, thresholds that once reflected meaningful distinctions in size, complexity, or risk now capture institutions that were never intended to be subject to more burdensome regulatory requirements.

For example, heightened audit requirements established by the FDIC become applicable when a bank's assets reach \$500 million, a threshold that was set in 1993. At that time, these more stringent requirements only applied to 7 percent of banks in the U.S. Today, this requirement applies to 41 percent of banks. Dozens of thresholds, from stress testing to resolution planning, have drifted the same way.

This regulatory “drift” creates three distinct problems:

1. Burdens institutions never meant to be captured.
Over time, economic growth and inflation erode the real value of thresholds, pulling more institutions into regulatory regimes that were never intended to apply to them. Banks with limited complexity or risk profiles may be forced to shoulder costs and reporting burdens designed for much larger peers.
2. Discourages organic growth.
Institutions manage their balance sheets defensively to avoid crossing arbitrary thresholds. In some cases, this distortion discourages organic growth and instead encourages consolidation as the only viable means to absorb new regulatory burdens.
3. Dilutes regulatory resources.
Static thresholds also carry consequences for regulators. An expanding pool of covered banks beyond the intended scope dilutes regulatory efforts and the ability of agencies to focus on the largest sources of risk. These outcomes run counter to the policy objectives Congress and regulators have set.

The solution is indexing. ABA recommends, *after a one-time adjustment to correct past inaction*, linking asset-based thresholds to nominal GDP, which reflects the size of the economy and the scale of the banking sector. Indexing is a low-cost, high-impact reform that improves transparency, reduces arbitrary burden, and allows regulators to focus where the risk really is.

If the FDIC’s \$500 million audit threshold had been indexed to nominal GDP, it would be \$2.2 billion today, restoring its original scope. While regulators have recognized the importance of revisiting asset triggers (such as for the 18-month exam cycle; see Figure 1), very few supervisory asset thresholds are regularly adjusted for growth. We applaud the FDIC’s recent proposal to index some of its thresholds and urge other policy makers to consider the issue. We also commend Governor Bowman and Acting FDIC Chairman Hill’s statements in support of this commonsense effort.¹ And, while this issue is particularly important for Congress to consider

18-month exam cycle: Asset threshold adjustments	
Effective date	Asset threshold
8/28/1998	\$250 million
9/25/2007	\$500 million
1/17/2017	\$1 billion
1/17/2019	\$3 billion
Source: ABA analysis	

¹ Gov Bowman: Other examples of regulations that must take into account the impact of economic growth and inflation include elements of the G-SIB surcharge, as well as regulatory thresholds that define the broader categories of banks. Thresholds like the \$10 billion definition of a “community bank” and the \$700 billion in total assets and \$75 billion for cross-jurisdictional activity separating Category II and III banks determine which regulatory requirements apply to each group. One way to prevent the original calibration from becoming divorced from the foundational policy decisions over time is to index the relevant G-SIB surcharge coefficients and regulatory thresholds to nominal gross domestic product. While approaches like indexing thresholds and requirements can

since some thresholds are set by statute, ABA continues to encourage the regulators to act—adjusting regulatory thresholds for GDP to both right-size the regulatory framework and promote economic growth and opportunity.

II. Modernizing the Resolution Framework

Resolving failed banks is one of the critical roles played by the FDIC. When the FDIC is appointed receiver of an insured bank that fails, it handles payment of depositors' insured deposits, collections on the failed bank's assets, and payment of all other creditor claims. In addition, the FDIC works to recover its outlays from paying insured deposits, and anything remaining after creditors are paid is distributed to the bank's equity holders. The FDIC tries to make insured deposits available to customers of the failed bank as quickly as possible. In the FDIC's history, no depositor has ever lost even a penny in insured deposits.

The FDIC can use several approaches to resolve a bank, including purchase and assumption transactions and standing up a bridge bank. Timing and cost are key drivers of which option it chooses. The FDIC is required by law to use the method expected to meet its deposit insurance obligations with respect to the failed bank at the least cost to the Deposit Insurance Fund ("least cost test").

The bank failures of 2023 showed that resolution rules must evolve. Earlier this year, ABA formed a taskforce focused on insurance and resolution issues. The task force recommends three resolution reforms:

- Broaden the least-cost test so regulators can consider costs that a particular bank resolution may impose on society, including potential costs of contagion and impacts on relevant communities.
- Allow greater community bank participation in failed-bank resolutions through consortium bids and flexible evaluation standards.
- Improve transparency in the bidding process by publishing clear qualification criteria and timelines.

These changes will help maintain stability, preserve local access to financial services, and reduce long-term systemic costs.

Broadening the Least-Cost Test

As currently practiced, the least cost test does not permit the FDIC to consider other costs that a particular bank resolution approach may impose on society. Specifically, different resolution

make our regulations more robust and durable over time, we should also acknowledge the essential role of supervision as a tool to promote safety and soundness, and financial stability. Just as our capital requirements are intended to operate in a complementary manner, so do regulation and supervision act in a complementary way.

<https://www.federalreserve.gov/newsevents/speech/bowman20250623a.htm>

Hill: <https://www.fdic.gov/news/speeches/2025/view-fdic-update-key-policy-issues#footnote31>

methods may have different impacts on impairing the stability of other insured institutions or jeopardizing other institutions' future prospects.

As the failure of Silicon Valley Bank (SVB) made clear, the stress on a particular bank may be transmitted through the financial system to other insured banks and other financial market participants. To the extent other insured banks have begun to experience such stress, it implies that their own failures may produce additional losses for the Deposit Insurance Fund (DIF). If those potential losses can be estimated, the choice of a resolution approach that minimizes them may be the least costly option from the perspective of the DIF as a whole, even if it increases incrementally the cost of resolving the bank most at risk and likely to fail first. ABA recommends that Congress explicitly recognize this more informed and nuanced approach, confirming that the FDIC should take account of the impact of its resolution strategy on other insured banks.

Allowing Greater Community Bank Participation in Failed-Bank Resolutions

Under the least cost test as currently applied, the extent to which uninsured depositors are protected in a resolution depends on the bids received for the failed bank, some of which may include an offer to assume some or all uninsured deposits. ABA believes that the requirement to minimize the cost of a given bank failure to the Deposit Insurance Fund sometimes exacerbates competitive disparities by effectively prohibiting community banks from purchasing a bank that has failed in their community, or pieces thereof. This can create harmful effects for local communities, for example, when deposits and financial services leave the local area or are provided at increased cost.

ABA recommends that Congress direct the FDIC not only to factor potential community impact into the considerations driving a resolution strategy in each case but also to provide the FDIC with the power to balance the least cost test for community bank failures with options to mitigate negative impacts on the relevant communities.

One way to achieve this is by allowing an exception to the least cost test for a resolution method that would preserve financial services essential to communities or otherwise meet the convenience and needs of the community in the specific case. For example, this would allow the FDIC to carve out pieces of a failed institution franchise within specific footprints, markets or geographic areas for bidding by acquirers who might not wish to bid on the entire franchise of the failed bank. Moreover, given the value of deposits, which are the lifeblood of banks, smaller banks would be given the option of acquiring any deposits that are unwanted as the failed bank is being unwound. This approach could increase the likelihood of maintaining a higher level of banking services in the communities in question.

Improving Transparency in the Bidding Process by Publishing Clear Qualification Criteria and Timelines

FDIC-managed asset sales are currently open to investors who complete a Prospective Bidder Information Form, asserting their interest and eligibility to purchase assets of failed financial

institutions from the FDIC. Eligibility is determined on a transaction-specific basis, with some transactions requiring more capital than others.

By publishing objective qualification standards associated with asset sales of failed institutions, the FDIC would provide all potential investors with clarity as to what specific assets they are able to bid on, or what objective criteria they would need to meet, to qualify as a bidder for a given portfolio of assets. To further provide expedited access to asset sales to smaller institutions during an active resolution, a pre-vetted list of community banks (and other bidders) could be created by the FDIC.

Separately from the qualification standards associated with bidders, following a successful auction sale, the FDIC could publish the list of bidders permitted to engage in FDIC-managed asset sales to satisfy all investors as to the fairness of the bidder qualification process and the competitiveness of the auction. For example, by allowing consortiums of community banks to participate in resolution-associated auctions, the FDIC would increase the diversity of institutions permitted to bid on failed institution assets. An increase in the number and type of bidders would increase the competitiveness of auctions and quell equity concerns among depository institutions and the public as to who is invited to participate in FDIC managed asset sales.

Moreover, for some bank asset portfolios and deposit franchises, a single bank (acquiring both the bulk of assets and the entire deposit franchise) may not be the most advantageous solution, if breaking up portfolios and/or deposit franchises would produce more aggressive bids than limiting bidders to those interested in acquiring the whole bank. Under some market conditions, asset purchasers even from outside the depository institutions universe may bring more competition to asset auctions and lower the ultimate cost of resolution, as well as reducing reliance on a more limited universe of whole-bank bidders.

If the application of the least cost test is refined as discussed above, these options could more frequently become the best choice for resolutions, but even under the current approach to the least cost test, they could be attractive, perhaps increasingly so as nonbank investors become accustomed to bidding on failed bank assets.

Increasing the options in approaches to resolution simply builds on approaches already allowed under applicable law. ABA emphasizes that failed bank resolutions implicate multiple policy goals and multiple economic and community interests. We urge Congress and the FDIC to work toward a framework flexible enough to take appropriate account of those goals and interests that go beyond resolution costs alone.

III. Ensuring Access to Stable Funding

It is critical that banks have access to stable funding sources and that statute, regulations and supervision related to funding and liquidity are aligned with modern banking, the marketplace for financial services, and reflect actual risk and risk management practices. One example of a statute not aligned with modern banking is Section 29 of the Federal Deposit Insurance Act, which has not been updated in over 30 years. Section 29 was enacted in 1989 to prevent *less than well-capitalized banks* from attempting to grow their way out of trouble by raising expensive,

rate dependent funding. Today, technology and market changes have made it difficult to differentiate the funding Congress meant to restrict weak institutions from holding and there is little evidence that the “classic” types of brokered deposits pose the same risks today as they did in the 1980s. Since Congress couldn’t have contemplated the internet, smart phone, and mobile banking in 1989, the statute has become outdated and vulnerable to a significant misinterpretation of what constitutes a “deposit broker.”

Section 29 doesn’t define entities as “deposit brokers,” rather the definition primarily relies on FDIC interpretation. Since its enactment, there have been significant statutory changes that, when combined with significant technological advances, have reconfigured markets, spurred new services and banking models, and led to an increase in the types of mechanisms that banks use to gather deposits. From 1989 to 2020, significant gaps developed between the FDIC’s interpretation of Section 29, what Congress intended to capture, and the actual risks posed by deposits scoped into the definition. The term brokered deposit implies a volatile deposit that may be expensive, flighty, and convey limited value to the Bank. However, many of the deposits that were classified as “brokered deposits” under the FDIC’s regulations, or that banks treated as “brokered deposits” due to the lack of clarity in those regulations and existing FDIC guidance, pose little, if any, enhanced risk. The result of an overly broad interpretation was that even *well-capitalized banks* were strongly discouraged from holding otherwise stable sources of funding by the prospect of higher deposit insurance assessments, adverse treatment under liquidity and capital regulations, unnecessary and increased scrutiny from bank examiners, and negative treatment by credit rating agencies and bank counterparties.

In 2019, then FDIC Chairman Jelena McWilliams revised the framework through which the FDIC identifies “deposit brokers” after extensive review and public comment. The FDIC issued a rule in 2020 that aligns more closely with the original purpose of Section 29 of the Federal Deposit Insurance Act and does not stigmatize modern affiliations and deposit gathering techniques. Shortly after issuing the final rule, Chairman McWilliams recommended repealing Section 29 and replacing it with an asset growth restriction. ABA recommends Congress adopt this approach through legislation.

Repealing Section 29 of the Federal Deposit Insurance Act would remove an outdated restriction that no longer reflects how funding markets, fintech partnerships, and customer acquisition channels function, even after partial modernization efforts. This repeal would align prudential oversight with risk-based supervision, improve competitive neutrality, and enhance liquidity resiliency without sacrificing safety and soundness. Restricting asset growth at troubled institutions —instead of trying to apply a regulatory framework created in the 1980s to modern banking and technology — enhances the banking agencies’ ability to identify and mitigate unsafe and unsound banking practices by allowing them to focus on a bank’s entire balance sheet, rather than the presence of an arbitrary type of deposit. Moreover, it does not penalize well-capitalized banks from using modern technologies to serve their customers and engage in the business of banking.

IV. Recalibrating Capital Standards

Finally, it is important to recognize that capital rules are not just bank rules. They directly affect borrowers, businesses, and the functioning of capital markets. That is why the 2023 Basel III

Endgame proposal generated such strong public concern. Miscalibrated capital standards can raise borrowing costs, reduce credit availability, and restrict liquidity in the economy.

As agencies reconsider the Basel III Endgame, ABA urges the use of a capital-neutral framework that removes excess gold plating that has been layered on top of the international norms and removes overlap between capital regulations and the stress testing framework. Our regulatory capital framework should be simple, transparent, and efficient—and in crafting this framework, the regulators must ensure that banks are not unfairly penalized for making or servicing mortgages or disincentivized from participating in community projects because of unduly harsh regulatory requirements. We look forward to continuing to work with the regulators on these important principles.

In addition, we encourage rapid finalization of the proposed changes to the Enhanced Supplementary Leverage Ratio (eSLR) to restore its role as a backstop. In 2014, the banking agencies adopted a final eSLR rule that substantially increased the leverage capital requirements for the eight U.S. GSIBs. The stated intent of the agencies was to maintain the role of the leverage ratio as a backstop to risk-based capital requirements, an essential function, which ABA supports.

For some institutions, however, the formulation of the eSLR has frequently proved in practice to be the governing or controlling constraint. As the Federal Reserve recently noted, from Q2 2021 to Q4 2024, the SLR requirement was the binding tier 1 capital requirement 60 percent of the time, on average, for seven out of the eight GSIB BHCs and was binding 87 percent of the time, on average, for their “major” depository institution subsidiaries.

As currently calibrated, the eSLR rule creates incentives for banks to reduce participation in lower risk and lower-return businesses—such as Treasury market intermediation. This trend has been exacerbated by structural shifts in the macroeconomy, as well as by the evolution of liquidity regulations. Banks now carry materially more high-quality liquid assets on their balance sheets, such as cash and U.S Treasury securities, in part because of both shifts in credit demand generally and increasing U.S. government borrowing needs.

Moreover, we encourage revisiting leverage requirements more generally. The vast majority of banks are not subject to the SLR at all, and if future broad-based relief is to be considered, the tier 1 leverage ratio should be reviewed to ensure that it is functioning as intended. Accordingly, attention going forward should be extended to the broader leverage ratio framework. ABA strongly supports a broader holistic review of leverage ratio requirements and appropriate future rulemaking to ensure that all leverage ratios function as a backstop to risk-based capital requirements and not a binding constraint. This will provide parity of treatment across leverage ratios.

It is well recognized by policymakers that when leverage ratios bind, it can discourage low risk and relatively safe activities compared to the riskiest activities. ABA has long argued that low-risk and riskless assets, such as reserves on deposit at the Federal Reserve, cash, and U.S. Treasury securities, should be excluded from leverage ratio calculations. Their inclusion can disincentivize banks from engaging in market-stabilizing activities when those functions are

most needed. The agencies should consider future proposals excluding such assets from the leverage ratio calculations for all banks. Such proposals would align with leverage ratios' intended backstop role. Similarly, the agencies should exercise their existing statutory authority through a future rulemaking to reduce the community bank leverage ratio (CBLR) from 9 percent to 8 percent. We share Federal Reserve Vice Chair Bowman's views that this change would "not only allow more community banks to adopt the framework but also increase balance sheet capacity for all CBLR firms, facilitating additional support for local economies through lending."

Finally, we recommend recognizing mutual capital certificates as capital without unnecessary compliance burdens. Existing law and regulations recognize these instruments as an appropriate alternative for mutual institutions to raise capital in a form consistent with their corporate structure that provides a functional loss buffer equivalent to corporate equity. Gaining regulators' approval for specific transactions has, however, sometimes proven unnecessarily time-consuming and inflexible.

This balanced approach maintains strong capital standards while supporting economic growth.

Conclusion

Taken together, the four proposed changes to the existing regulatory regime described in my testimony—indexing, modernizing resolution standards, updating funding policy, and recalibrating capital standards—will make the financial system safer, more competitive, and better equipped to serve customers and communities.

Thank you once again for the opportunity to testify. I look forward to answering your questions.

Chairman BARR. Thank you.
Dr. Michel, you are now recognized.

**STATEMENT OF DR. NORBERT MICHEL, VICE PRESIDENT AND
DIRECTOR, CATO INSTITUTE CENTER FOR MONETARY AND
FINANCIAL ALTERNATIVES**

Mr. MICHEL. Good afternoon, Chairman Barr, Ranking Member Foster, and members of the committee. Thank you for the opportunity to testify at today's hearing. I am Norbert Michel. I am vice president and director for the Cato Institute Center for Monetary and Financial Alternatives, but the views I express in this testimony today are my own and should not be construed as representing any official position of the Cato Institute.

In my testimony today I argue that the existing bank regulatory framework creates enormous cost with little perceptible economic benefit for the typical American. Larger firms find it comparatively easier to adapt to the system, so the framework itself creates the incentives for larger firms to grow larger as also the incentive for smaller firms to petition Congress for relief, protection, and better rules.

For decades now, it has been obvious that there are too many rules and regulations in the banking sector and that those rules are overly complicated and often counterproductive. It is perfectly understandable that people in the banking and financial industries regularly ask Federal officials for a better system. They need clarification of rules, and they naturally want rules tailored to their business models. Their lives depend on working within those rules.

So it makes sense that we are here today seeking ways to develop less costly and more effective rules to fund banks, to capitalize banks, to compete with banks, to develop rules that are more commensurate with risk, and even to do a better job resolving failed banks. These issues are critically important, but the regulatory framework suffers from a much bigger foundational problem. It is driven by the idea that the free enterprise system does not really work when it comes to financial markets. In financial markets, supposedly, we need prescriptive rules to guarantee safety, and if we can just get the rules right, everything will be fine. There will be very few to no failures or instability or crises.

The truth, though, is that if we are going to allow people to take financial risks, something which we must do in a free society, then there is simply no way to compile a set of rules and regulations that guarantee these rosy outcomes. It simply will not work.

Much like the advocates of socialism who insist that we just have not tried the right version of socialism yet, advocates for the current regulatory approach are engaged in an exercise of wishful thinking that ignores the harmful outcomes the current approach is guaranteed to create, including those which we are here discussing today.

We simply cannot have a system based on thousands of prescriptive rules that assume regulators are infallible, back it up with virtually endless amounts of both implicit and explicit Federal backing and then expect anything other than the outcomes that we currently have. We justify the system based on securing financial stability, and we have done that for decades, even long before the

2008 financial crisis, and we know that it does not work. We use words like “panicked” and “contagion” and pretend that we can stop people from panicking, but even with the government backing that we have, now and prior to 2008, we clearly cannot stop people from panicking.

When you build the system based explicitly on maintaining stability, you are effectively saying that the Federal Government will protect people from losing money, and the only question left is who the government will protect from losing money and that is the problem, because then the system helps those people panic, those people who want to make sure that they are not the ones who lose money. It creates the constituencies that seek more backing and it justifies even more rules, thus worsening the problem. We end up pitting ourselves against each other, whether it is Wall Street versus Main Street, big banks versus small banks, or, now, big and small banks versus medium-sized banks. Nobody should be amazed that we have banks of all sizes wanting different rules, and we can deny it all we want, but the regulatory system that we have created leads directly to this issue.

Worse, it gives groups of banks by different size classes with balance sheets that look virtually identical. It narrows the way people can earn and invest money, and it makes people dependent on the government. That is a fragile system, not a resilient one, but that is the problem that we have created and worsened. If we really wanted to fix these things, we need to take a different approach and regulate from the principle that free markets can work, even in financial markets. We have to let business owners be business owners and even let bankers be bankers. We have to stop pretending that the free market does not work in financial markets.

Thank you for your consideration, and I am happy to answer any questions you have.

[The prepared statement of Mr. Michel follows:]



Testimony

Before the U.S. House of Representatives Committee on Financial Services
Hearing on "Promoting the Health of the Banking Sector: Reforming Resolution and Broadening
Funding Access for Long-Term Resilience"

Norbert J. Michel
VP and Director

Center for Monetary and Financial Alternatives, Cato Institute

September 9, 2025

Introduction

Chairman Hill, Ranking Member Waters, and Members of the Committee, thank you for the opportunity to testify at today's hearing. My name is Norbert Michel, and I am Vice President and Director for the Center for Monetary and Financial Alternatives at the Cato Institute. The views I express in this testimony are my own and should not be construed as representing any official position of the Cato Institute.

A healthy banking sector is one that is resilient due to adequate funding and capital, both of which are a natural consequence of the ability to profitably intermediate funds. Policymakers can foster a resilient banking (and financial) sector by creating a less regulated business environment so that people supplying funds can best serve a diverse market of consumers.

Historically, federal officials have taken the opposite approach with financial markets, particularly in banking, where they have created a regulatory framework at odds with limited government and free enterprise. Still, the notion that the government must protect people from freely operating financial markets has guided US bank regulation for most of the country's history. Ironically, as decades of experience show, regulators have taken on a more active role in managing financial firms' risk taking but financial crises have not subsided in tandem. It is now indisputable that *if* this kind of framework can maintain financial stability, it has not done so yet.

Among other problems, the existing bank regulatory framework creates enormous entry costs for new financial firms, and because larger firms and investors are protected in the name

of stability, the framework is inherently less competitive than it would be otherwise. The framework therefore prevents incumbent firms from providing the main benefits of a free enterprise system—that is, offering newer, better, or more cost-effective products. Over time, the system has progressively narrowed the scope of what banks can do while also limiting what people can do with their money. An increasingly smaller number of people now control how most Americans can invest, when they can invest, and even who gets to invest. This framework has consistently been expanded in the name of maintaining stability, but it has never worked as promised.

Instead, it has made the banking system more fragile, and it has made it more difficult for most people to invest and build wealth.¹ Dramatic change is needed to increase the kind of diversity that makes a financial system more resilient, in a way that offers more people greater choice and opportunity. Critics claim that the average citizen could not possibly have the knowledge necessary to make good financial decisions under a less regulated financial market, but this condescending view ignores that the existing rules and regulations are too complex and voluminous for the average person to assess how they affect his or her own personal welfare.

Policymakers generally justify extensively regulating banks' activities on two main grounds. First, they fear that without strictly regulating banks' activities, the result would be widespread bank failures and, therefore, system-wide financial and economic instability.² (In other words, they justify regulation by citing *systemic-risk* concerns.) Second, they claim extensive regulations are necessary to protect the Deposit Insurance Fund (DIF) of the Federal Deposit Insurance Corporation (FDIC). More broadly, this justification is to protect *taxpayers* because they are ultimately responsible for any FDIC-insured losses beyond the nominal balance in the DIF.

One obvious problem with basing bank regulation on broad stability concerns is that concepts such as "systemic risks," "financial stability," and "economic instability" can easily be used to justify more stringent regulations on all kinds of non-financial firms (not only because they lack a common, objective definition). The number of people who would potentially lose their ability to earn a living if, for example, Walmart, Apple, or Ford closed, is no less an economic concern than if Citibank were to go bankrupt. The failure of any of these companies would temporarily harm the well-being of millions of people who depend on them for a living. A system based on using government regulation and support to ensure widespread economic stability for all industries is not a free enterprise system, and it severely limits economic opportunity and choice for most people.

¹ Norbert Michel and Jennifer Schulp, *Financing Opportunity*, Washington, DC: Cato Institute, 2024; and Charles W. Calomiris and Stephen H. Haber, *Fragile by Design: The Political Origins of Banking Crises and Scarce Credit*, Princeton, NJ: Princeton University Press, 2014.

² Mark Flannery, "[Supervising Bank Safety and Soundness: Some Open Issues](#)," Federal Reserve Bank of San Francisco, Conference on Safe and Sound Banking: Past, Present, and Future, August 17–18, 2006.

Though most members of Congress would balk at federally insuring the profits and strictly regulating the daily operations of firms such as Home Depot, Walmart, or Apple, most members are at least complicit in setting up such rules in the financial sector. They often base these regulations on the notion that financial firms are different, but the truth is that financial firms are no more special, or dangerous, than non-financial companies. Each group of companies needs the other, and each would suffer in isolation. The evidence suggests that without federal deposit insurance, even *banks* are not particularly special. As Loyola University Chicago economist George Kaufman argued, “There is no evidence to support the widely held belief that, even in the absence of deposit insurance, bank contagion is a holocaust that can bring down solvent banks, the financial system, and even the entire macroeconomy in domino fashion.”³

Despite a history of failure, many also see extensive regulations as necessary to protect taxpayers from having to cover any shortfalls in the FDIC’s DIF.⁴ Critically, this argument also assumes that federal deposit insurance is necessary to maintain financial stability. And, in fact, many believe that *both* federal support and extensive regulation for financial markets are necessary to maintain stability. Again, though, the obvious conclusion is that the private sector—even the non-financial portion of the economy—cannot function without extensive government backing and regulation, a very dangerous proposition for mankind.

Unsurprisingly, many advocates of stricter regulation and backing for financial firms openly call for the full government provisioning of money and the federal backing of essentially all short-term credit markets. For example, legal scholars Morgan Ricks and Lev Menand want regulators to “clarify banks’ place in U.S. society and their relation to the government,” such that all money becomes “a governmental product.” They actively hail a “new monetary era” with central bank digital currencies, a digital version of the dollar that ties citizens directly to the government.⁵ Saule Omarova, whom President Biden nominated for Comptroller of the Currency in 2021, has called for “the complete migration of demand deposit accounts [at commercial banks] to the Fed’s balance sheet.”⁶ Omarova acknowledges that the “compositional overhaul of the Fed’s balance sheet would fundamentally alter the operations

³George Kaufman, “[Bank Contagion: A Review of the Theory and Evidence](#),” *Journal of Financial Services Research* 8, no. 2 (1994): 143.

⁴Although it is like a basic spillover argument, others argue that regulation is necessary to protect the *payments system*. That is, it is needed to protect people’s ability to use their accounts to conduct transactions. John P. LaWare, member, Board of Governors of the Federal Reserve System, [Testimony](#) before the Subcommittee on Economic Stabilization of the House Committee on Banking, Finance, and Urban Affairs, 102nd Cong., 1st sess., May 9, 1991.

⁵Morgan Ricks and Lev Menand, “[Scrap the Bank Deposit Insurance Limit](#),” *Washington Post*, March 15, 2023. In his book, Ricks equates all money market instruments to “cash equivalents,” thus arguing that this entire financial segment should be regulated as banks, and explicitly backed by the government, because it is engaged in money creation. Ricks, *The Money Problem: Rethinking Financial Regulation* (Chicago: University of Chicago Press, 2016).

⁶Omarova withdrew from the nomination process amid controversy over her interventionist views on the financial industry, which some critics likened to communist economic policies. Pete Schroeder and Andrea Shalal, “[Omarova Withdraws Nomination to Lead U.S. Office of the Comptroller of the Currency](#),” Reuters, December 7, 2021.

and systemic footprints of private banks, funds, derivatives dealers, and other financial institutions and markets.”⁷ Yet she believes that such reforms would “make the financial system more inclusive, efficient, and stable.”⁸

Although many aspects of US financial markets consist of a public–private arrangement, this kind of change would all but eliminate the private portion, creating a financial market profoundly different from the one that currently exists in America. Even though the current system is highly flawed, such a new arrangement would give an even smaller number of people untold economic and political power over everyone else. Yet, this sort of approach is the natural extension of the existing regulatory system. Tragically, experience has already demonstrated that people do not have the ability to craft rules and regulations that maintain financial stability while allowing people to take financial risks.

The regulatory system should no longer be based on maintaining financial stability through government regulation or backing. It should no longer be based on the idea that banks and financial firms are special compared with those in the rest of the economy. There is no objective economic justification for this kind of system, and the same arguments for heavily regulating and supporting financial firms could easily be applied to all non-financial firms, severely restricting citizens’ economic and political freedom.

The longer the current trajectory is maintained, the further from a free enterprise system the US economy will drift, endangering Americans’ widespread prosperity. This testimony discusses a few steps in irradicating the notion that the federal government should plan, protect, and prop up the financial system. It focuses on promoting a healthy banking sector as it relates to resolution, funding, capital regulation, merger and acquisition policy, and ways to minimize the need for FDIC deposit insurance.

Bank Resolution Reforms

Since 1933, all banks, whether federal or state chartered, that join the Federal Reserve System are required to have FDIC deposit insurance, and the FDIC is, at the very least, a secondary regulator of all FDIC-insured banks.⁹ Through assessments charged to insured banks,

⁷Saule Omarova, “[The People’s Ledger: How to Democratize Money and Finance the Economy](#),” *Vanderbilt Law Review* 74, no. 5 (2021): 1232. Saule Omarova, “[Banks Can’t Be Trusted: A ‘Golden Share’ Might Help](#),” *New York Times*, March 23, 2023.

⁸Omarova, “The People’s Ledger,” p. 1299. Similarly, Ricks, Menand, and another scholar believe that giving Americans accounts at the Federal Reserve would offer an “astonishing range” of benefits, including “greater financial and macroeconomic stability.” Morgan Ricks, John Crawford, and Lev Menand, “[FedAccounts: Digital Dollars](#),” *George Washington Law Review* 951 (2021): 125.

⁹All federally chartered banks, and all Federal Reserve member banks, are required to have FDIC deposit insurance. All other banks (state-chartered, non-Fed-member banks) are subject to their state’s requirements, and most states now require FDIC deposit insurance as a condition of operating a bank.

the FDIC administers the DIF.¹⁰ The DIF is supposed to protect insured depositors and help the FDIC resolve failed banks.

With the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), Congress required the FDIC to resolve failed banks with the least cost to the DIF. However, under the current framework, there is virtually no way for the public to easily verify that these resolutions are carried out at least cost – the public essentially must take the FDIC at its word. It remains unclear, for example, whether nonbank financial firms were frozen out of the bidding process for Silicon Valley Bank (SVB), and whether such bids could have reduced the cost to the DIF.¹¹ Another problem is that the FDICIA provides an exception to this “least-cost” resolution method. To invoke this exception, two-thirds of the FDIC Board, and two-thirds of the Federal Reserve Board of Governors, must affirmatively vote to provide a written recommendation to the Treasury Secretary, who must then, after consulting with the President, determine that complying with the least-cost resolution requirements would have “serious adverse effects on economic conditions or financial stability and any action or assistance taken under the systemic risk exception would avoid or mitigate such adverse effects.”¹² Specifically, the systemic risk exception (SRE) allows the FDIC to ignore the least-cost resolution requirement for the bank it is placing in receivership (i.e., the bank it is closing). It allows the FDIC to take other action or provide assistance to avoid serious adverse effects on economic conditions or financial stability.

The flaws in these provisions were exposed during the bank failures in 2023 and they should be repealed. In practice, these provisions provide political cover to mitigate losses for investors or depositors beyond any insured amounts, much like what was done during the 2008 financial crisis. In the case of SVB and Signature, the SRE allowed the FDIC to cover uninsured depositors at those two banks. For at least one FDIC Board member, the decision to invoke the SRE was driven by the desire to preserve the banks’ “operations and franchise value.” The Board member believed that, without this move, which allowed the FDIC to cover the banks’ uninsured deposits, it would have been impossible to facilitate the sale of failed banks.¹³

¹⁰Robert Kaiser, “[‘Act of Congress’: How Barney Frank Foiled the Banking Lobby to Form a New Financial Watchdog](#),” *Washington Post*, May 5, 2013. Section 331 of Dodd-Frank changed the FDIC’s assessment base for deposit insurance fees paid by banks. Rather than pay fees based on total deposits, banks now had to pay on the basis of their average consolidated total assets minus their average tangible equity (effectively total liabilities). The change requires banks that pose higher risks to the economy (larger banks) to pay higher rates. Raj Gnanarajah, “[FDIC’s Deposit Insurance Assessments and Reserve Ratio](#),” Congressional Research Service, August 24, 2018.

¹¹Kia Kokalitcheva, “Timeline: Silicon Valley Bank’s saga,” *Axios*, March 18, 2023, <https://www.axios.com/2023/03/18/silicon-valley-bank-timeline>. This statement does not imply, however, that no information on FDIC bank resolutions is publicly available. See, for example, Rosalind L. Bennett and Haluk Unal, “Understanding the Components of Bank Failure Resolution Costs,” FDIC Center for Financial Research, WP 2014-04, July 2014, <https://www.fdic.gov/analysis/cfr/2014/wp2014/2014-04.pdf>.

¹²Section 13(c)(4)(G) of the FDICIA, 12 U.S.C.

¹³Norbert Michel, “McKernan’s Statement Underscores Problems With FDIC’s Systemic Risk Exception,” *Forbes*, May 16, 2023, <https://www.forbes.com/sites/norbertmichel/2023/05/16/mckernan-underscores-problems-with-fdics-systemic-risk-exception/>.

This example draws attention to a serious contradiction in U.S. banking law: Maintaining financial stability conflicts with shutting down banks, even when they're insolvent. By design, the SRE gives federal regulators – and Congress – a pass on the least cost resolution requirement. Ironically, the exception makes it more likely the bank will be kept open in the name of keeping “the system” running, which is the exact problem that Congress was ostensibly addressing with the least cost requirement in the first place.

Regardless, the FDIC chose against liquidating SVB even though selling off the bank's securities portfolio would have paid off all the insured depositors in full. In fact, selling the \$100 billion (plus) portfolio, even with the losses from recent interest rate increases, would have covered the \$18 billion insured deposits nearly five times over. And as the FDIC's own report explains, uninsured depositors historically lose money when banks fail – almost a 25 percent haircut prior to the 2008 financial crisis. So, it is not unusual for uninsured depositors to lose when a bank fails.

Although it is tempting to suggest Congress should provide more structure and accountability to the SRE, it is more sensible for Congress to get rid of the SRE. For starters, the incentives for the systemic risk exception are all wrong, and they will always be all wrong. No government official wants to be the one who didn't do more to stop some kind of economic disaster. Nobody should be put in that position. The good news is that nobody has to be put in that position – it simply isn't the case that resolving a failed bank, no matter how large, means all the money in the bank gets frozen and then disappears. Such failures do nothing to the ability of businesses to profitably operate going forward, even if there is a temporary pause in funding. So, bank failures do not, by themselves, result in major economic disruptions. Moreover, with the Fed providing liquidity to the banking system, it's even harder to make a case that a single bank's failure would cause widespread economic damage.

Nonetheless, the fear that a bank failure could freeze many customer deposits, thus disrupting the economy, has been a main contributing factor to the existing FDIC bank-resolution process *and* the Fed's lender of last resort function. Predictably, that fear seems to have morphed into the fear that freezing *any* deposits would disrupt the economy. And without a clear definition of financial stability, which Congress has already avoided, the SRE will remain easy to invoke.

Additionally, the SVB and Signature failures showed that this basic fear of economic disruption has also morphed into the idea that depositors moving their money around should be defined as a *systemic* risk. While a massive deposit outflow from one bank is obviously a risk to that bank, as SVB demonstrated, they can only threaten the entire financial system if depositors take their money out and put it under their mattresses. If, instead, they move money into other banks, then the outflows cannot possibly threaten the banking system, much less the broader economy. Nonetheless, some officials still claim that business payment

accounts could pose even “greater financial stability concerns than other accounts” because they could, when frozen even temporarily, cause businesses to fail to make payrolls.¹⁴

The events that occurred during these 2023 bank failures also damage the idea that government-backing and intervention can stop financial contagion (i.e., panic).¹⁵ For instance, FDIC Board member Martin Gruenberg’s speech in September 2023 essentially repeats the conventional bank failure story. It claims that the *possibility* that uninsured depositors at SVB would experience losses “alarmed uninsured depositors at several other regional banks,” thus causing depositors to start withdrawing their funds, at which point Signature experienced heavy withdrawals.¹⁶ On March 12, just two days after SVB’s failure, state regulators closed Signature.

Then, because they were faced “with growing contagion in the system,” government officials invoked the SRE. The problem for advocates of increased government backing, though, is that the contagion should have been stemmed after the first announcement of covering uninsured depositors. Yet, First Republic failed almost two months later, on May 1, 2023. So, either the effort to stop the contagion didn’t work, or the failures were not the result of contagion.

Interestingly, the remnants of First Republic were assumed by JPMorgan Chase. Flagstar Bank and First Citizens, two regional banks, then purchased Signature and SVB, respectively, within two weeks after the failures. Given the timeline, it is difficult to argue that contagion led to the failure of the first three banks despite the government’s efforts but was then stemmed (with no new action) and with no effect on other banks’ ability to purchase the failed banks.

More broadly, it is true that federal backing helped quell a bank panic during the Great Depression, and there have been fewer bank runs in the FDIC era. But even ignoring the many federal policies that caused the U.S. banking sector to be so fragile prior to the Depression (and beyond), it does not automatically follow that the federal government should insure bank deposits.

Nor does it follow that the FDIC should oversee winding down failed banks – there’s no economic reason that a federal bankruptcy court could not administer bankruptcy for all financial institutions. It’s even conceivable that FDIC coverage could still be provided to most

¹⁴ Norbert Michel, “Gruenberg Speech Exposes Flaws In Financial Stability Mandate,” *Forbes*, October 4, 2023, <https://www.forbes.com/sites/norbertmichel/2023/10/04/gruenberg-speech-exposes-flaws-in-financial-stability-mandate/>.

¹⁵ More broadly, there is good reason to doubt the frequency of financial contagion, where panic destabilizes and brings down otherwise healthy financial firms. Moreover, the events that unfolded during the 2008 financial crisis undercut the idea that government backing can stem such panic. Norbert Michel, *Why Shadow Banking Didn’t Cause the Financial Crisis, and Why Regulating Contagion Won’t Help*, Cato Institute, Washington, DC, 2022, Pp. 30-36.

¹⁶ Norbert Michel, “Gruenberg Speech Exposes Flaws In Financial Stability Mandate,” *Forbes*, October 4, 2023, <https://www.forbes.com/sites/norbertmichel/2023/10/04/gruenberg-speech-exposes-flaws-in-financial-stability-mandate/>.

people under such an arrangement, and that large uninsured deposit flights would be pointless because a bankruptcy judge could force those depositors to return anything deemed a preferential transfer. In fact, the steady erosion of normal bankruptcy safe harbors in financial markets, implemented in the name of maintaining stability, contributed to the 2008 financial crisis.¹⁷ Reinstating these safe harbors and extending something like them to the banking sector could be a vast improvement over the current system, particularly with respect to uninsured deposits.

Reforming this feature of the banking system could also help increase capital and funding by breaking down the inherent bias against non-banking firms in the bank resolution process. Even if the overly regulated bank chartering system is not completely reformed, some version of “shelf charters” could be used to bring non-bank investors into the bank resolution process. Shelf charters were first introduced during the 2008 financial crisis, and they appear to have allowed broader participation by nonbank investors in the bank resolution process. In 2023, the Office of the Comptroller of the Currency (OCC) approved at least one shelf charter, but it remains unclear whether nonbank investors were completely frozen out of the bidding process for the banks that failed in 2023.¹⁸ At minimum, the resolution process should be reformed to allow nonbank entities to bid on failed banks.

Finally, it is worth considering whether failed banks could not merely go through bankruptcy like non-financial companies. Bankruptcy itself came out of common law, and it was always designed to prevent the disorderly resolution of a failed company. There are market-based options used around the world that could replace the FDIC bank-resolution process, and even the FDIC has previously used an “open-bank-resolution policy” that freezes a portion of a failed bank’s assets but allows the bank to remain open to conduct limited business, thus minimizing economic disruptions.¹⁹

Improving Access to Funding and Capital

Deposits are a main source of funding for banks. Federal regulators fear customers moving their deposits out of a bank because sudden deposit outflows can cause a bank to become illiquid and insolvent (especially if the deposits are large). Of course, prohibiting someone from transferring their funds from one bank to another bank would not threaten the entire banking system since the total reserves held by banks would remain unchanged.

¹⁷ Norbert Michel, “Fixing the Regulatory Framework for Derivatives,” Heritage Foundation Backgrounder No. 3156, September 14, 2016, <https://www.heritage.org/government-regulation/report/fixing-the-regulatory-framework-derivatives>.

¹⁸ Skadden Publication, “OCC’s Recent ‘Shelf’ Charter Approval Revives Mechanism for Broader Participation in Failed Bank Auctions,” Skadden, Arps, Slate, Meagher & Flom LLP and Affiliates, December 27, 2023, <https://www.skadden.com/insights/publications/2023/12/occ-approves-shelf-charter>.

¹⁹ Paul Kupiec, “Title II: Is Orderly Liquidation Authority Necessary to Fix ‘Too Big to Fail’?,” in *The Case Against Dodd-Frank*, edited by Norbert Michel, Heritage Foundation, Washington DC, 2016, pp. 55-85, <https://www.heritage.org/sites/default/files/2024-12/CaseAgainstDoddFrank.pdf>.

Moreover, prohibitions on moving deposits are equivalent to preventing citizens from accessing their own money. Provided the regulatory framework is geared toward achieving financial stability and protecting the FDIC's DIF, the possibility of large deposits being moved from one bank to another will remain a chief concern of federal regulators because they do not want any banks or depositors to suffer "large" losses.

Moreover, smaller banks have long used FDIC deposit insurance to attract larger deposits. For instance, Robert Harrison, CEO and chairman of First Hawaiian Bank, recently supported a plan to increase FDIC deposit insurance caps, arguing that FDIC insurance helps smaller banks hold on to deposits and compete with much larger banks.²⁰ Similarly, Ira Robbins, the CEO of Valley National Bank in New Jersey recently argued that "We've seen a barbell environment within our industry, where we have a lot of smaller banks and a lot of larger banks, and there's very little, if any, mid-sized banks left in the entire country. That has to stop...and deposit insurance is the leveling of the playing field that's needed."²¹

The difference between the existing FDIC deposit insurance caps and the typical account balance reflects this reality—FDIC insurance is mainly a tool for banks to attract deposits, not for protecting the typical American. The current FDIC cap is \$250,000, far above both the median account balance (approximately \$5,000) and the average balance (\$42,000). Even most high-income families have balances well below the \$250,000 cap—as of 2023, the average balance for the highest 10 percent of income earners, surely biased upward by very high earners, was \$229,000.²²

Regardless of the original intent, FDIC deposit insurance has morphed into a federally backstopped funding mechanism, and it should not be used to further engineer the banking sector. It should not, for example, be used to force the industry to have any specific market segmentation, whether that means eliminating a "barbell environment" or any other type of structure. If it is the case that banks, whether small or large, cannot compete without federal backing, then taxpayers should not be forced to keep inefficient banks afloat. Of course, there is no shortage of regulatory fixes that would lower banks' costs, thus enabling banks of all sizes to better compete. The goal should be to reduce regulatory costs for the sake of allowing banks to best serve their customers, not to protect against the agglomeration of "large" or "medium" or "small" banks based on ill-defined market concentration arguments.

The existing system also treats brokered deposits, reciprocal deposits, and custodial deposits under frameworks developed in a pre-digital era. Brokered deposits are, to a large

²⁰ Claire Williams, "Bankers Demand Deposit Fix While Fighting Over Price Tag," *American Banker*, August 25, 2025, <https://www.americanbanker.com/news/bankers-demand-deposit-fix-while-fighting-over-price-tag>.

²¹ Claire Williams, "Bankers Demand Deposit Fix While Fighting Over Price Tag," *American Banker*, August 25, 2025, <https://www.americanbanker.com/news/bankers-demand-deposit-fix-while-fighting-over-price-tag>.

²² Norbert Michel, "Fewer Than One Percent Of Accounts Are Above The FDIC Limit," *Cato at Liberty*, April 6, 2023, <https://www.cato.org/blog/less-one-percent-accounts-are-above-fdic-limit>.

extent, synonymous with unstable “hot money,” deposits that are likely to “run” from a bank at the first hint of trouble. Reciprocal deposits emerged later as a stabilizing innovation, but that “cooling” of the hot money was achieved by allowing banks (mostly smaller/community banks) to electronically “spread” balances across insured institutions to ensure deposits above the FDIC insurance cap. Retail sweep accounts, which gave rise to increased use of custodial accounts, were first introduced in the 1990s as a way to minimize banks’ reserve requirements.²³ Each of these innovations has changed the ways bank acquire funds, and the changes even spurred Congress to amend the Federal Deposit Insurance Act. However, across the previous two administrations, the FDIC has vacillated on its treatment of brokered deposits.

For instance, section 202 of the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 (S. 2155) amended Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) to provide a “limited exception for reciprocal deposits.” As a result, any insured depository institution using a reciprocal deposit network was ensured its reciprocal deposits would not be considered (for regulatory purposes) *brokered* deposits provided they were the lesser of \$5 billion or 20 percent of its total liabilities. Separately, during the first Trump administration, under chairman Jelena McWilliams, the FDIC sought to modernize regulations governing brokered deposits. McWilliams’s effort resulted in a new rule, finalized in 2021.²⁴ This rule clarified the standards for determining whether an entity meets the statutory definition of a “deposit broker,” but the regulations still contain more than 10 exceptions and a nine-part test to determine which entities are not deposit brokers.²⁵ During the Biden administration, under the leadership of FDIC chairman Martin Gruenberg, the FDIC issued a notice of proposed rulemaking that would have essentially reversed the brokered deposit changes finalized by the FDIC in 2021.²⁶ While the rule was withdrawn in 2025, these events

²³ David D. VanHoose and David B. Humphrey, “Sweep Accounts, Reserve Management, And Interest Rate Volatility,” *Journal of Economics and Business*, Volume 53, Issue 4, July–August 2001, pp. 387–404; and Kelly Emery, Greg Gonzalez II, Richard Stefanich, “Sweep Activity: Managing Bank Reserves in the Seventh District,” *Chicago Fed Letter*, No. 253, August 2008, <https://www.chicagofed.org/publications/chicago-fed-letter/2008/august-253>. In recent years, at least one regulatory proposal seems to place undue burdens on banks for problems that arose at nonbank entities. See, for example, BPI Staff, “BPI and Others Comment on FDIC’s Notice Of Proposed Rulemaking on Recordkeeping for Custodial Accounts,” *Bank Policy Institute*, January 16, 2025, <https://bpi.com/bpi-and-others-comment-on-fdics-notice-of-proposed-rulemaking-on-recordkeeping-for-custodial-accounts/>.

²⁴ Federal Deposit Insurance Corporation, “Unsafe and Unsound Banking Practices: Brokered Deposits and Interest Rate Restrictions,” *Federal Register*, Final Rule, Vol. 86, No. 13, January 22, 2021, <https://www.fdic.gov/news/board/2020/2020-12-15-notice-dis-a-fr.pdf>; and Jelena McWilliams, “Brokered Deposits in the Fintech Age,” *Speech*, Brookings Institution, Washington, D.C., December 11, 2019, <https://www.fdic.gov/news/speeches/2019/spdec1119.html>.

²⁵ See 12 CFR Part 337, <https://www.ecfr.gov/current/title-12/chapter-III/subchapter-B/part-337>.

²⁶ Federal Deposit Insurance Corporation, “FDIC Board Approves Proposed Rule to Revise Brokered Deposit Regulations,” *Press Release*, July 30, 2024, <https://www.fdic.gov/news/press-releases/2024/fdic-board-approves-proposed-rule-revise-brokered-deposit-regulations>; and, David F. Freeman, Jr., Christopher L. Allen, Nancy L. Perkins, Anthony Raglani, and Trevor Kirby, “FDIC Proposes to Amend Brokered Deposits Restrictions,” *Arnold &*

show just how quickly regulations can be changed, and they represent the uncertain environment that the regulatory framework forces banks to operate under.²⁷

The brokered deposit rules, pre- and post-amendment, provide an excellent example of how difficult regulations make it for banks to fund their operations. Markets constantly evolve and regulation must adapt, but the existing framework forces regulators to decide which funding sources are acceptable. This process replaces bankers' judgement with regulators' judgement, disregarding the ability of bankers to choose acceptable levels of risk and assuming regulators can successfully quantify risk. This approach provides a false sense of security because regulators have no special powers of foresight and judgement – both regulators and bankers are imperfect, as the bank failures of 2023 remind us. Perhaps worse, this regulatory approach helps entrench incumbent firms that can best deal with regulatory costs and centralizes power in the federal government. To whatever extent “protecting the DIF” justifies this type of regulation, the proper solution is to reduce reliance on the DIF and expand reliance on private markets, both for basic funding and for deposit insurance.

The regulatory framework should not discourage banks from developing diverse sources of funding and capital, but fixing this problem will require major changes. It will require more than mere tinkering with exceptions and definitions. Aside from no longer regulating to maintain financial stability and to protect the DIF, the harmful regulatory barriers between bank and non-bank financial markets, as well as the harmful separation between banking and commerce, must be excised from the regulatory framework.²⁸ The rules and regulations must encourage banks to build diverse sources of capital and funding, thus building a more robust and resilient financial sector. The rules should foster competition for funding, enhancing both the supply and demand of financial services—competition drives the processes by which businesses best serve consumers.

Regulatory Improvements for Bank Merger & Acquisition Process

Bank mergers and acquisitions (M&As) are regularly demonized for making the banking industry too concentrated and making bigger banks too powerful, worsening the so called “too big to fail” problem. Yet, M&A activity is necessary for a dynamic, resilient banking sector – combining banks typically allows these institutions to more easily achieve scale, invest, and diversify their risks. Moreover, bailing out banks is entirely up to Congress regardless of the

Porter, August 6, 2024, <https://www.arnoldporter.com/en/perspectives/advisories/2024/08/fdic-proposes-to-amend-brokered-deposits-restrictions>.

²⁷ Federal Deposit Insurance Corporation, “FDIC Withdraws Proposed Rules Related to Brokered Deposits, Corporate Governance, the Change in Bank Control Act, and Incentive-Based Compensation Arrangements”, Financial Institution Letters, March 3, 2025, <https://www.fdic.gov/news/financial-institution-letters/2025/fdic-withdraws-proposed-rules-related-brokered-deposits>.

²⁸ Alexander Raskovich, “Should Banking Be Kept Separate from Commerce,” U.S. Department of Justice, Antitrust Division, Economic Analysis Group Discussion Paper, August 2008, <https://www.justice.gov/atr/should-banking-be-kept-separate-commerce>.

industry concentration and typical bank size. As the Great Depression era demonstrated, a banking industry full of small banks does not translate into a safe or stable industry.²⁹ Additionally, as recent bank failures in 2023 demonstrated, Congress has created a formal framework that can be used to bail out even uninsured depositors of banks that were not previously deemed too big to fail.

As with any non-financial industry, banks who want to engage in M&A activity should not be forced to get federal officials' seal of approval. When banks freely engage in M&A activity, it allows them to efficiently use capital to best serve customers. Any M&A regulations that do exist should be simple, objective, and transparent—criteria that the current system does not meet. For instance, the Bank Merger Act authorizes federal banking regulators to regulate bank M&A activity.³⁰ As discussed in a recent Jones Day report, the Bank Merger Act (BMA) directs the Office of the Comptroller of the Currency (OCC) to:

consider five factors when conducting these reviews: (i) competition; (ii) the financial and managerial resources and future prospects of the existing and proposed institutions; (iii) the convenience and needs of the community to be served; (iv) the risk to the stability of the U.S. banking or financial system; and (v) the effectiveness of any insured depository institution involved in combatting money-laundering activities, including in overseas branches. When considering the impact a merger will have on competition (the first factor above), the OCC has traditionally relied on the Department of Justice ("DOJ") and its 1995 guidelines.³¹

There is no objective way to measure most of these factors, including competition, banks' future prospects, or the needs of the community. It is not even objectively clear that, for example, it is more or less risky having 95 percent, 85 percent, or 50 percent of total deposits concentrated in 5, 15, 50, or 100 banks. Moreover, regulators can block M&A activity based on any number of other subjectively determined criteria, including the failure to satisfy vague Community Reinvestment Act requirements.³² Unsurprisingly, banks have rarely been happy with the M&A regulatory environment, not least because rules can change rapidly under

²⁹ Stephen M. Miller, Vera Soliman, and Joe Brunk, "On the Historical Rise and (Recent) Decline in the Number of Banks," Mercatus Center Commentary, June 18, 2019, <https://www.mercatus.org/economic-insights/expert-commentary/historical-rise-and-recent-decline-number-banks>.

³⁰ The Bank Merger Act is section 18(c) of the Federal Deposit Insurance Act, 12 U.S.C. 1828(c).

³¹ Jones Day, "OCC Proposal and Policy Statement on Bank Mergers Could Freeze the Banking Industry in Place," Insights, February 14, 2024, <https://www.jonesday.com/en/insights/2024/02/occ-proposal-and-policy-statement-on-bank-mergers#:~:text=Under%20the%20Bank%20Merger%20Act,association%20must%20receive%20OCC%20approval..>

³² The U.S. Department of Justice evaluates mergers on several criteria, including "banks' record of compliance with the Community Reinvestment Act." Sarah Flowers, "The 10 Bank M&A Policy Reforms We Need Now, and Later," Bank Policy Institute, January 22, 2025, <https://bpi.com/the-10-bank-ma-policy-reforms-we-need-now-and-later/>; and, BPI Staff, "Breaking Down the Bank Merger Review Process," Bank Policy Institute, February 29, 2024, <https://bpi.com/breaking-down-the-bank-merger-review-process/>.

different political environments. For instance, in 2024, on the same day, the FDIC, the OCC and the U.S. Department of Justice (DOJ) announced changes to their bank M&A policies.³³ In 2025, the FDIC rescinded its changes.³⁴ This kind of process – issuing new rules that are soon rescinded – can occur under any future administration, under the same basic processes.

The banking industry needs a timelier and more transparent regulatory framework for M&A activity, but not merely to avoid creating a “barbell” structure or any other type of industry concentration. It needs a better system because relying on subjective criteria, as well as things like concentration ratios and geographic metrics, makes it more difficult for banks to serve customers. It also concentrates power in the federal government and creates a more fragile banking and financial sector. Banks face competition from other banks, as well as from fintech firms, online lenders, and other non-bank financial firms. They should be allowed to merge, enter, and exit as they see fit, to best compete and serve their customers.

Right Sizing Bank Regulation

During the first Trump administration, Congress passed the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 (S. 2155) and issued new regulations to “tailor” the capital framework for large banks. The S. 2155 bill also included a community bank leverage ratio (CBLR), a measure designed to simplify “small” banks’ capital requirements. The CBLR is available to any depository institution or depository institution holding company with total consolidated assets of less than \$10 billion. While the provision does leave regulators some discretion, it generally deems any such “small” bank with a leverage ratio of between 8 percent and 10 percent to have met all its capital requirements.³⁵

In addition to the discretion to define the ratio itself, S. 2155 authorizes federal banking regulators to disqualify “small” banks from using the CBLR based on the bank’s “risk profile.” The statute also specifies that the risk profile “shall be based on consideration of— (i) off-balance sheet exposures; (ii) trading assets and liabilities; (iii) total notional derivatives exposures; and (iv) such other factors as the appropriate Federal banking agencies determine

³³ Davis Polk, “Key Takeaways From Bank Merger Policy Updates,” Insights, September 23, 2024, <https://www.davispolk.com/insights/client-update/key-takeaways-bank-merger-policy-updates>; and, Office of the Comptroller of the Currency, “Business Combinations Under the Bank Merger Act,” Federal Register, Final Rule, Vol. 89, No. 186, September 25, 2024, <https://www.govinfo.gov/content/pkg/FR-2024-09-25/pdf/2024-21560.pdf>; and Federal Deposit Insurance Corporation, “FDIC’s Final Statement of Policy on Bank Merger Transactions,” Supervisory Guidance, September 17, 2024, <https://www.fdic.gov/news/inactive-financial-institution-letters/2024/fdics-final-statement-policy-bank-merger-transactions>.

³⁴ Federal Deposit Insurance Corporation, “Statement of Policy on Bank Merger Transactions: Rescission and Reinstatement,” Supervisory Guidance, May 20, 2025, <https://www.fdic.gov/news/financial-institution-letters/2025/statement-policy-bank-merger-transactions-rescission-and>.

³⁵ Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency, “Interagency Statement on the Community Bank Leverage Ratio Framework,” December 21, 2021, <https://www.occ.gov/news-issuances/bulletins/2021/bulletin-2021-66a.pdf>.

appropriate.” According to the FDIC, as of 2024, approximately 1,700 insured depository institutions were CBLR banks (a bit under 40 percent of insured depository institutions).

Congress should expand the use of the CBLR. It could, for example, eliminate the risk profile provision that allows regulators to disqualify banks from the CBLR. Alternatively, it could eliminate the fourth provision, the one that allows regulators to determine whether other factors should disqualify a bank from using the CBLR. Or, if worried about these additional risk factors, Congress could increase the leverage ratio requirement for banks who have larger exposures to these risk factors. Of course, taking this last approach could ultimately defeat the purpose of simplifying banks’ regulatory capital requirements. An alternative is a tiered requirement, providing more regulatory relief for banks who meet higher requirements.³⁶ Optimally, Congress would expand the use of a CBLR style “off-ramp” to all banks who meet a higher leverage ratio requirement.

More broadly, there is no shortage of ways to improve the capital framework for banks, regardless of their size. The existing system is grossly overcomplicated. It contains volumes of rules with mind-numbingly complex details, many of which are redundant. It includes ill-defined concepts such as reputational risk and operational risk that contribute no marginal benefit to the basic capital and liquidity rules. It has been cobbled together over decades by stacking new rules on top of old rules as new problems pop up, but regulators have rarely cleared the outdated provisions. It is true that banks now have more and higher capital requirements than they did in the past, but that change does not necessarily mean the system is better.

Higher capital requirements are costly and can create perverse incentives. Furthermore, higher capital does not automatically stabilize the financial system or prevent government bailouts. Although it seems to be forgotten, U.S. commercial banks exceeded their minimum capital requirements by 2 to 3 percentage points (on average) for six years leading up to the 2008 financial crisis. More recently, when SVB failed in 2023, its liquidity position was strong enough to meet more stringent liquidity rules required for larger banks. There simply is no guarantee that these provisions will prevent bank failures, so Congress and regulators should not treat them as such.

Regardless, there are many other ways that federal regulators could simplify (and improve) the existing system. For instance, the existing capital framework includes a standardized approach and an advanced approach. There is no need for two approaches. The existing framework includes a common equity tier 1 ratio, a tier 1 capital ratio, and a total

³⁶ Additional regulatory exemptions, based on higher ratios, could be provided for any number of regulations, including stress tests, the Truth in Lending Act (TILA), the Real Estate Settlement Procedures Act (RESPA), the Home Mortgage Disclosure Act (HMDA), and the Community Reinvestment Act (CRA). Norbert Michel, “Money and Banking Provisions in the Financial CHOICE Act: A Major Step in the Right Direction,” Heritage Foundation Backgrounder No. 3152, August 31, 2016, <https://www.heritage.org/markets-and-finance/report/money-and-banking-provisions-the-financial-choice-act-major-step-the>.

capital ratio – there is no reason to have all three; one will suffice. The existing framework has a risk-weighted leverage ratio, a supplemental leverage ratio, and an enhanced supplemental leverage ratio – we can just pick one. The existing framework includes a stress capital buffer and a capital conservation buffer, figures that are added to the above-mentioned capital ratios. There is no need to have complicated buffers—if the capital ratio is too low, raise it.

Provided they maintain higher ratios for the largest banks (the so-called Global Systemically Important Banks, or GSIBs), then regulatory agencies can make these suggested changes without any new legislation. The framework would be much simpler and there's no objective reason this kind of simplification would weaken or destabilize the financial sector. Congress would do better, though, by starting over. The new requirements should include less regulatory discretion because regulators are in no better position than bank managers to deduce the correct treatment of specific asset classes or financial exposures. This principle applies to banks of all sizes, from the largest to the smallest.

Ultimately, Congress should not regulate banks and financial firms based on different principles. The goal should be to foster a more robust, diverse, dynamic financial sector that does not treat particular types of firms as special. One starting point would be to recognize that banks do not need more than one federal regulator. Because so many agencies are currently involved in regulating banks, it will be difficult to change the existing system. One approach that might work, though, would be as follows:

- Make the Office of the Comptroller of the Currency the federal regulator for all banks with more than \$15 billion in assets.
- Make Fed district banks the federal regulator for banks in their districts with less than \$15 billion.
- Remove the Consumer Financial Protection Bureau's examination authority.
- Remove the Federal Deposit Insurance Corporation's regulatory responsibilities and convert it to an agency that administers deposit insurance.
- Eliminate the Fed's Vice Chair of Supervision.

Congress could also reform the system by making the following changes:

- Eliminate the ability of federal regulators to use reputational risk in their examinations.
- Create a materiality threshold for all safety and soundness risks.
- Create a materiality threshold for all federal regulatory directives, such as Matters Requiring Attention.

- Transfer all regulatory authority for Bank Secrecy Act rules and regulations from the Fed and the OCC to the Financial Crimes Enforcement Network or the Federal Bureau of Investigations.
- Remove the concept of “abusive practices” from federal consumer protection statutes, reverting to the standard (time-tested) legal standards for “unfair” and “deceptive” practices.

Ultimately, Congress must uproot the notion that the federal government should plan, protect, and prop up the financial system. Fifteen years after the passage of the Dodd-Frank Act, the legislation stands not as a triumph of reform but as a case study in how sweeping legislation can miss the mark. Dodd-Frank was based on a mistaken belief that the 2008 crisis stemmed from unregulated financial markets. It spawned hundreds of separate rulemakings. It expanded the authority of existing federal regulators, created new federal agencies, and altered the regulatory framework for several distinct financial sectors. It imposed unnecessarily high compliance burdens, failed to solve the too-big-to-fail problem, and didn’t end bailouts. It also included many small provisions that had nothing to do with the 2008 financial crisis. Arguably, many of these provisions created a regulatory mess where none previously existed, and the Dodd-Frank Act itself should be uprooted.³⁷

Federal Deposit Insurance Coverage Should Be Reduced

Throughout U.S. history, banking regulations have increasingly focused on risk management conducted by regulatory agencies rather than on disclosure and fraud prevention. Yet, the U.S. is one of only three developed countries with at least two banking crises between 1970 and 2010.³⁸ Although there were many banking problems prior to the 1900s, research suggests that harmful regulations caused at least some of those problems, and it appears that spillovers from banking panics to the rest of the economy were extremely limited.³⁹

Nonetheless, Congress created FDIC deposit insurance in the 1930s after a wave of bank failures and sold the idea partly as needed to protect financially unsophisticated depositors from losing their money.⁴⁰ Bank failures increased from approximately 600 per year during the

³⁷ Norbert Michel, “Fifteen Years of Dodd-Frank: A Legacy of Missed Targets and Regulatory Overreach,” *Cato at Liberty*, July 23, 2025, <https://www.cato.org/blog/dodd-franks-15th-anniversary-not-much-celebrate>.

³⁸ Norbert Michel and David Burton, “Financial Institutions: Necessary for Prosperity,” Heritage Foundation, April 14, 2016, <https://www.heritage.org/markets-and-finance/report/financial-institutions-necessary-prosperity>.

³⁹ George Selgin, “The Fable of the Cats,” *Alt-M*, July 6, 2021, <https://www.cato.org/blog/fable-cats>; George Selgin, “New York’s Bank: The National Monetary Commission and the Founding of the Fed,” *Cato Institute Policy Analysis* no. 793, June 21, 2016, <https://www.cato.org/publications/policy-analysis/new-yorks-bank-national-monetary-commission-founding-fed>; and Jeffrey Rogers Hummel, “The History of U.S. Recessions and Banking Crises,” *Alt-M*, October 22, 2015, <https://www.cato.org/blog/history-us-recessions-banking-crises>.

⁴⁰ Mark Calabria, “Deposit Insurance, Bank Resolution, and Market Discipline,” in *Prosperity Unleashed: Smarter Financial Regulation*, edited by Norbert Michel, Heritage Foundation, Washington, DC, 2017, <https://www.heritage.org/markets-and-finance/report/deposit-insurance-bank-resolution-and-market-discipline>.

1920s to more than 1,000 in 1930, and peaked near 4,000 per year by 1933 as depositors pulled gold out of banks in anticipation of President Franklin Roosevelt's eventual devaluation and abandonment of the gold standard.⁴¹ Still, even in the worst year for bank failures, 1933, total losses represented just over 2 percent of total system deposits.⁴²

With the Banking Act of 1933, Congress authorized the FDIC to pay a maximum of \$2,500 to depositors of failed, insured banks, equal to less than \$59,000 in 2023 dollars. Congress lifted coverage limits many times throughout the post World War II period, and the justification underwent subtle changes.⁴³ Congress increased the limit to \$100,000 in 1980, where it remained until 2005, when Congress increased it to \$250,000 for retirement accounts. With the 2010 Dodd-Frank Act, Congress extended the \$250,000 limit to all transaction deposit accounts.⁴⁴ As mentioned above, the \$250,000 limit is far above both the median account balance (approximately \$5,000) and the average balance (\$42,000). In fact, even most high-income families have balances well below the \$250,000 cap. As of 2023, the average balance for the highest 10 percent of income earners was \$229,000.⁴⁵

Regardless of its original intent, FDIC deposit insurance has morphed into a federally backstopped funding mechanism, one mostly relied upon by smaller—at least, not the largest—banks.⁴⁶ The difference between the existing FDIC deposit insurance caps and the typical account balance reflects this reality—FDIC insurance is mainly a tool for banks to attract deposits, not for protecting the typical American.

For decades, the *safety and soundness* regulations imposed on U.S. banks have been justified by citing systemic-risk concerns (financial and macroeconomic stability), as well as the necessity of protecting the FDIC insurance fund.⁴⁷ The DIF is funded by an assessment on banks,

⁴¹ Calabria, "Deposit Insurance, Bank Resolution, and Market Discipline."

⁴² Calabria, "Deposit Insurance, Bank Resolution, and Market Discipline."

⁴³ Federal Deposit Insurance Corporation, The History of the FDIC, FDIC 90 Years, <https://www.fdic.gov/90years#:~:text=At%20its%20start%2C%20FDIC%20deposit,to%20%245%2C000%20effective%20July%201>.

⁴⁴ Transaction accounts include checking, savings, money market, and call accounts. See Federal Reserve Board of Governors, "Changes in U.S. Family Finances from 2010 to 2013: Evidence from the Survey of Consumer Finances," Federal Reserve Bulletin Vol. 100, No. 4 (September 2014), p. 16, <http://www.federalreserve.gov/pubs/bulletin/2014/pdf/scf14.pdf> (accessed March 15, 2016). Also see Christine M. Bradley, "A Historical Perspective on Deposit Insurance Coverage," FDIC Banking Review, December 2000, https://www.fdic.gov/bank/analytical/banking/2000dec/brv13n2_1.pdf (accessed March 15, 2016).

⁴⁵ Norbert Michel, "Fewer Than One Percent Of Accounts Are Above The FDIC Limit," Cato at Liberty, April 6, 2023, <https://www.cato.org/blog/less-one-percent-accounts-are-above-fdic-limit>.

⁴⁶ Long before the 1930s, small rural bankers and landowning farmers pushed for federal deposit insurance. Charles Calomiris and Matthew Jaremski, "Deposit Insurance: Savior or Subsidy?," Harvard Law School Forum on Corporate Governance, July 8, 2016, <https://corpgov.law.harvard.edu/2016/07/08/deposit-insurance-savior-or-subsidy/>.

⁴⁷ Prior to the 1990s, research showed that FDIC insurance subsidized risky loans and increased systemic risk. Alessandro Penati and Aris Protopapadakis, "The Effect Of Implicit Deposit Insurance On Banks' Portfolio Choices

and there is no doubt that at least some of that cost is borne by consumers. Moreover, taxpayers are responsible for any losses beyond the amount in the DIF, so there is no doubt that “government provided” does not equate to “free” deposit insurance (and is something of a misnomer because the fees charged to banks). As the SVB failure demonstrated, there is no doubt that the expectation of government backing, as well as the existence of taxpayer-backed deposit insurance, at least partially insulates banks from market discipline. It is Congress’s responsibility to fix this problem, but it likely cannot do so if it leaves the SRE in place. There is also no doubt that FDIC deposit insurance crowds out private alternatives, ultimately reducing economic opportunities for people who would otherwise provide market-priced financial products to protect deposits. The banking sector would be more efficient and deliver more benefits to people if Congress would shrink the government footprint in the banking sector.

Unfortunately, some members of Congress and the administration seem inclined to expand FDIC coverage limits. Sens. Bill Hagerty (R-TN) and Angela Alsobrooks (D-MD) introduced an amendment to the National Defense Authorization Act, considered “must pass” legislation, that would increase FDIC deposit insurance limits to \$20 million for noninterest-bearing transaction accounts at insured depository institutions with total assets less than \$250 billion.⁴⁸ While it appears that the amendment has been withdrawn, the Senate Banking Committee will now hold a hearing on the issue (September 10th) and Treasury Secretary Scott Bessent indicated (in April) that he would support raising the coverage limits.⁴⁹ Naturally, banks will have to pay additional fees for this expanded coverage, and taxpayers will still (presumably) be responsible for any losses not covered by the DIF, so these costs will surely be passed on to consumers. The Taxpayers Protection Alliance estimates an increase in coverage of this size would require a one-time assessment of \$30 billion for the FDIC to maintain its (statutorily required) reserve ratio, and annual premiums could soon rise to approximately \$3 billion.⁵⁰

Regardless of that nominal cost, FDIC deposit coverage, with unlimited government backing, comes with other costs. Indeed, the existing coverage scheme has long been used to justify the stringent regulations currently imposed on America’s banks, much to the detriment of millions of taxpayers and consumers. Separately, research has overwhelmingly found that

With An Application To International ‘Overexposure’,” *Journal of Monetary Economics*, Volume 21, Issue 1, January 1988, pp. 107-126, <https://www.sciencedirect.com/science/article/abs/pii/0304393288900499>.

⁴⁸ Senate Amendment 3649—119th Congress (2025-2026), <https://www.congress.gov/amendment/119th-congress/senate-amendment/3649/text>.

⁴⁹ Claire Williams, “Bankers Demand Deposit Fix While Fighting Over Price Tag,” *American Banker*, August 25, 2025, <https://www.americanbanker.com/news/bankers-demand-deposit-fix-while-fighting-over-price-tag>.

⁵⁰ Dan Savickas, “Raising Deposit Insurance Limits Would Cost Consumers Over \$30 Billion,” *American Banker*, August 5, 2025, <https://www.americanbanker.com/opinion/raising-deposit-insurance-limits-would-cost-consumers-over-30-billion>.

modern deposit insurance encourages greater risk-taking, reduces market discipline, and reduces growth of the financial system, ultimately increasing instability in the banking sector.⁵¹

Another cost, though very difficult to quantify, is that the consistent expansion of FDIC coverage and backing gives the impression that a private financial industry cannot function on its own. Ultimately, this myth serves to protect the wealthiest depositors at the expense of everyone else, as evidenced by the ever-increasing push to expand coverage well beyond the typical depositor's balance.

Even if the current FDIC system is not expanded, it maintains perverse incentives in private markets and it crowds out the incentive to provide private deposit insurance. This crowding out weakens the overall economy by lowering people's economic opportunities, a problem that is difficult to measure. Yet, research shows that countries with more government involvement in a deposit insurance system, and with higher levels of deposit insurance coverage, tend to have more bank failures and financial crises.⁵²

If Congress will not eliminate FDIC deposit coverage, it should at least reduce coverage to protect only those citizens most vulnerable to economic difficulties. Even if Congress reduced FDIC deposit insurance limits to the pre-1980 figure of \$40,000 per account, the coverage limit would still be nearly 10 times the average transaction account balance. Regardless, Congress should shrink the role of the FDIC in both deposit insurance and bank resolutions. Doing so will remove both explicit and implicit government backing, fostering a more resilient financial sector.⁵³

Conclusion

The current approach to bank regulation is exceedingly prescriptive and highly flawed. It provides a false sense of security because the government confers an aura of safety on all firms that play by the rules. The arrangement is problematic for three major reasons: (a) people take on more risk than they would in the absence of such rules, (b) people have lower incentives to monitor financial risks than they would otherwise, and (c) compared with other actors in the market, regulators do not have superior knowledge of future risks. Federal backing compounds these problems, so it is no surprise that the existing system has failed to prevent financial turmoil.

⁵¹ Calomiris and Jaremski, "Deposit Insurance: Savior or Subsidy?"; and Thomas L. Hogan and Kristine Johnson, "Alternatives to FDIC Deposit Insurance," *The Independent Review*, Vol. 20, No. 3 (Winter 2016), pp. 433-454, <https://www.jstor.org/stable/24562166>.

⁵² Michel and Burton, "Financial Institutions: Necessary for Prosperity."

⁵³ David R. Burton and Norbert J. Michel, "Proposals to Foster Economic Growth and Capital Formation," Submission to U.S. Senate Banking Committee Ranking Member Pat Toomey, March 18th, 2021, <https://www.banking.senate.gov/imo/media/doc/David%20Burton%20and%20Norbert%20Michel%20-%202021-3-18.pdf>.

It is true that members of Congress will always be afraid to bail out any large company, but policies should not make doing so easier. Politics will always favor rescuing large companies and investors, but economics does not. At the very least, federal law should force political accountability for elected officials who decide to rescue large companies or investors, whether in the financial sector or otherwise.

As in other sectors of the economy, it would be better to base financial regulation on protecting individuals from fraud and violations of contractual rights, not prescriptive merit-based regulation or micromanagement of firms' activities. As with many previous federal bailouts, it is very difficult to see the SVB uninsured depositor bailout as anything other than a policy mistake that benefited a very small number of wealthy individuals. It would be a mistake to impose even more costs on Americans for Congress's mistake, whether directly with additional FDIC assessment fees or more regulation, one of which begets the other. Thank you for the opportunity to provide this information, and I welcome any questions that you may have.

Chairman BARR. Thank you.

Now, Mr. James, you are recognized for 5 minutes.

**STATEMENT OF ROBERT JAMES, PRESIDENT AND CEO,
CARVER FINANCIAL CORPORATION, ON BEHALF OF NA-
TIONAL BANKERS ASSOCIATION**

Mr. JAMES. Thank you.

Chairman Barr, Chairman Hill, Ranking Member Foster, Ranking Member Waters, and members of the subcommittee, good afternoon. Thank you for the opportunity to testify on “Promoting the Health of the Banking Sector: Reforming Resolution and Broadening Funding Access for Long-Term Resilience.”

This hearing comes at a critical time as the administration weighs regulatory reform. Congress should play a critical role in shaping those reforms, ensuring a healthy banking system—sector that serves institutions of all sizes.

My name is Robert James II, president of Carver Financial Corporation, parent of Carver State Bank of Savannah, Georgia, and BHM Bank of Birmingham, Alabama. I am also immediate past chairman of the National Bankers Association, which advocates for our Nation’s minority depository institutions. These mission-driven community banks, many also certified CDFIs like Carver, are vital sources of strength and engines of economic development in low- and moderate-income communities. My testimony will focus on access to capital and deposits, FDIC insurance reform, and regulatory modernization.

Tier 1 capital, or the equity invested in a bank, is the most critical component of its resilience and is essential for banks to grow in scale. While MDIs maintain adequate capital ratios, limited access to capital over decades has left them undersized for the needs of their communities. Pending legislation before this committee, including the Community Bank Capital Flexibility and Growth Act of 2025 and the Promoting and Advancing Communities of Color Through Inclusive Lending Act, will help ensure mission-driven banks not only survive but thrive.

Capital alone is not sufficient. Our banks also need access to stable deposits. Community banks deploy deposits to fuel small business growth and provide affordable credit for consumers. We support an all-of-the-above strategy to expand community bank access to core deposits, including regulatory changes, broadened access to Federal deposits, and partnerships with financial technologies (fintechs), larger banks, and other third parties.

As banking business models evolve, and fintech and other third-party partnerships begin to play a more prominent role, the laws governing how banks accept and categorize core deposits should evolve too. Unfortunately, virtually any third-party involvement in connecting banks to deposits results in those deposits being categorized as brokered, triggering supervisory burdens and higher insurance premiums even when they function as core deposits. Updating these rules is vital.

Legislation such as H.R. 3234, to allow well-managed banks to utilize more reciprocal deposits, and the Community Bank Deposit Access Act of 2025 are important steps in the right direction.

The failure of Silicon Valley Bank highlighted the risk to small businesses when banks collapse abruptly. It also drove funds away from community banks toward banks deemed too big to fail. To maintain competence, the Mortgage Bankers Association (MBA) has supported expanding FDIC coverage for small business accounts, including a permanent transaction account guarantee program providing up to \$10 million in coverage for payroll and operating deposits. We also support increased coverage on interest bearing accounts, provided smaller banks are not saddled with higher premiums.

Efforts to modernize FDIC coverage have wide bipartisan support, including from the Vice President, who introduced a bill when he was in the Senate to reform deposit insurance. Current legislative proposals, such as the Failing Bank Acquisition Fairness Act and the Employee Paycheck and Small Business Protection Act, warrant serious consideration.

We support the administration's focus on fortifying the financial system but caution against reforms that overlook community banks. Regulations must be consistent with national policy goals, such as closing the homeownership gap, supporting small businesses, and ensuring financial inclusion. If not, more activity may migrate outside the regulated banking system, making it harder to manage risk.

We urge Congress and the administration to fully fund the CDFI fund, which is vital for community investment, and streamline data collection, record keeping, and reporting to reduce unnecessary burdens on smaller banks.

The MBA applauds this subcommittee's attention to these issues. We look forward to working with you on legislation that will strengthen community banks, expand capital and deposits, and ensure regulatory processes align with our shared goals. Strong, mission-driven community banks mean stronger small businesses, broader homeownership, and lasting economic growth in every community.

Thank you for the opportunity to testify. I look forward to your questions.

[The prepared statement of Mr. James follows:]

Testimony of Robert James II
On Behalf of the National Bankers Association

"Promoting the Health of the Banking Sector: Reforming Resolution and
Broadening Funding Access for Long-Term Resilience"

Before the House Financial Services Subcommittee on Financial
Institutions

September 9, 2025

Chairman Barr, Chairman Hill, Ranking Member Foster, Ranking Member Waters and members of the Subcommittee, good afternoon and thank you for this opportunity to testify on “Promoting the Health of the Banking Sector: Reforming Resolution and Broadening Funding Access for Long-Term Resilience.” The timing of this hearing is crucial as the Trump administration weighs financial regulatory reform. The Congress should play a major role in this process, and we believe that today’s hearing is important as you explore regulatory reforms that would support a healthy banking sector for institutions of all sizes. These topics include improving access to liquidity and capital; right-sizing the capital framework for community banks and mid-sized institutions; streamlining capital-raising efforts; and a more functional process for regulatory approvals of bank M&A.

My name is Robert James II, and I am President of Carver Financial Corporation, parent of Carver State Bank in Savannah, Georgia and BHM Bank in Birmingham, Alabama. I am also the Immediate Past Chairman of the National Bankers Association (NBA). The NBA is the leading trade association for the country’s Minority Depository Institutions (“MDIs”). Our mission is to advocate on behalf of mission-driven community banks, ensuring that the voices of MDIs are heard in legislative and regulatory matters that affect both our member institutions and the communities they serve.

Like Carver, many of our member institutions are also Community Development Financial Institutions (“CDFIs”). As MDIs and CDFIs, these institutions often serve as financial lifelines for consumers and businesses overlooked by traditional banks and mainstream financial service providers. Our members stand on the front lines, working tirelessly to alleviate the economic hardships that disproportionately affect historically underserved communities. Because of this unique role, we firmly believe that our banks are best positioned to deliver financial services and to help communities address the systemic and economic challenges that have long placed them at a disadvantage.

MDIs and CDFIs are a vital segment of the American financial system. For decades, these mission-driven institutions have been engines of economic growth and stability, particularly in low- and moderate-income rural, urban, and tribal communities. Their deep-rooted relationships, built through generations of dedicated service, position them as trusted partners in communities often overlooked by mainstream finance. Our banks play a critical role in providing essential banking services to households that are disproportionately unbanked or underbanked – a reality underscored by the Federal Reserve’s 2024 Report on the Economic Well-Being of U.S. Households.

CAPITAL

Tier 1 Capital, or the equity invested in a bank, is the most critical component of the resilience of any bank, and it is what allows banks to grow and scale. While our member banks maintain more than adequate capital from a ratio perspective, the total amounts of capital available have led to them being undersized in terms of the needs and demands of the communities they serve. With capital also comes the need for deposits to better leverage the capital for lending in communities.

The House Financial Services Committee has been very supportive of several provisions over the past few years that ensure that community lenders and the small businesses and individuals we serve are not forgotten. The creation and implementation of the Emergency Capital Investment Program (ECIP) and the \$3 billion increase in funding the CDFI Fund received has helped banks like many of those within the NBA scale up and provide more access to credit for individuals and small businesses in communities across the country.

There are several pieces of legislation before the Committee, and one being considered today, we believe will advance the NBA's goal of preserving and protecting our institutions. The measures, taken together, will provide opportunities for these institutions to not only survive but thrive.

“The Community Bank Capital Flexibility and Growth Act of 2025,” by potentially lowering the statutory range for the community bank leverage ratio from 8-10 percent to 6-8 percent, this measure provides significant flexibility to our member institutions to more efficiently provide small business, auto and mortgage loans to a larger swath of borrowers without increasing regulatory risk for our member institutions. This measure also has the potential to increase the number of deposits our institutions can take on, further enhancing their ability to deploy capital.

“Promoting and Advancing Communities of Color Through Inclusive Lending Act.” This legislation builds on the Committee's aforementioned work to support MDIs and CDFIs and authorizes \$4 billion in additional capital, grants, technology support, and other reforms to increase affordable lending in underserved communities, including to small businesses and minority-owned businesses. The benefits of this expanded funding have already been demonstrated by the impact the capital from ECIP and the CDFI Fund has had in rural and urban communities across the country.

DEPOSITS

The impact of better capitalized MDIs and CDFIs will be limited without access to stable and readily accessible deposits. Deposits provide resources our institutions deploy in the communities they serve, allowing small businesses to thrive and providing consumers with access to affordable borrowing options. We believe expanding depository opportunities for community banks requires an “all of the above” approach, including regulatory changes, government funding, and partnerships with fintechs, larger financial institutions and other third-parties.

As banking business models evolve and fintech and other third-party partnerships begin to play a more prominent role in the lives of community banks, the law governing how banks accept and categorize core deposits should evolve with it. Unfortunately, virtually any third-party involvement in connecting banks to deposits result in the deposits being categorized as “brokered” – bringing additional supervisory scrutiny and potentially higher deposit insurance premiums – even if they are otherwise core deposits. Many of our member institutions have limited branch networks, so having the flexibility to partner with fintechs or other partners could help to diversify our institutions’ deposit networks. There are several measures before this Committee that merit enactment by Congress, including the following.

“H.R. 3234, amend the Federal Deposit Insurance Act to modify the amount of reciprocal deposits of an insured depository institution that are not considered to be funds obtained by or through a deposit broker.” This bill, sponsored by several members of this Subcommittee including the Chairman, would replace the existing rigid limitations on non-brokered status for reciprocal deposits with a more tailored system determined by a bank’s total liabilities. The tailored system proposed by the legislation would remove the current \$5 billion hard cap on non-brokered treatment for reciprocal deposits. MDIs and CDFIs would especially benefit under this revised system, allowing them to rely on reciprocal deposits to a greater degree. The lower caps for portions of a bank’s liabilities above larger amounts would apply more stringent, yet not onerous, restrictions. When high-value customers entrust our member institutions with large deposits, reciprocal deposit solutions allow our banks to protect their funds by providing access to greater FDIC insurance coverage while keeping the dollars invested locally. These are relationship-based funds, not typical brokered dollars chasing yield. They help us provide loans to entrepreneurs, invest in infrastructure, and serve the needs of local families.

“Community Bank Deposit Access Act of 2025.” This discussion draft amends the Federal Deposit Insurance Act to establish that reciprocal deposits of an insured depository institution are not considered to be brokered deposits as long as the total amount does not exceed 20 percent of an institution’s total liabilities. This applies to institutions under \$10 billion in assets.

Federal Deposits in Community Banking Institutions. Through the Minority Bank Deposit Program (MBDP), the Bureau of the Fiscal Service supported the strengthening and preservation of minority-owned banks, women-owned banks, and credit unions that serve low-income communities.

The NBA supports reconstituting this program for community banks writ large as the program would significantly help participating banks and financial institutions receive exposure, technical training and networking with the goal of expanding capacity and accelerating growth as well as to learn from financial market leaders about capital management, compliance, risk management, technology, and more.

The program is underutilized due to current rules that require federal agency deposits in small banks be fully collateralized, which has proven an insurmountable hurdle to implementation, as doing so locks-up capital that could be mobilized for lending. Clarifying that any such deposits may also be insured, including through reciprocal deposits, could be transformational. Doing so will ensure that any such deposits do not pose any financial risk to the federal government, while also allowing the deposits to be mobilized for lending and therefore having a positive multiplier effect in the communities in which these banks operate.

Custodial Deposit Program for Covered Community Development Financial Institutions. Establish a new program whereby the Treasury Department will deposit into CDFIs funds up to the FDIC insured amount, from Funds under management by the Treasury Department. The program is to be implemented by the Treasury Department, working via custodial banks, which can more easily and efficiently distribute the funds across covered CDFIs. This initiative will help mobilize stable deposits into CDFIs, which will have a multiplier effect on the communities they serve without creating any new exposures or loss risks for the Treasury Department.

COMMUNITY BANKS POST SVB

As we saw with the collapse of Silicon Valley Bank (SVB), when banks fail abruptly, small businesses are left scrambling to figure out how they’re going to pay their hardworking employees if they lose any money, while other businesses quickly transfer their funds from trusted community banks to large institutions. In worse

cases, such as the First National Bank of Lindsay, small businesses lose funds through no fault of their own, but simply because their bank is too small to qualify for emergency protections. This is not fair to small businesses or their workers, and it undermines community banks while concentrating even more power in larger, and in our view more disconnected institutions. Small businesses need reliable banking services, and they should be able to work with local financial institutions in their communities.

Post-SVB, the NBA has supported efforts to maintain confidence in the banking system and provide additional stability to regional and community banks by increasing the level of FDIC insurance coverage for small business accounts. We have previously supported efforts to create a permanent version of the Transaction Account Guarantee (TAG) program offering up to \$10 million in deposit insurance for non-interest-bearing transaction accounts primarily used by businesses for payroll and other operating expenses. We have also advocated for deposit insurance coverage to be increased on interest bearing accounts as well, but with no corresponding increase in the premiums for institutions under \$3 billion in total assets.

Efforts to modernize federal deposit insurance have wide bipartisan support, including from Vice President J.D. Vance, who introduced a bill last Congress to reform deposit insurance when he was in the Senate. Other Republicans have introduced similar bills to expand deposit insurance or improve FDIC's emergency tools, including Sen. Bill Hagerty (R-TN), Sen. Mike Braun (R-IN), and former Rep. Blaine Luetkemeyer (Vice Chair of this subcommittee). Additionally, in a speech this year before the American Bankers Association, Treasury Secretary Scott Bessent emphasized the Department's plan to work with Congress to explore deposit insurance reforms, including expanding it to cover more business payment accounts.

There are several other pieces of legislation before the Committee or introduced that are worthy of serious consideration. These include:

“Failing Bank Acquisition Fairness Act (Lynch).” This discussion draft amends the Federal Deposit Insurance Act to restrict large financial institutions holding more than 10 percent of U.S. deposits from acquiring failed banks if smaller institutions submit qualifying bids.

“Employee Paycheck and Small Business Protection Act.” This bipartisan bill would expand deposit insurance coverage for business accounts, so entrepreneurs are protected if their depository institution fails. We support the measure’s approach to allowing regulators to utilize a data and analysis-based approach to increasing the deposit and share insurance threshold for business payment accounts from \$250,000 to a higher dollar threshold. This balanced approach will, in our view, provide small businesses with certainty and limit regulatory downside risks.

FINANCIAL REGULATORY REFORM

The Trump administration has made financial regulatory reform a major policy priority. While the details are to be determined, we would like to reiterate our position that this effort should be inclusive of all financial institutions, and the Congress must play a role in the process. We additionally urge the administration and Congress to strike the appropriate balance between safety and soundness on the one hand, and consumer access and affordability, with particular sensitivity to the impact on marginalized communities, on the other.

We support the administration’s commitment to fortifying our financial institutions, thereby ensuring safety and soundness in the financial system. However, any proposal that does not take community banks into full consideration could have a myriad of sweeping, unintended consequences. It has been the experience of our member institutions and many community banks that federal regulators, in the execution of their supervisory responsibilities, have not adhered to the underlying policy policies set forth by previous administrations and Congress.

We believe it is important that prudential regulations remain consistent with our policy goals, including closing the homeownership gap and supporting small businesses as the backbone of our economy. Otherwise, continued pressure may further push financial services and risk outside the banking system where there is less regulation, supervision, and oversight, making the financial system less able to address these challenges, and ultimately less safe.

Treasury Secretary Bessent has outlined his views very clearly in a speech to the American Bankers Association earlier this year and we largely support these views. Among other things, the Secretary noted the fact that “in the past some regulatory actions have unduly burdened community banks or erected barriers to entry” and that “other regulatory actions have entrenched the dominant position of the largest banks.” He noted that he and his team “will devote the necessary time and attention to the quite technical, substantive aspects of regulatory reform,” noting there will be

a new emphasis on “tailoring” regulation to fit the size and relative risk of banks being examined.

He also emphasized a desire “to re-focus bank supervision on material financial risks” which he described as “perhaps the single most important reform” as opposed to process risks. He further stated that there was an undue focus “on management and other governance matters” including regulators’ expectations relating to internal controls.

Given the seeming alignment between the Secretary’s views and the context of this hearing, we would like to highlight several areas where Congress and the administration can align to make material and lasting changes for community banks across the country.

Fully Supporting the Community Development Financial Institutions Fund

We recommend establishing a permanent requirement that 40 percent of CDFI Fund appropriations be reserved for awards, guarantees, and grant programs specifically supporting minority lending institutions, with robust reporting to ensure transparency and accountability. The CDFI Fund enjoys strong bipartisan support, and dedicated, ongoing funding is essential to sustaining the mission-driven work of these institutions.

The NBA supports legislation that would enable the CDFI Fund to expand its tools by providing resources for the purchase of loans originated by CDFIs, loan participations or interests, as well as guarantees, loan loss reserves, and other forms of credit enhancement to strengthen CDFI liquidity. Such a program would be transformational, significantly bolstering the financial capacity of CDFIs and, in turn, amplifying their impact in the communities they serve. Research consistently shows that minority lending institutions serve low- and moderate-income communities, persistent poverty counties, and other underserved populations at higher rates than their counterparts – making this investment both equitable and effective.

The Senate sponsor of the bill, Sen. Daines (R-MT) notes, “*CDFIs play a critical role in helping hardworking families in Montana, especially those in rural or underserved communities, gain access to the opportunities they need for financial success. I’m proud to join my colleagues in introducing this bipartisan amendment that will help boost economic development and ensure transparency surrounding the operations of the CDFI fund.*”

Revising Data Collection, Recordkeeping, and Reporting

Community banks, especially CDFI banks, have many federally mandated reporting requirements. These requirements are difficult for small institutions to deal with given the lack of technological resources to defray the costs associated with compliance. We believe strongly that regulators should take into consideration the size and capabilities of institutions in our segment of the banking industry and allow for exemptions or offsetting resources for smaller institutions. Our member banks work with customers that are often financially fragile and in communities frequently targeted by predatory lenders. We have seen how predatory practices can devastate a community and their residents. We firmly believe, however, that a fair regulatory system should: (1) explicitly recognize the dissimilarities in capacity and systemic risk posed by different institutions based on size and scope of activities; (2) recognize that flexibility is important in serving distressed and underserved communities, as well as moving un- and under-banked populations into the economic mainstream; and (3) maintain effective consumer protection. We believe these goals are not antithetical to ensuring safety and soundness in the banking system and can be better achieved without duplicative and overly taxing data collection.

The NBA applauds the Committee for its thoughtful consideration of these critical measures and looks forward to continued collaboration on legislation that ensures lasting, meaningful change for communities most affected by economic inequity. Our shared goal must be to foster inclusive growth that strengthens not only underserved communities but the broader American economy.

We strongly support legislation that empowers MDIs, CDFIs, and other community banks to expand their capital bases, strengthen deposit growth and retention – particularly among mission-driven institutions – and reform regulatory processes that too often hinder efforts to bring underserved individuals and businesses into the financial mainstream.

Chairman BARR. Thank you for all of your testimony, and we will now turn to member questions. I will recognize myself initially for 5 minutes for questioning.

Mr. Carney, this committee has repeatedly advocated for the Federal banking regulators to tailor regulatory thresholds rather than operate under a one-size-fits-all framework. This ensures that a small bank in rural Kentucky is subject to a set of standards that reflects their own unique size, complexity, and business model.

What has been the result of regulatory thresholds remaining static while the economy and banking sector grows?

Mr. CARNEY. As banks grow, what we see, what we refer to as regulatory drift, and indexing would allow for a more consistent risk-appropriate framework over time and a static threshold, what it means is, as a bank approaches that threshold, they are looking at, potentially, increased compliance costs if they cross that threshold. So they begin to defensively manage their balance sheets to try and stay under that regulatory threshold or do what we refer to as jumping a threshold, which is an acquisition to spread those increased compliance costs over a larger institution.

That is not appropriate. That is not a way of—it is far better to let a bank grow organically, continue to fund loans in their communities, rather than be forced into those two situations.

Chairman BARR. I have heard from banks in the \$9 billion category, especially because of Durbin and other regulatory pressures that trigger up the Consumer Financial Protection Bureau (CFPB) supervision at 10, they want to jump really high and really fast in order to deal with that. So indexing these thresholds would create a more dynamic and flexible framework that would keep pace with economic realities?

Mr. CARNEY. That is what we are recommending. We are recommending indexing to nominal GDP which captures the values of goods and services provided.

Chairman BARR. Okay. Small and midsize banks rely on access to diverse sources of stable funding to remain competitive. You all testified to this. One of the funding streams is reciprocal deposits, where banks place deposits into a network between multiple banks, exchanging customer deposits with each other in amounts below FDIC's coverage limit. These reciprocal deposits offer a valuable tool for protecting depositors and promoting financial stability by allowing banks to offer full FDIC insurance on large deposits while keeping equal funds at their banks. Removing barriers to their use would promote depositor confidence, strengthen funding stability, and enhance overall financial system resilience.

I was proud to co-sponsor Majority Whip Emmer and Congresswoman Beatty's bipartisan H.R. 3234, which would modify the amount of reciprocal deposits that are considered to be nonbrokered, permitting greater use of the stable funding source, especially for community banks.

Mr. James, you noted in your testimony in a letter that you support this bill. Can you briefly talk about how Carver State Bank uses reciprocal deposits and why they are important to your institution?

Mr. JAMES. Mr. Chairman, thank you for the question. Just before I came into this hearing room, I had a call with a large Wall

Street bank that has made a deposit in our institution. Our bank is headquartered in a census tract with over 60 percent poverty. There is not a lot of spare cash lying around in that community for us to deploy to grow businesses or make consumer loans available.

I was fortunate that the institution that we have this relationship with, which is using a reciprocal deposit product, decided that because of the impact that we are having in community, they want to increase the amount of that deposit. Those funds will be made directly available to underserved urban and rural communities all across the State of Georgia and now into Alabama as we have acquired an institution there.

It is very important that we be able to in-source capital from higher net worth individuals or corporations or municipalities in order to make capital and credit available in the communities that we serve.

Chairman BARR. That is a great example.

Mr. Barresi, could you explain how increasing limits for well-rated financial institutions before reciprocal deposits are considered brokered could support community banks and securing stable funding?

Mr. BARRESI. Thank you, Chairman. Sure. Absolutely. There are institutions all over the country who are heavily reliant on relationships with partners or large depositors where they need the ability to use and IntraFi or similar system for reciprocal deposits to be able to fund their activities. Increasingly, those enterprises do business with partners that are subject to scrutiny under systems that essentially penalize those deposits, and it impairs their ability to have consistent and stable funding. So flexibility on reciprocal deposits is crucial for smaller institutions to be able to fund the activities in their communities.

Chairman BARR. My time is expiring, but on a related note, the regulatory treatment of broker deposits has been in limbo since the Biden-era FDIC moved to rescind the framework implemented under the first Trump Administration. So it is important that Congress restore stability in this broker deposits regulatory regime.

With that, the gentleman from Illinois, Mr. Foster—Dr. Foster, is now recognized for 5 minutes.

Mr. FOSTER. Thank you, Chair Barr, and to our witnesses.

Mr. James, in President Trump's first budget request, he included a proposal to largely wind down the CDFI fund, characterizing as a, quote, woke, unquote, program. I disagree with his assessment and as do a bipartisan group of 26 Senators who urge the administration to release hundreds of millions of dollars of discretionary CDFI funds. These Senators represent a diverse group of States, both urban and rural communities, that benefit from the work of CDFIs.

Could you briefly discuss the history of the CDFI fund and whether the program has helped, in particular, farmers, small businesses, and families in rural areas?

Mr. JAMES. Thank you, Mr. Ranking Member. The CDFI fund is a program that has enjoyed wide bipartisan support on both sides of Congress. We became a CDFI shortly after the CDFI fund opened up certifications in the year 2000. In just the past 5 years,

we have deployed over \$170 million of resources directly into communities, in urban and rural communities across our State.

I looked at a map this morning, and we have made investments in the last 5 years in 12 out of the 14 congressional districts in the State of Georgia, and our institution is a \$130 million institution, so we are punching way above our weight class. A lot of that is due to the resources that we are provided by the CDFI fund. We have used those investments to create nearly 8,000 jobs across the State of Georgia in both urban and rural communities, and I think you will see similar results from other CDFIs all across the country.

Mr. FOSTER. Obviously, none of that would happen if the CDFI fund was wound down as recommended.

Mr. James, also, following the collapse of Silvergate, Silicon Valley, and First Republic Banks in 2023, I think that regulators and members of this committee were shocked at the speed at which the events unfolded. As I mentioned in my testimony, SVB's depositors attempted to withdraw nearly \$40 billion from the bank in under 48 hours leading to its failure. I am very concerned that we are going to see similar situations play out in the future as social media and digital banking technology increase the rate that deposits can move.

I also worry that artificial intelligence and artificial intelligence agents will make the situation even worse, with AI agents given the ability to move funds at the first sign of trouble. In fact, that will be part of their fiduciary responsibility to get your money the heck out of any bank which there is even a rumor that it is in trouble.

Do you share this concern? Do you think that deposit insurance reform or a greater reliance on reciprocal deposits, or what are your recommendations for an effective curb against these AI-driven bank routes?

Mr. JAMES. Thanks again for that question. I do share some concern with regard to the speed of implementation of technology, and I really hope that our regulatory system can try to keep up with it and evolve and so I believe that increasing our ability to rely on reciprocal deposits, such as the example that I mentioned earlier, is really important for community banks to remain competitive for larger deposits.

I also think that FDIC insurance reform to index insurance coverage or to protect those transaction accounts so that our small business customers do not quote/unquote, outgrow us and maintain their deposits with us here in the local communities is very, very important.

So while I do share some concern with regard to the rapidity of technological change, I also think that we need to embrace technology in order to provide smaller community banks with access to broader sources of deposits so that they can provide liquidity into communities.

Mr. FOSTER. Mr. Carney, in a recent hearing, my staff and I have thought a lot about the various regulatory thresholds, and this is something I remember back at the time we were writing Dodd-Frank arguing about what the threshold for too big to fail is and arguing at the time for a fraction of GDP is the thing that would scale, which is what you referenced.

On the other hand, if you are talking about things like the damage, financial damage to an individual consumer from abuse, or something like that, the threshold there might be scaled with just normal inflation rather than GDP. Can you discuss a little bit about the pros and cons of those two different metrics?

Mr. CARNEY. Sure. Generally, as the discussions have been ongoing, there are three areas that folks are looking at. One is inflation, which captures price; the second is nominal GDP, which is what ABA is recommending; and the third is total bank assets.

Nominal GDP for an asset threshold perspective, we believe, is the most appropriate measure because it captures a broader set of goods and services produced, and that represents the role of the banking sector in the broader economy. If it is a consumer-facing regulation, then inflation may be the best measure.

Chairman BARR. The gentleman's time has expired.

The gentleman from Arkansas, Chairman Hill, is now recognized.

Chairman HILL. Thank you, Mr. Chairman, and thanks to our panel for—really, a great informative set of witnesses to help us in our work.

I want to start out and talk initially about trying to bring resolution to the least-cost resolution mandate. This was written back when I was a Treasury official in 1991, so I am familiar with it, having lived through the S&L crisis, both in the private sector and the public sector. We know that it was meant to tackle the open bank assistance, obviously, of the eighties but when we look at the more recent banking conditions, the bank failures of 2023 showed many gaps and sort of pitfalls around the FDIC's overall resolution process. It seemed to be kind of creaky, not very up to speed as it was 20 or 30 years ago. The trend of depositors fleeing to the Nation's largest banks that enjoy an implicit guarantee for bank deposits is not a sustainable issue and it is antithetical to a healthy industry.

Mr. Barresi, I want to start with you. We attached to this hearing a discussion draft about the issue of least-cost resolution. Basically, it would allow the FDIC to approve an alternative bid in the case of a resolution of a bank that, if the cost of the alternative bid is less than the cost of liquidating the bank, does not exceed the cost of the least costly bid by more than a certain percentage that the regulators would think through, and that the FDIC determines that the additional cost is mitigated—this is the key point from my point philosophy—that would limit further consolidation, increasing competition in the banking. Do you think this kind of amendment deserves consideration?

Mr. BARRESI. Thank you, Mr. Chairman. I think that absolutely deserves consideration and I think you see, in the recent past, a very disturbing trend where the bank with the biggest balance sheet on the day of the bid wins the bid, and you have seen it in 2023, and it is a problem. The least-cost process is not considering the costs of diminished competition or costs over an extended period of time as a result. I think there are a host of things that should be able to be done, including what you are describing.

I can tell you from firsthand experience that we were involved in advising potential buyers and/or investors in some of the banks that failed in early 2023, and in some cases had capital sources

available on the sidelines to come in and help and were not considered because we did not have the biggest balance sheet on the day of the bid.

Chairman HILL. Yet we routinely, in these bank failure situations, waive the deposit cap, which is also a 1980s special, where we basically said to the biggest banks in the country you cannot have more than 10 percent of your deposits. So we have kind of regulated that, and yet we waive it all the time.

Another attached bill to this hearing would restrict the circumstances under which bank regulators can waive that nationwide deposit cap and liability concentration limits, requiring them to prioritize bids to comply with existing concentration rules.

Again, similar to my question—first question. Do you think that would be a possible situation and limit the growth of too-big-to-fail institutions?

Mr. BARRESI. I do. I think that is a smart and tailored solution that limits the growth that we see daily on too big to fail, and there is already enough transformation into that space as it is of—

Chairman HILL. Yes. You know, in those bad days of a lot of failures between the S&Ls and commercial banks from, say, 1980 to 1996, we had a lot of expertise at the FDIC inside and outside. We had a lot of experience, and they kept lists of people who could provide capital.

Mr. WILEY, let me turn to you. You are in the investment banking business for banks. You know, nonbank capital, I think, should play a major role here, and this idea—we also have a proposal for shelf charters, where people can come together, a bank and nonbanks, and bring capital into a resolution situation. Do you think that it would benefit the regulators to have an idea of a preapproved self-charter concept to help find more bidders?

Mr. WILEY. Yes, Mr. Chairman, from the eighties and early nineties, we learned a lot of lessons, a lot of failures and there was no capital available back then, if you remember, but there were plenty of problem banks. Well, there is plenty of capital today and what is interesting about all those banks that failed in 2023 is that at one point they were all very prime investment banks. In other words, investable opportunities. They traded at high multiples, they were very profitable, they did very well. They made some mistakes, most of them asset liability management type. All they needed was capital.

Chairman HILL. Yep.

Mr. WILEY. They were great institutions. All they needed is capital. It was very sad to just see it flipped over to a money center—

Chairman HILL. Appreciate that. Appreciate the increase in competition and these good ideas.

I yield back to you, Mr. Chairman.

Chairman BARR. The gentleman yields.

The gentleman from Georgia, Mr. Scott, is now recognized.

Mr. SCOTT. Thank you, Chairman.

Mr. James, now, I am kind of disturbed about this. Why do you believe that the President would do such a thing to take and to cut \$291 million from the CFDIC

It is a bipartisan deal. It is much needed. It is very critical to both the rural and the urban parts of our district, and most importantly, to the lower income and middle income individuals of this Nation. I am really frustrated about that.

You know, and the President is a very smart man. He went to the Wharton School of Finance. I did too. We were there at the same time, but this really disturbs me. Why do you think he did this?

Mr. JAMES. Mr. Scott, thank you so much for your question.

I do want to acknowledge the broad bipartisan support for the CDFI fund. The CDFI Caucus on the U.S. Senate side has an equal member of—number of Republican and Democratic members. I think that you are correct in articulating the wide and deep impact of the CDFI fund across urban and rural communities across the country.

Our institution is a great user of CDFI resources in order to deploy capital in underserved communities. I just also want to acknowledge that I do know that the Secretary of the Treasury, Mr. Bessent, is a big supporter of the CDFI fund and has announced his support for our institutions and continued funding for the CDFIs.

Mr. SCOTT. Yes. Now, has the administration proposed any type of alternative mechanism to generate the same scale of private investment, particularly to the underserved communities, the very group that needs the help the most?

Mr. JAMES. Well, I do know that generally speaking, if you look at the leverage power of CDFI funding, typically, CDFI is going to leverage those dollars 8 to 1. So for every dollar that is expended by the CDFI fund, there is going to be an eight times leverage of that funding, which really is an ideal public-private partnership, where the public sector puts in a certain amount, but the private sector dollars that are coming from these institutions is really leveraged eightfold in order to have impacting communities.

I have not seen an alternative proposal that would have greater impact than the CDFI fund, and we continue to encourage broad—the broad bipartisan support of the fund and encourage the administration to listen to members of their party as well as Democratic members with regard to support for the CDFI fund.

Mr. SCOTT. Yes. Let us take, for example, a very needed but yet vulnerable group, and that is first time home buyers. What is going to help them? This is particularly true that in the President's Fiscal Year 2016 budget proposal to eliminate CDFI fund programs used by credit unions, like financial assistance (FA) and technical assistance (TA). How will that impact first home buyers with this going away?

Mr. JAMES. Yes. In addition to the CDFI fund, of course, first time home buyers are impacted by lack of access to capital with small community banks, as well as limitations on liquidity. I think it is an all-of-the-above approach. You know, we certainly support continued funding for CDFIs, but we also really want to make sure that we have access to other sources of capital as well as liquidity.

Mr. SCOTT. Well, we are going to continue to fight this, both Democrats and Republicans. A lot of very needed people, whether they be White, Black, rural Americans, it is truly an American pro-

gram to help Americans from every single walk of life. We have to find help for them.

Chairman BARR. The gentleman's time is expired.

The gentleman from Michigan, Mr. Huizenga, is now recognized.

Mr. HUIZENGA. Thank you, Chairman Barr.

This brings me back to our work last Congress when I was chair of the O&I, Oversight and Investigations, and you, as we were looking at bank failures and things that had gone on there. Obviously, part of that investigation into the bank failures of SVB and Signature Bank became abundantly clear, I think to all of us, that regulators were unprepared at that time.

We found in our investigations that the FDIC ultimately picked winners and losers when it came to resolving these bank failures, sometimes very last minute. We heard stories about not being able to get a decision made and having it be very late in this, and that I think leads to a more difficult outcome for the banking system.

Dr. Michel, I am going to start with you. I have long advocated that nonbanks should have the equal opportunity to purchase failed bank assets in the time of crisis, something that I believe you just wrote about recently, and when you said, quote, There is no good reason that anyone at the FDIC should be able to decide winners and losers by making it more difficult for nonbanks to purchase failed banks. All Americans are paying for this mess as well as FDI insurance and they are not banks, close quote.

During our investigation with both bank executives and nonbank market participants, this is what we heard time and time again, that the FDIC was slow to react, and that when they did act and react, they created a scenario that allowed them to use the systemic risk exemption in that.

My question to you is kind of two-part. Do you believe that the decision by the FDIC to dismiss nonbanks from purchasing SVB or Signature, ultimately, increased the cost to the insurance fund and then in the concept of private nonbank investors bidding for failed banks, that is not really a new concept, correct? Expound on that a little bit, if you would.

Mr. MICHEL. Sure. I certainly think that it increased the cost of the overall resolution. Whether it was specifically to the Depositors Insurance Fund (DIF), I would have to defer. I suspect that it did raise the cost. It is not a new concept, and I think it is sort of the hesitancy to blur the line, if you will, between, say, securities or capital markets and banking. It is sort of a holdover from the Glass-Steagall era. It is not helpful. It was not a good idea then.

There is a lot of economic research that shows that the banks that were mixed with capital market firms were actually safer and sounder and better capitalized and better able to withstand turmoil, and there is really no economic reason to think that would not still be the case now. Yes, it is not at all helpful. It is not economically sound.

Mr. HUIZENGA. In writing, because I am down to 2 minutes, I am going to ask you to expound on why do you think it was that way, and I think you were touching on it, but we will send that question to you as to what created that situation.

Mr. MICHEL. Okay.

Mr. HUIZENGA. I do want to kind of take a jumping off spot from where Chairman Hill was when it comes to bank resolution. Regulators were given certain tools after the 2008 financial crisis, and do you believe they effectively used those tools during the 2023? For example, Federal regulators could have used orderly liquidation authority in 2023, but they chose not to.

Anyone care to weigh in on that?

Mr. MICHEL. It is a mystery.

Mr. HUIZENGA. Mystery? Kind of a shrug? Had the tool, just did not use it. Okay. Well—

All right. Mr. Barresi, one of the potential missed opportunities during the run of bank failures in 2023 was the purchase of First Republic Bank by JPMorgan Chase. One of the largest banks in the world became larger. In addition, we heard stories of deposit fleeing community financial institutions to safer ground in the, quote, too-big-to-fail banks. This puts the smaller institutions at a competitive disadvantage.

Do you think allowing community and regional banks to merge would help promote competition with the larger banks which have gained more of the market share post-Dodd-Frank?

Mr. BARRESI. No question. Thank you for the question, Congressman Huizenga. No question that allowing smaller and regional banks to merge would provide for greater competition with larger institutions. We have a problem right now where you see midsized banks getting hollowed out, and they need to be recreated through the combination of some regional banks and smaller banks to facilitate a good competitive environment.

Mr. HUIZENGA. That ultimately should be what it is about, a competitive environment that allows the customer the best product and the best opportunities and the freedom of choice on how they are going to do their banking, in my humble opinion.

With that, I yield back. My time has expired.

Chairman BARR. The gentleman yields.

The gentleman from California, Mr. Vargas, is recognized.

Mr. VARGAS. Thank you very much, Mr. Chairman. I appreciate the opportunity again. I want to thank the witnesses for being here.

Mr. Barresi, we have your curriculum vitae here, and we also heard from you. You started off Main Street banks, you went to the super regional bank, talked about the banking system here being the envy of the world and the engine of economic growth, and we need to be able to move quickly.

What about crypto? Is it something that is going to allow us to move quickly? Is it safe for banks? Is there a problem there? Is there a risk there?

You are the banker—you are the attorney. Could you comment on that?

Mr. BARRESI. Sure. First, thank you for the question.

I think there are risks with all financial products. I think the action that Congress took recently to adopt the GENIUS Act was good action to take a measured approach with respect to crypto. The issuers of payment stablecoins would not be permitted to be financial institutions, and I think that is a smart decision.

Mr. VARGAS. Did we pick winners or losers there?

Mr. BARRESI. No, I do not think that you picked winners or losers with respect to the GENIUS Act so far. I would also note that we have a long way to go before regulations are implemented.

Mr. VARGAS. Did we put banks at a disadvantage? I mean, we hear from banks now. Some of them say that they were placed at a disadvantage.

Mr. BARRESI. I would say that there are questions about whether that will cause migration of deposits, and we will see what happens with respect to remaining legislation and regulation. I think that there is a long way to go before the regulation is ultimately seen.

Mr. VARGAS. Okay. Dr. Michel, good to see you again.

Same question for you. I mean, we heard about picking winners and losers. I did remember, I think Cato commented—you could comment if you would like—on the government taking 10 percent position on intel. I mean, are we picking winners or losers there?

Mr. MICHEL. That one is pretty clear. No. Surprisingly, no, I am not a fan of that decision.

Mr. VARGAS. No, I know. I mean, I find that interesting but I—you know, I respect your positions and that you are very ideologically driven.

I do have the question and—the same question for you. What about crypto, the bill that we passed, did we pick winners or losers there?

Mr. MICHEL. Well, I mean, I do not think anything is perfect, any bill is perfect. I think crypto is a broad term. I think we have to be careful with how we would use—exactly what we are talking about.

I think stablecoins, for example, if we are talking about fully backed stablecoins as a payment option, I do not see any reason to say that, by itself, is overly risky and should be kept out of the banking system, whether it is through a relationship where a bank is providing a fintech company with a relationship, or whether it is a bank providing the stablecoin.

No, I would—I would blend—I have no trouble blending that.

Mr. VARGAS. Okay. Fair enough. I do have to say, the comment aside, I do find interesting my colleagues on the other side often talk about not picking winners or losers, yet they seem to be fine with intel. I do not seem to hear a comment out of them, a peep. I do hear it from ideological groups, so I think it is appropriate.

It would be appropriate, too, maybe if we heard it from some on the other side, but I think the base might be a little tough on them because of who is in favor of that.

Moving on, CDFIs, I mean, you spoke a little bit, Mr. James, about it but could you speak about it in the context of the rural areas of Georgia and other places? I mean, everybody thinks it is an urban. That is not true. It is both, right?

Mr. JAMES. Thank you, Mr. Vargas. The vast majority, I would say—not maybe vast, but the majority of CDFI resources are directed toward rural communities across the country. I think that is something that is very clear.

If you look at the membership, again, of the CDFI caucus on the Senate side, you see members from both highly urbanized States, as well as very rural States because of recognition that rural communities actually have an outsized benefit from the CDFI fund.

Our institution, again, we are located in an urban area, but we have made a very intentional decision to make sure that we are reaching those underserved rural communities as well with resources that we have been able to win from the CDFI fund.

Mr. VARGAS. Thank you. I have about 20 seconds left. So I want to say, it is interesting when you talk about diversity, equity, and inclusion (DEI) or CDFIs. Everybody talks about urban communities, and yet we hear a lot of the damage it does in rural communities when you do away with these programs.

So anyway, with that, I thank the chair, and I yield back.

Chairman BARR. The gentleman yields.

The gentleman from Texas, Mr. Williams, is now recognized.

Mr. WILLIAMS of Texas. Thank you very much. Thank you all for being here today.

One of the main issues I hear from lenders every day back in Texas is how regulatory costs are squeezing community's regional banks from capital requirements that do not reflect the bank's true risk profile, duplicate of reporting the liquidity standards. Smaller institutions are spending more and more time and money on compliance instead of serving their customers and static thresholds on one-size-fits-all frameworks forcing Main Street lenders to divert resources away from small business loans and mortgages and undermining their role as the backbone of local economy.

Dr. Michel, can you discuss some of the costs that burdens and regulations have on the broader economy, whether you think the volumes of regulations even make the financial system more stable?

Mr. MICHEL. Sure. I mean, anything—any service that a bank is going to provide, or any other financial company is going to be providing, you will have less of it.

The higher the cost that you implement, or that you force on to the bank, or the financial companies. So that is a cost sometimes that is difficult to measure because it is the absence of something, but we know, for example, in Mr. James' communities and others, there is an issue with banks being able to serve their communities and one of those reasons is certainly regulatory cost. It is not easy to comply with banking regulation writ large, and many of the specific pieces of it as well.

Mr. WILLIAMS of Texas. Thank you. The bank resolution process plays an important role in protecting depositors and maintaining confidence in a banking institution that fails but if the FDIC lacks sophistication and transparency in the bidding process, it can limit the options available for healthy institutions to continue serving their customers and communities. So that can make it hard to preserve a diverse and competitive banking system.

Mr. Barresi, I was interested in your discussion of the need for the FDIC to evaluate the capital capacity of potential buyers more thoroughly, which could expand the pool of potential buyers to include smaller and regional banks.

How can Congress reform the bank resolution process to ensure it supports competition and avoids accelerating consolidation in the industry?

Mr. BARRESI. Thank you, Congressman, for the question. I do think there are several things that the FDIC could do to provide

more competition in connection with failed bank process, and I think you could direct it to be more flexible in its activity with respect to least-cost resolution as one illustration.

I think there are other tools that the FDIC could utilize to ease that process. I mentioned maintenance of live data rooms that would contain the kind of information that people like Mr. Wiley would advise them on maintaining. Also, frankly, the FDIC use of technology and tools to help not only identify and resolve situations that create risk, but also to help identify buyers and the paired offerings by multiple institutions or institutions of capital.

Mr. WILLIAMS of Texas. Thank you. Mr. Carney, custodial deposits have become an increasingly important tool, especially as more businesses look for efficient ways to manage funds on behalf of customers. For banks, these accounts offer low cost of reliable source of funding, and for businesses, they provide the convenience of pooling client money in one place with the added protection of deposit insurance.

So at a time when community and regional banks are competing for stable funding sources, these arrangements can make a real difference.

My question is, could you elaborate on how custodial deposits are a way for regional and community banks to have access to additional sources of low-cost funding?

Mr. CARNEY. Custodial deposits are a form of funding that is appealing to many institutions, but we think that the biggest problem with the deposit framework right now is the treatments of broker deposits, where it is a treatment that is fundamentally outdated and has not been updated in over 35 years.

When the program deposit framework was first put in place, banks advertised through newspapers, the internet was in its infancy and iPhones did not exist. So, we are really trying to focus as much attention as possible on the removal of Section 29 of the FDIA and replacing it with restrictions on asset growth for less than well-capitalized banks.

Mr. WILLIAMS of Texas. Thank you. I will give some time back, and I yield back to the chairman.

Chairman BARR. The gentleman yields.

The gentlewoman from California, the ranking member, Ms. Waters, is now recognized.

Ms. WATERS. Thank you very much. My question will be directed to Mr. James.

Following the regional bank failures in 2023, including Silicon Valley Bank, it quickly became apparent that our deposit insurance framework needed to be updated. Small businesses have enough to do. They should not have to be a bank regulated and figure out if their federally regulated bank would suddenly fail, especially if another bank failed.

At a minimum, they should be able to maintain their payroll and operating funds at a bank and be assured that they can still pay their workers even if their bank suddenly closes.

Furthermore, while small businesses who banked at SVB were rescued by the government taking emergency action, there have been at least 37 smaller bank failures since 2007, including one in

Oklahoma just last year where no emergency tools were used, and small businesses lost money through no fault of their own.

That is why I introduced H.R. 4551, the Employee Paycheck and Small Business Protection Act, to improve emergency tools and require the FDIC and National Credit Union Administration (NCUA) to take a data-driven approach to expand deposit insurance, to not only protect small businesses and their workers, but allow their smaller lenders and midsized banks to compete for these deposits. Other Republicans agree, with Treasury Secretary Bessent voicing support for reform, and similar proposals introduced by Senators Bill Hagerty and Mike Braun, as well as Vice President JD Vance when he was in the Senate.

Mr. James, it has been about 15 years since Congress last updated our deposit insurance framework. What do you think? Should we expand it as I have proposed to help community banks, small businesses, and their workers?

Mr. JAMES. Ranking Member Waters, thank you so much for your question and thank you for authoring the Employee Paycheck and Small Business Protection Act. We are very large—very major supporters of that legislation to modernize FDIC insurance coverage, as well as other approaches to ensure that small community lenders have access to more liquidity.

It is very important that our institutions are able to in-source capital. Many of the institutions that our member banks serve are the lower income communities that are serving both rural and urban communities across the country, and most of those communities do not have access to additional cash.

So when we have small businesses that are innovating within our communities and growing because of the capital that we are investing in them; We want to be able to keep those customers; We want to be able to not have them outgrow us.

So the FDIC insurance coverage should—should modernize so that we can keep those customers with us instead of, essentially, pushing them toward these banks that have been deemed too big to fail.

Ms. WATERS. Thank you very much. I have heard when I came into some discussion about CDFIs and you know that CDFIs and MDIs have been a bipartisan affair for many years, and I am very much involved in trying to strengthen the CDFIs.

Even in Trump's first term, Republicans and Democrats worked together to ensure these community financial institutions could support underserved communities. Congresswoman Velázquez and I, with former Treasury Secretary Mnuchin, we worked with him to secure a \$60 billion set-aside for community leaders, including CDFIs and MDIs to provide paycheck protection program loans to small businesses.

We worked together with congressional Republicans to secure \$12 billion in capital investments for CDFIs and MDIs. Unfortunately, now the White House is seeking to undermine the progress, including withholding funds that Congress previously appropriated.

In case my colleagues have forgotten, CDFIs operate in all 50 States and have issued over 19 million loans totaling more than \$300 billion supporting underserved communities in rural and urban areas alike and are ignored by traditional banks.

Mr. James, has the CDFI fund been a good investment for taxpayers? Would you briefly discuss how CDFIs have helped borrowers in rural communities?

Mr. JAMES. Ranking Member Waters, yes, the CDFI fund has been an excellent investment for taxpayers, and I want to personally thank you for the bipartisan work that you did during the first Trump Administration to ensure access to capital and resources for CDFIs and the President for signing that legislation into law.

The most historic investment in CDFIs in the Nation's history has had enormous impact in urban and rural communities, job creation, as well as home ownership and access to capital.

Chairman BARR. The gentlelady's time has expired. The gentleman from Georgia—

Ms. WATERS. Thank you very much.

Chairman BARR [continuing]. the vice chair of the subcommittee, Mr. Loudermilk, is recognized for 5 minutes.

Mr. LOUDERMILK. Thank you, Mr. Chairman.

Mr. Carney, how do banks typically adjust their behavior as they approach regulatory threshold, and what are the broader implications of this dynamic?

Mr. CARNEY. As banks approach regulatory threshold, they are looking at increased compliance cost as they cross that threshold.

Oftentimes, they defensively manage their balance sheets to try and stay underneath that threshold or they, what we say is jump a threshold, where they seek out an acquisition to spread the increased compliance cross—across a broader institution.

What this does, though, is it inhibits organic growth, which is really what you want to see with a bank. It also dilutes regulatory resources because the more banks that cross a threshold, the more scrutiny the regulators are having to give, and that dilutes their focus.

Mr. LOUDERMILK. Let me follow on to that. Dodd-Frank's one-size-fits-all approach has been one of its most criticized aspects. Mid-sized regional and small community banks, which did not contribute to the financial crisis, have been subjected to the same regulatory regime designed for the largest, most complex financial institutions.

My Taking Account of Institutions with Low Operation Risk (TAILOR) Act would require Federal regulators to tailor their regulations in accordance with the size, business model, and risk of each type of firm they regulate.

Can you speak to the impact that an approach like the TAILOR Act would have on these midsized regional and small community banks?

Mr. CARNEY. I think it would be very beneficial. ABA has supported the TAILOR Act in the past and will likely do so again. It is not—it is complementary, I think, to the indexing approach that we are recommending. The two can work together.

Mr. LOUDERMILK. Okay. Thank you.

Dr. Michel, what can Congress do to streamline and improve the bank resolution process to promote competition, broaden participation, and prevent industry consolidation?

Mr. MICHEL. Well, the more radical approach would be to get it out of the FDIC. You know, bankruptcy is supposed to be an or-

derly resolution of a company, and there is really no economic reason not to do that. FDIC deposit insurance is the reason that we do it the way we do it but if you are in regular bankruptcy and you take your money out of a company really fast before the judge gets to go in and resolve the company, you have to bring it back. So that could theoretically still work. That would be one way to do it.

If you are not going to do it that way, I understand why. You know, but then there are—there are ways to open it up a bit more, so you let nonbank companies—or nonbank financial companies get involved in bidding processes.

A lot of the way that this is driven is specifically to combine a larger and a smaller bank to make the asset size larger and theoretically sounder, but that is not necessarily the case. That is historically what has happened.

I think, honestly, the systemic risk exception is a mistake. If you are going to resolve the bank, resolve the bank. If stability is the reason that you are regulating, then an open bank resolution—although it was disastrous from a cost standpoint in the 1990s with the S&L crisis, an open resolution is the way to do that.

Mr. LOUDERMILK. What would be your recommendation to Congress on what to do to—

Mr. MICHEL. I would take the all-of-the-above approach.

Mr. LOUDERMILK. Okay. All right. Thank you.

Mr. Wiley, are there ways that you think the FDIC could improve the bidding process for failed bank assets through self-charters and nonbank capital?

Mr. WILEY. Pardon me. How can they improve the bidding process?

One, I think they need to take their time a little bit more. Speed is essential when there is deposit runs, but at the same time, this is why I have a little bit of a problem with the least-cost initiative that comes in. I think it misses the point of what is best for the overall system.

When we put all the deposits at risk, these large deposits, then it adversely hurts the smaller community banks versus the larger banks, which are too big to fail. So the resolution needs to take that into account.

There has been less than \$1 billion, I think, the FDIC has had to force them to eat on large deposits over time, because they tend to get it back. Is it really worth it? There is a lot of talk about what the new deposit risk minimums ought to be and the resolution process.

At the end of the day, the best legislation ever enacted was the FDIC insurance. It stabilized economies for all time, and we are fine-tuning it. We have to remember that it is a system with confidence. It is about confidence.

So when we can introduce more competition and take delays, use bridge banks like they did in the late 1980s, self-charters, things like that, I think you will have better results.

Mr. LOUDERMILK. Thank you, Mr. Chairman. I yield back.

Chairman BARR. The gentleman yields.

The gentleman from California, Mr. Sherman, is now recognized.

Mr. SHERMAN. Thank you. Thank you for holding this hearing.

I know we are focused a bit on Silicon Valley Bank and its resolution. We should not lose track of why it failed. It failed because we did not deal with interest rate risk, and we still do not. We do not force it to mark-to-market, both its held-to-maturity and it has available-for-sale bonds.

As long as we do not do that, we have perverse incentives where a bank can invest in long-term instruments, sell them at a profit if they go up, or hide the loss if they go down and that creates a perverse incentive for executives and board members.

The least-cost method of resolving an institution butts up against our desire to have—to give an advantage to smaller banks if they are bidding on some or all of the assets. Keep in mind, if you increase the cost, that cost then has to be borne by all the banks in the country through increased FDIC premiums that are ultimately passed on to depositors. So, we have to balance our desire to help small banks with our desire not to have these additional costs incurred.

A lot of this hearing is about brokered deposits, whether that be reciprocal, which is, in effect, a brokered deposit or the traditional brokered deposit. We are not focused much here on just increasing the \$250,000 limit, but, in effect, brokered deposits do just that.

So a rule will be going forward, the limit is kept at \$250,000, unless there is a middleman who can make a profit by splitting it up and sending it to a bunch of institutions.

Mr. Wiley, I believe, talks about us not having a threshold. On the other hand, if you are going to have separate rules for smaller institutions than larger institutions, you got to have a threshold between them.

I would like to see us having more than one category so that moving from category A to category B is not moving from category A to category Z but we simultaneously are told to have not one-size-fits-all but to have special rules for smaller banks. Now we are being told, when a smaller bank becomes larger, we should not apply the standards that we have for banks of that new size.

Mr. Carney, do your members find value in the flexible terms available from the regional home loan banks in their area?

Mr. CARNEY. Yes. Banks of all sizes have very good relationship with the Federal home loan bank system, and it serves a critical role in liquidity.

Mr. SHERMAN. Thank you. I would like to note that the recent bipartisan National Housing Crisis Task Force action plan released in June showcased the importance of community development financial institutions' access to the Federal home loan banks as a key tool in addressing housing affordability.

We do not have anyone here, I believe, from the credit union side of things, but I would just point out that we need to have parity what we do for banks should also be done for the credit unions.

The—Senators Hagerty and Alsobrooks have offered an National Defense Authorization Act (NDAA) amendment to increase deposit insurance, NCUA insurance, up to \$20 million for noninterest-bearing transactions accounts.

Mr. Carney, is that a movement in the right direction to allow small-and medium-sized banks to continue to hold on to businesses as they get larger?

Mr. CARNEY. ABA has not taken a position on any deposit insurance legislation. Instead, we have developed a series of recommendations that focus on FDIC emergency authorities, studying increased deposit insurance levels, and reforming the resolution framework.

We think that bills that are being introduced are useful discussion points, and it is worth having the discussion now while we are not in a crisis situation.

Mr. SHERMAN. Thank you. I yield back the last 8 seconds.

Chairman BARR. The gentleman from Tennessee, Mr. Rose, is now recognized.

Mr. ROSE. Thank you, Chairman Barr and Ranking Member Foster, for holding this important hearing, and thanks to our witnesses for taking time to be with us today.

I want to highlight the issue of limited banking access for independent ATM operators. Many have reported difficulty in establishing and maintaining existing banking relationships due to a mistaken belief that they pose a higher money laundering risk despite little or no evidence to substantiate that.

Additionally, some have lost long-standing bank accounts without clear explanation, often due to overly cautious compliance practices. It is crucial to address and prevent the debanking of independent ATM operators in my opinion.

Mr. Carney, would the American Bankers Association support requiring merging banks to demonstrate how their post-merger compliance framework will balance anti-money laundering obligations with the statutory duty to meet the convenience and needs of lawful businesses such as independent ATM operators?

Mr. CARNEY. I think there are two components to that question. One, for the first part, banks that are going through a merger are complying with Bank Secrecy Act (BSA) requirements before, during, and after the merger.

To the broader question, though, you raise a very interesting point related to compliance, BSA compliance, and access to financial services and the rules on the BSA side are very much outdated. They are more focused on cash transactions than anything else, which does raise some flags with those independent operators that you are talking about.

It is worth mentioning that over 20 million Currency Transaction Reports (CTRs) annually are filed. That is one out of almost every 16 Americans, which is an extremely high amount. The net is capturing too much, and I think there needs to be an evaluation of whether or not those levels are set at the right level.

Mr. ROSE. Okay. Thank you.

Mr. Carney, roughly, what percent of American Bankers Association members currently provide banking services to independent ATM operators?

Mr. CARNEY. I do not have that information, but I can try and find it.

Mr. ROSE. Yes, if you please will, and maybe respond in writing as we move forward.

Dr. Michel, should banks that categorically deny services to entire industries like independent ATM operators without individual-

ized risk assessments be reflected negatively in their ratings during merger reviews?

Mr. MICHEL. Well, given the Bank Secrecy Act requirements, I would have to say no, that is not really fair. I think the problem—I think really that is the core of the problem. It is the BSA. It is overly broad, a lot of discretion there and we know that it is not—it is catching up a lot more people in a dragnet than actually criminals.

That is, I think, the base of the problem, really, or the core of the problem. It is not the banks. It is not the ATMs. It is the Bank Secrecy Act.

Mr. ROSE. Sure. I guess I would—to maybe give a little background here, I had worked on this issue during the time I have been in Congress. Former Congressman Blaine Luetkemeyer and former Congresswoman Carolyn Maloney and I worked—dug into this issue, ultimately, achieving getting the prudential regulators to amend the Federal Financial Institutions Examination Council (FFIEC) examination manual to note specifically that independent ATM operators do not present an extraordinary risk.

Then, ultimately, we were able to get each of the regulators that participated in the FFIEC to note in specific to their examiners that this was not the case. Yet, we continued to see banks debanking independent ATM operators.

So it is a very real concern to me. While I hear what you are saying about the Bank Secrecy Act, I think there should be sufficient guidance at this point to banks that there should not be a categorical disadvantage given to customers who operate independent ATM networks.

Mr. Barresi, the Bank Merger Act requires consideration of anti-money laundering compliance, but is it not equally important to ensure that the banks are not being overzealous in applying those rules in ways that result in broad denial of services to lawful industries, like ATM operators?

Mr. BARRESI. I think in—again, in this ATM operator case, it is a difficult case, and I do not know enough about the ATM operator and—and I think BSA/anti-money laundering (AML) compliance is a real issue.

In my view, the regulatory analysis that has historically occurred in connection with bank mergers is plenty robust in its current form, and I would not look to expand that.

Mr. ROSE. Thank you. My time expired. I yield back.

Chairman BARR. The gentleman yields.

The gentleman from Mr. Illinois, Mr. Casten, is now recognized for 5 minutes.

Mr. CASTEN. Thank you, Mr. Chair. Thank you all for being here.

I have to preface this by saying the questions I am going to ask are completely bizarre, because it never would have dawned on me a year ago that I would ever be asking the questions I am about to get to, but we are in different times.

I am going to preface that by saying that I think the single best way—and I presume you would all agree—the single best way that we ensure a robust financial system is to ensure a robust economy. Rising tide tends to lift all boats.

Number two, everything that we all learned of substance in our freshman macroeconomics class is now deeply partisan. I learned that an independent Fed was a good idea. I learned that the 1890s and having a financial panic every decade was bad, and the United States policies that led to that were bad but to acknowledge that now is to be partisan in this town.

I say all that because I would like you to answer this as if it was a year ago, because I think my freshman macroeconomics book is still right. As a friend of mine who describes herself as an Anarcho-Libertarian recently told me, this moment is proving that the economists are always right. That is funny and not funny.

Mr. Carney, I want to start with you specifically given the ABA's role in our mortgage markets. The Fed, of course, there is all this pressure for the Fed to cut rates, but the Fed, of course, only cuts the overnight borrowing rate and the—I think the general consensus—and I guess I would ask you if you agree—that 30-year mortgages tend to index more off the 10-year Treasury than the overnight rate.

Would you agree with that?

Mr. CARNEY. I think that is generally correct.

Mr. CASTEN. Okay. I think Fannie has made that point as well.

So what is your sense, then, of why it is that over the last several months we have seen a steepening yield curve? Put another way, a growing spread between the Fed funds rate and the 10-year Treasury. The 10-year Treasury has not really budged much, even though the rate been cut over the last several months.

What is your sense of why that yield curve is steepening right now?

Mr. CARNEY. I am not in a position to actually answer that. I can ask some of our economists to try and find out more information on why that spread is occurring. There could be a variety of factors related to increased credit risk or things along those lines.

Mr. CASTEN. Okay. Well, I mean JPMorgan, one of your members, has said that the—they have ascribed it to concerns over tariff uncertainty, higher nature of inflation and fiscal deficits.

Mike Konczal, the Twitter writer, has described this as the moron premium because if you have a risk about the long-term stability, you tend not to assume that current things are going to work through. In that vein, we have now got these attacks on the independence of the Fed, a tax on Lisa Cook.

Citadel CEO—a pretty partisan guy, I would add—recently wrote an op-ed saying that these actions risk stoking high inflation and higher long-term rates. We have attacks on—you know, I guess if you do not like the data now, you just fire the head of the data agency. So we fired the head of Bureau of Labor Statistics (BLS) because BLS gave numbers that—that a certain man-child did not like.

Dr. Michel, in a recent NEW YORK TIMES article talking about that firing, you said, quote, “We will just start seeing things get chipped away and eventually it kind of blows up.”

Would you agree that when the government manipulates data, as we saw when Argentina distorted their inflation rate, when we saw that when Greece manipulated deficit, that tends not to end well?

Mr. MICHEL. Yes, I would agree with that. That is not a good spot to be in. Hope that does not happen.

Mr. CASTEN. Did you ever think we would be at a point where we would be comparing U.S. macroeconomic policy to Argentina and Greece?

Mr. MICHEL. Not in this way, no.

Mr. CASTEN. It just strikes me that we are sitting in this moment. Well, we are talking about bank stability. We all want bank stability, right? Why would the Fed lower rates right now? Inflation is close to 3 percent. It is not at the 2 percent target.

The way to lower inflation would be to cut tariffs, but that would, of course, to be—acknowledge the 1890s monetary policy was stupid. We are not going to do that.

So maybe we are going to lower rates because unemployment is going to go so high, and I guess the—all of these employment data is pointing in that direction, but stagflation is a terrible idea for all of us. If we cannot, on a bipartisan basis, acknowledge that my freshman macroeconomics textbook is still right, then we are going to make all of your banks, all of your clients in a—much, much less stable than they are.

I just hope we can—we can start acting like adults again pretty soon and not just on this side of the aisle.

I yield back.

Chairman BARR. Gentleman yields.

Gentleman from South Carolina, Mr. Timmons, is now recognized.

Mr. TIMMONS. Thank you, Mr. Chairman. I guess I will start by saying I wish my colleagues across the aisle had not spent \$7 trillion in their 4 years to get us into this situation with high interest rates and high inflation.

Now, on to the actual subject at hand. When Congress passed S. 2155, we recognize that small community banks, particularly those in rural areas, were being overburdened by capital requirements that were originally designed for the largest and most complex institutions. That is why we created the Community Bank Leverage Ratio.

The Community Bank Leverage Ratio (CBLR) was intended to provide a simpler, more appropriate capital framework for low-risk community banks. It was supposed to reduce compliance costs and give small institutions a clearer path to demonstrate capital adequacy, allowing them to focus more on serving their customers and less on navigating complex regulatory frameworks.

However, the results so far suggest that the framework is not functioning as intended. Today, only about 41 percent of eligible community banks have chosen to opt in. That tells us there is a disconnect between the policy goal and the practical outcome.

For small banks operating with limited staff in tight margins, unnecessarily high capital requirements mean fewer loans to small businesses and fewer resources for their communities.

Mr. James, what are some of the reasons that only about 41 percent of community banks have opted into the CBLR?

Mr. JAMES. Congressman, I think some of the reasons are some of the things that you stated in your question. I mean, I think our institution, as well as the National Bankers Association, are in

support of the Community Bank Capital Flexibility and Growth Act of 2025, which would adjust down slightly those—that community bank leverage ratio in order to allow us to deploy more resources for staff as well as systems that will help us to be more efficient in serving the community.

So I cannot speak for all the institutions that did not opt into the Community Bank Leverage Ratio. We have. We tend to be very conservative about how we manage our capital, but it would allow us a little more flexibility if we could move that number down slightly so that we could invest those resources back into growing our team, as well as our technology resources to better serve the communities across the State of Georgia and Alabama.

Mr. TIMMONS. Thank you for that.

Follow up to that, Mr. Carney, what are some potential changes that could make the CBLR a more practical and attractive option for these institutions?

Mr. CARNEY. Just to pick up where Mr. James started, when we talked to institutions about opting into the Community Bank Leverage Ratio, one of the things that we have heard is that banks like to hold buffers above any regulatory minimum. So, a bank opting into 9 percent might only be comfortable doing that if they are at 11, 12, 13 percent.

Oftentimes, we have been very disappointed that only 1600 of the roughly 4,000 institutions eligible have opted in. We are supportive of lowering the Community Bank Leverage Ratio, and also, we are supportive of increasing the threshold in which banks may opt in. That is another \$10 billion mark.

Chair Barr mentioned the Durbin amendment and a number of other things that are tied into \$10 billion, and this is another one and this is another threshold that can be indexed.

Mr. TIMMONS. Thank you for that.

I would also like to highlight the critical role that community banks and credit unions play in the rural areas of my district.

Many of these institutions have served local families and small businesses for generations. Their success is not built on sophisticated technology, but on deep relationships and trust within the community. Yet, I consistently hear from these institutions that the rising cost of compliance and the duration of regulatory examinations are placing significant strain on already limited resources and personnel.

One particular area of concern is the treatment of brokered deposits. For many community banks, brokered deposits are a critical tool for managing liquidity in a safe-and-sound manner. However, inconsistent definitions and overly broad restrictions have created significant regulatory uncertainty, even in cases where there is little to no elevated risk.

Mr. Wiley, can you discuss some of the ways community banks use the brokered deposits to access funding that allows them to make more loans to small businesses and families?

Mr. WILEY. I am sorry. I am struggling to hear you a little bit. More ways that banks can access funding, is that what you said?

Mr. TIMMONS. Can you discuss some of the ways community banks use brokered deposits to access funding that allows them to make more loans to small businesses and families?

Mr. WILEY. Well, I do think they need them. I do think that the rules need to be relaxed a little bit, and they need to be customized for the bank, and they need to be used—judgment needs to be used by the local regulators.

Mr. TIMMONS. Thank you for that.

It is essential that our regulatory framework reflects the realities community banks face and that it supports their continued role in strengthening local economies.

With that, Mr. Chairman, I am out of time, and I yield back.

Chairman BARR. The gentleman yields back his 5 seconds.

The gentleman from Massachusetts, Mr. Lynch, is now recognized.

Mr. LYNCH. Thank you, Mr. Chairman and Ranking Member Foster, and I want to thank the witnesses. You have been very helpful today.

In the wake of the—some of this is going to follow up on Mr. Huizenga's line of questioning earlier. In the wake of the collapse of First Republic, Silicon Valley Bank, and Signature Bank in 2023—at the time those were the second, third, and fourth largest bank failures in U.S. history—consumer and advocacy organizations, such as Better Markets and Americans for Financial Reform raised some serious concerns about the advantages that were being afforded to large, interconnected financial institutions in bidding for the assets of those failed banks.

Now, while Federal law prohibits large banks with more than 10 percent of total U.S. deposits from acquiring another bank, that nationwide depository cap does not apply, as you know, to the acquisitions of failing banks. As you also know, the FDIC is currently required to resolve a failed bank by selecting the bid that would present the least cost to the deposit insurance fund.

In the case of First Republic, JPMorgan Chase, the largest U.S. bank with more than—well, now it has got more than \$4 trillion in assets, entered into a purchase and assumption agreement with the FDIC to assume more than \$100 billion in deposits, and \$230 billion in assets, and a deal that included a FDIC loss share agreement that greatly reduced the risk and cost of that acquisition by requiring the FDIC deposit insurance fund to absorb the majority of losses that may have resulted from certain First Republic loan portfolios.

While a number of healthy banks also bid to acquire First Republic, JPMorgan officials stated that their winning bid was predicated on the bank's financial strength and business model that facilitated a minimal cost transaction.

Again, to Mr. Huizenga's point, JPMorgan then promptly announced plans to shut down one quarter of First Republic's 84 branches, which they viewed as duplicative or redundant to their own operation and their existing network, at the expense of depositors who were left with no local branch, and then we had about a thousand employees who were laid off.

So Mr. James, as we seek to promote health in the banking sector, can you offer us your perspective on why it might be important to ensure that smaller qualifying institutions, community banks, regional banks, might have a fair shot when it comes to bidding on the assets of those failing banks?

Mr. JAMES. Thank you, Congressman.

The diversity of our financial institutions is extremely important to the functioning of our economy. I think one of my colleagues stated earlier that the American financial system is the best in the world because of its diversity, because of the different types of institutions.

So we would support maintaining that diversity, particularly when it comes to resolution. Ensuring that smaller institutions have fair opportunities to acquire and resolve failed institutions is critical to those depositors in the communities that those institutions were serving.

Mr. LYNCH. That is great. Thank you.

So I will be introducing my legislation, the Failing Bank Acquisition Fairness Act to enhance fairness in this bidding process and recognize the critical role that smaller financial institutions, either community banks or regional banks, serve to provide tailored banking services to their communities and advance financial inclusion.

Specifically, my bill would restrict larger financial institutions that hold more than 10 percent of total U.S. deposits from acquiring failed bank assets where community banks or other smaller institutions have also submitted a qualifying bill.

So I am grateful to my friend, French Hill, Chairman Hill, and Chairman Barr for attaching a discussion draft of this legislation to be discussed today.

Do any of the other witnesses have any thoughts on that? I mean, it seems to make sense that if we want to increase competition, and also, we want to provide—provide those services to a wide—a wider community, then it is better to let—let as many banks bid as possible and have the opportunity to be successful.

Mr. CARNEY. So ABA is supportive of expanding the least cost test and what bids are considered, things we have considered—thought about is community bank consortium bids. The FDIC generally also has a preference for whole bank, which automatically excludes smaller institutions because it is very difficult for a small bank to put a bid on a larger institution. However, you could bid on parts of it, and so we do think these are issues worth exploring.

Mr. LYNCH. Okay. That is great.

Mr. Chairman, my time has expired, and I yield back. Madam Chair, sorry.

Mrs. KIM [presiding]. Thank you.

I now recognize the gentleman from Nebraska, Mr. Flood, for 5 minutes.

Mr. FLOOD. Thank you, Madam Chair. Thank you all for being here.

It seems to me the fundamental question that we have today is how should we prioritize different policy goals as it relates to the bank resolution process?

One recent instance where we saw some of these public policy goals collide in real time during a fast-paced resolution process was during the collapse, as Mr. Lynch noted, of First Republic Bank back in 2023. After being appointed receiver for First Republic, the FDIC entered into a purchase-and-assumption agreement with JPMorgan Chase to assume all of First Republic's deposits and most of its assets.

Now, because of this agreement, the regulators did not have to use the systemic risk exception for First Republic. Instead, they found a transaction that would allow another bank to take on the uninsured deposits and, thus, save the DIF from another costly hit after the collapse of Silicon Valley Bank and Signature Bank in March of the same year.

If your objective is to minimize losses to the DIF, this move made sense. To be clear, with the statutory least-cost resolution for the FDIC of minimizing cost to the DIF is their primary objective.

The question here is whether we, as policymakers, should adjust the priorities of our regulators in these situations going forward. While I understand that is the merits of the least-cost resolution, I understand that. If we end up with resolutions that lead to a U.S. bank crossing the 10 percent of total U.S. deposits threshold, particularly since there were reports of other bids on First Republic, then perhaps we need to think more about which factors we are optimizing to.

So my first one is for Mr. Barresi. Do you feel that the least-cost resolution mandate should remain unchanged? If not, what do you think the other factors we need to consider are in the process?

Mr. BARRESI. Thank you for the question, Congressman.

No, I do not think the least-cost resolution provisions should remain unchanged. I do think that careful analysis is required to understand cost, right? We talked a little bit here today about restricting competition. There is cost associated with that, although that is not viewed as part of the equation currently.

Timing is also another factor but I do think that some of the policy suggestions that you have made are very helpful and enabling other institutions to participate, or even have a successful bid, if it is a reasonable bid, over a—north of 10 percent bidder is helpful to competition in the system and should be implemented.

Mr. FLOOD. Thank you.

Dr. Michel, how do you think we should think about these conflicting priorities in this area? If we are weighing the public policy objective of minimizing the cost of the DIF against the public policy objective of preventing further market concentration of the banking market, what is the right way to think about this effective balance between these two competing priorities given that, in my opinion, when you exceed 10 percent of all U.S. deposits, that can be very dangerous and to have that kind of market concentration.

Mr. MICHEL. Well, I mean, you cannot have everything, so to speak, right? I mean, if you are going to have the FDIC run this, and you are going to have exclusively FDIC deposit insurance, and you are exclusively going to have to protect it, then you have opened the door and you have created the reason to have all of these rules and regulations, you know.

Yet, you still have a fair amount of discretion, and good reason to believe—or at least reason to believe that the primary reason nonbankers were held out of that resolution process was simply a bias against nonbanks by the chairman at the time.

So, I mean, I think you could pick any one area that you want to, sort of, focus in on and restrict more, but—like, eventually, you are going to have to pick something, right?

Mr. FLOOD. Understood. You know, in my opinion, if we tweak how the FDIC handles the resolution process, I will not want to inject lots of subjectivity and complexity to it.

To your point, I know that the American Bankers Association has supported some policy change around resolutions, and my time is running out. I think it is important, though, that we pay attention as Members of Congress to the market concentration issue as banks get bigger.

I come from a State that prides itself on community banks and sometimes I wonder will we be able to preserve this very Main-Street level of banking opportunity for people in my State.

Thank you. I yield back.

Mrs. KIM. Thank you. I now recognize the gentlewoman from Ohio, Mrs. Beatty, for 5 minutes.

Mrs. BEATTY. Thank you, Madam Chair, and ranking member, and thank you to the witnesses for being here.

Madam Chair, let the record show that I had a series of questions on CDFIs, but in light of the conversations, so many of those questions being addressed, I would just like to enter into the record that I support those words and especially those of Ranking Member Maxine Waters.

Mrs. KIM. Sure. Without objection.

Mrs. BEATTY. Also, in that same light, I would like to express that the March executive order by President Trump that directed the funds to be reduced or eliminated is not something I support, nor that in May of this year when the White House put out their budget documents that included a proposal to wind down CDFI funds, that I am also in opposition with that.

Now, with that said, I will move on to the reciprocal deposit bill and say thank you first to Mr. James for your comments in support of that. I would also like the record to know that I have colleagues on both sides of the aisle, and three members on the other side who are cosponsors of that bill, and Andy Barr mentioned it today prior to his leaving.

Mr. James, I am going to start with you. Before I go to my question, let me just say thank you. I have had some time and have been in Savannah, Georgia, and have some mutual banking friends who had just praised the work that you and your family—that you have done and that you continue to do there in your financial institution.

Thank you for identifying working with CDFIs, or MDIs, only 2021 in the country now of MDIs. You used the terminology, “financial freedom” and thank you for that, because I think that puts into perspective what we do here when we talk about the economy and we talk about finance, that one of the things in banking is to make sure that we have financial freedom for individuals.

I will go on to my bill with Congressman Emmer and myself. As you know, this bill updates the reciprocal deposit caps to allow for greater flexibility for community banks to receive nonbrokered treatment of reciprocal deposits.

Can you have some dialog with us on what types of depositors use reciprocal deposits, and are they business folks, are they individuals, not-for-profits, et cetera?

Mr. JAMES. Congresswoman, first of all, thank you very much for the bill, and thank you for continuing to have a bipartisan support for expanding opportunities for small community institutions like ours to access deposits that we can in-source back into our community.

Our institution has survived for 98 years. We will be celebrating our 98th birthday in February 2026 and the reason we have been able to do that is because we have been able to invite a diversity of institutions to support us.

So the types of institutions that support our institution—which, again, is headquartered in a census tract that has almost 70 percent poverty—are individuals, corporations, nonprofits, municipalities, and larger financial institutions.

It is really critical for us to be able to deliver services and have impact in our community to deliver on our mission, which is to provide the building blocks to financial freedom, to be able to bring capital from other places. Folks in corporations, or larger institutions, or nonprofits that are interested in the impacts that we have in community and are willing to make large deposits with us have allowed us to actually almost double the size of our institution on the heels of the historic investment in the CDFI fund that has trickled down into our institutions.

So, being able to access that liquidity from larger organizations has really amped up our ability to invest in small businesses and home ownership and—

Mrs. BEATTY. My time is going to run out but I did want to go to Mr. Carney and ask him, how important are reciprocal deposits, in your opinion?

Mr. CARNEY. Reciprocal deposits are important, and expanding their access without any sort of negative inference from regulators is very important.

The legislation you mentioned would be a positive step forward. Again, we think that the bigger issue relates to brokered deposits and the need to repeal Section 29 of the FDIA.

Mrs. BEATTY. Thank you. Hopefully, we can continue this dialog. I yield back.

Mrs. KIM. Thank you and I now recognize myself for 5 minutes of questioning, and I would thank all of our witnesses for joining us today.

In California, where I am from, community banks have relied upon the Community Bank Leverage Ratio to lower their regulatory burden, and instead, invest that money saved in the communities around them.

However, if we could lower the Community Bank Leverage Ratio by an additional percentage point or more, we could see even more community banks uplifting their surrounding communities. Congressional Research Service (CRS) estimated in 2020 that lowering the Community Bank Leverage Ratio from 9 percent to 8 percent would result in an additional 550 banks being eligible for a simple capital ratio and lower regulatory burden.

So in California an additional eight banks would have been able to receive regulatory relief and spend more time focused on their community and customers. That is why I am introducing the Community Bank Lift Act, which would review the components of the

leverage ratio, and allow regulators to lower the Community Bank Leverage Ratio and make needed reforms to the ratio.

So combined, my bill will help uplift community banks and allow them to better serve the communities. Now, let us talk about the community banks that have opted into the Community Bank Leverage Ratio framework.

Can you tell me—Mr. Carney, let me start with you—what benefits would they experience compared to the traditional capital requirements?

Mr. CARNEY. The Community Bank Leverage Ratio allows banks to—if they opt in, to just do a simple leverage ratio requirement rather than the complex risk-based regime. There is significant compliance costs related to the risk-based regime.

The first immediate savings would be taking that compliance cost and being able to deploy it in the communities that they serve.

By lowering to 8 percent or lower, you would also lower the minimum capital requirement that they are using, and that would free up resources. One thing I just want to note is that even banks that—many banks that are eligible have not opted into the framework even though they have—exceed the capital levels.

In part, that is because they want to maintain buffers above any minimum threshold. As a result—you mentioned 500 banks. I would expect, if you dropped it to 8 percent, you would actually have more than 500 banks opting in.

Mrs. KIM. I was talking about how it affects my district, too but as we can see, there are some tangible impacts that this will bring on our community.

Mr. CARNEY. Absolutely.

Mrs. KIM. Can you also talk about how would that additional flexibility allow community banks to support small businesses through more robust lending? Can you talk a little more—

Mr. CARNEY. Oh, sure. Absolutely. Capital generally is viewed as the most expensive form of funding. It is a buffer. It is the first exposure to taking a loss at a bank. Therefore, investors demand a higher—higher rate. Those higher amounts would be passed through to customers if you have higher capital requirements.

So by lowering the Community Bank Leverage Ratio, in effect, you are making products and services for bank customers cheaper and more available.

Mrs. KIM. Thank you. In 2023, when Silicon Valley Bank collapsed, many of my constituents feared that this would be the first of many California banks to collapse. Thankfully, that did not happen and—but we have been proactive now to ensure that we learned from that crisis. One thing that we have identified through those subsequent hearings is that there is a stigma associated with the discount window.

Let me ask this question to Mr. Wiley. Do you have any recommendations on how we can address the stigma surrounding the discount window?

Mr. WILEY. The stigma around what again?

Mrs. KIM. The stigma around—

Mr. WILEY. Oh, the Discount Window. Yes, I am sorry.

Mrs. KIM. The Discount Window. Yes.

Mr. WILEY. Well, there should not be one, that is for sure, and maybe that is communication and promotion from the regulators more than anything. I do not think there should be a stigma with that at all, but you have to assume that there will be some banks that do not go to the Discount Window and say—you know, try to use that against their competition.

I will tell you, in dealing with trust preferred and Treasury lending and things like that in the past, you know, from 2008, that stigma was not real big.

Mrs. KIM. Let me ask a question to Mr. Barresi. What role do you think confidentiality protections could play in removing the stigma around the Discount Window, since you seem to know more about it?

Mr. WILEY. Do I think there should be some confidentiality—

Mrs. KIM. I am talking to Mr. Barresi.

Mr. WILEY. Oh, I am sorry.

Mr. BARRESI. I do think the confidentiality requirements, if expanded, would help remove stigma. I know lots of banks that are very worried about accessing the Discount Window, some who do periodically test and very intentionally do it in very small denominations so it is clear that when publication occurs they do not need it. So anything that could make the tap more confidential would help, as would requiring banks to do it more consistently.

Mrs. KIM. Thank you. My time is up.

Let me now recognize the gentleman from Texas, Mr. Green, for 5 minutes.

Mr. GREEN. Thank you, Madam Chair.

I thank the ranking member for her comments and would associate myself with the comments of the ranking member.

I would call to our attention the intelligence that has been provided to me indicating that there are 4,487 FDIC-insured institutions, and it is my belief that less than 50 are Black-owned. In fact, less than 40 are Black-owned. To be more accurate, less than 30 are Black-owned. To be even more accurate, less than 1 percent are Black-owned.

I am interested in knowing how we can use this topic of funding access to acquire more Black banks. I have been with friends who started banks. It is not easy to acquire Tier 1 capital. Tier 1 capital. There is not a Black bank in the country with \$10 billion in Tier 1 capital; probably two exceed \$1 billion, probably two.

Now, Mr. James, you are much more educated on these things than I, so correct me, do we have more than two Black banks with Tier 1 capital exceeding a billion dollars?

Mr. JAMES. Thank you for the question, Congressman Green.

Actually, there are 25 Black-owned institutions in the United States, and there are two that exceed \$1 billion in total assets. Technically, no, there are no institutions that are Black-owned that have more than a billion dollars in Tier 1 capital. These are institutions that are just over a billion dollars in total assets.

Mr. GREEN. The truth is this: We did not get here because Black people are not intelligent, because they cannot count, because they cannot be educated. It is racism. So the question becomes, how do we overcome this racism so that Black people can own banks and acquire capital? I do not have the answer, but I know what has cre-

ated the problem. Until we confront this, I am not sure that we will be able to resolve the issues associated with starting and maintaining Black banks.

Mr. James, do you have any answer for me to help me understand how we can acquire more Black banks and deal with the racism that still exists?

Mr. JAMES. Thanks again. I do want to acknowledge that in the last 5 years, for the first time in American history, we have seen a convulsion in the United States economy, such as what happened during the pandemic, and actually not seen a decline in African American owned institutions.

Typically, you know, when you had the Great Depression or the Great Recession, you would lose—typically around half of the Black-owned institutions would fail because they were undercapitalized. In the last 5 or 6 years, there has been more capital available, and so we have actually seen a slight uptick. At the beginning of the pandemic there were only 19 Black-owned banks and now there are 25. That is good news.

I think it would be very helpful to, again, you know, reduce that Community Bank Leverage Ratio to a smaller—to a smaller number to increase the access for reciprocal deposits and other forms of liquidity so that you can have smaller institutions of all types, whether they serve urban and rural communities, whether they be Black-owned or owned by anyone else, where you just could encourage more competition and more different types of institutions.

Regulatory reform is also important, because if we can evolve regulatory regulation, we can have more institutions.

Mr. GREEN. I am going to have to intercede—I will have to intercede because I have to close with this. Two things. The first is, I think that we can do things to help all banks, but at some point we will have to do something to help Black people. We really will. We did not get here because we were unable to help ourselves. It was because others would not allow us to help ourselves.

The final thing is, are there no women who can do what you men do? I always pay attention to who is on these panels. All-male panel, but for this African Amer—I assume you are African American. You look like one to me. I do not know but for the Democrats, we would not have an African American on the panel.

Mr. FITZGERALD [presiding]. The gentleman's time has expired.

Mr. GREEN. The gentleman's time has always expired. I yield back.

Mr. FITZGERALD. The gentleman yields back.

I now recognize the gentleman from Pennsylvania, Mr. Meuser.

Mr. MEUSER. Thank you, Mr. Chairman.

Thank you to our witnesses for the last couple of hours, 2.5 hours of testimony. Important information being provided. Thank you.

In 2018, Congress passed S. 2125—or 55 to tailor regulations for banks on asset size, providing relief to community banks. The Trump Administration now is continuing this push, moving away from a one-size-fits-all regulatory approach, while the Biden Administration really was pushing the opposite way. Recently, Fed Vice Chair of Supervision Bowman proposed changes to Community Bank Leverage Ratio, a framework that allows community

banks to meet a single simple capital standard of 9 percent, as you well know and we have been discussing.

Important changes to reciprocal deposits like those proposed in Emmer's bill, which I co-sponsored, could provide a stable source of funding for smaller banks, especially those that rely on the reciprocal deposits to give their customers extra protection.

Mr. James, I would like to start with you. Community banks follow complex rules that assign different capital requirements depending on the type of asset they hold. The Community Bank Leverage Ratio takes a simpler approach. Banks just need to hold capital equal to at least 9 percent of the total assets. Why is this a simpler standard—why is this simpler standard more effective? Do you believe in it, and how would lowering that threshold as Vice Chair Bowman suggested help banks like yours?

Mr. JAMES. Thank you very much for your question. I want to echo the comments earlier of my colleague, Mr. Carney. Just simplicity and flexibility. I mean for a small institution like ours that has a very limited staff and limited resources, complying with complex rules just takes resources away that we could otherwise deploy in communities. By having that Community Bank Leverage Ratio, that simplifies one of the many myriads of regulatory requirements.

If you want to encourage more institutions and more competition and more access to capital, particularly within regulated financial institutions, so that you are not just having a proliferation of non-regulated banks and financial institutions, then reducing that Community Bank Leverage Ratio is a good idea, because it will bring more people back into a regulated financial system that would not expose folks to as much risk.

Mr. MEUSER. Very well said. Thank you.

Mr. Carney, similar question. What do you see as the biggest advantage of having capital requirements designed specifically with community banks in mind?

Mr. CARNEY. The Community Bank Leverage Ratio is specifically designed for community banks. It does provide the relief that we have been discussing. We would like to see that relief expanded. We would like to see the Community Bank Leverage Ratio level drop to 8 percent at most. Regulators can do that currently within their purview now, but Congress can actually drop it lower than that amount also.

By doing so, you will have more banks opt in. Banks have typically tried to hold buffers above regulatory thresholds. If it is 9 percent now, they would only be comfortable opting in if they were at 11, 12, 13 percent. By lowering that ratio, I think you would have—community banks would have a lot more resources to deploy into their communities and compliance costs would be cut.

Mr. MEUSER. All right. Important comments. Thanks.

On a scale of 1 to 10, how hard is it for community banks to comply with the current complex rules compared to the straightforward CBLR?

Mr. CARNEY. The Community Bank Leverage Ratio is almost automatic. It is a leverage ratio within the call report, so compared to anything else, it is a lot easier.

Mr. MEUSER. Great. Mr. Wiley, reciprocal deposits are a way for banks to give customers more FDIC insurance coverage than the usual 250K limit. For the benefit of people back home, can you explain in simple terms why banks engage in them?

Mr. WILEY. Why do banks typically use reciprocal deposits?

Mr. MEUSER. Yes.

Mr. WILEY. One, to access funding because they need it and they are growing. Two, customers that they have, they want to reduce the risk and try to get under the \$250,000 limit.

Mr. MEUSER. Do you see any harm in it? Do you see any harm in it?

Mr. WILEY. Pardon me?

Mr. MEUSER. Do you find any harm in it?

Mr. WILEY. Do I find harm in it?

Mr. MEUSER. Right.

Mr. WILEY. No.

Mr. MEUSER. Okay. Good. That is what I wanted to ask. All right.

Mr. Chairman, I yield back my time.

Mr. FITZGERALD. The gentleman yields back. I now recognize myself for 5 minutes.

Thank you, gentlemen, for being here this afternoon.

I am also a member of the Judiciary Committee, chairing the Antitrust. My first question kind of goes to—it is a bigger question—but I believe, my opinion, the Biden-Harris Administration took kind of a negative posture toward mergers and acquisitions across the board, resulting in applications being substantially—they were either delayed or there was very little transparency. U.S. bank mergers faced kind of a unique multiagency review requirement involving both antitrust and prudential regulators. In my opinion again, caused delays and uncertainties. It was varying from whatever sector you were referring to.

Healthy mergers can increase, obviously, competition to make the banking system more dynamic. Allowing banking organizations to realize the economies of scale and scope via mergers or acquisitions creates competition and generates cost savings that can be passed on. I understand that there are issues with the size of some of these institutions, but I just felt there was kind of a negative approach to this.

So, Mr. Barresi, it is kind of self-serving, but I have a bill, the Bank Competition Modernization Act, which is noticed to this hearing, including the provision directing regulators to find that mergers resulting in a bank with less than \$10 billion in assets do not create a monopoly or substantially lessen competition.

So given your experience—I know you have kind of addressed some of this stuff directly and on the fringe here this afternoon—but can I just ask you, what is your opinion on this, and given your experience advising banks, specifically finance firms and fintechs, how do you advise them to approach this moving forward?

Mr. BARRESI. I think your proposal is—would be very helpful and if I can, I am going to try to tie together a few things we have talked about. It is incredibly difficult for small banks to compete in the United States of America. If you look at ratios of returns on assets, returns on equity, multiples in the market, stock price, in

other words, there is a direct correlation between size or scale on the one hand and positivity on the other. Good returns.

Small banks face a huge uphill battle and allowing them to combine in a way that is efficient and fast and does not cause them operational difficulty while they are waiting for extensive periods of time to obtain approval is very helpful. Banks are subject to tons of competition from credit unions and financial technology companies. You are hard pressed to say that you cannot find access to financial services in the United States, except in some rural areas where it can be hard to get physical presence.

So I think what you suggest is a good idea, and I think it would help not only with the approval process but with a host of things that we have discussed as to why it is tough to be a small bank.

Mr. FITZGERALD. Mr. Carney, let me just ask you quickly. The Competition Modernization Act is designed to ensure regulators fully account for all types of competitors, including credit unions, the farm credit institutions, and nonbank financial companies. How would you include these additional entities in a competitive factor when you are trying to analyze this, giving the regulators a more complete picture of the full market?

Mr. CARNEY. The merger rules are over 30 years old now. Goes back to 1995. Banking and financial services have fundamentally changed and so taking into account competition wherever and however that competition occurs is important. Focusing in on local bank branches is no longer appropriate.

Mr. FITZGERALD. Very good.

I will just finish, Mr. James, can you talk a little bit about when you are involved in a merger and you find yourself having to continue to market your services and you are caught in maybe a 90-day holding pattern?

Mr. JAMES. Thank you for the question. Yes, I think quicker resolution of merger and acquisition activity would always be helpful so that you can stop focusing on compliance and regulation and be more focused on—and get more focused on customers. You know, we have seen instances where customers get concerned about the debit card number changing and core conversions, and those are real operational issues that we would rather focus on, rather than complying with regulation or responding to inquiries from supervisors.

Mr. FITZGERALD. Very good. Thank you so much.

I would like to thank all the witnesses. Thank you, gentlemen, for being here this afternoon.

Without objection, all members will have 5 legislative days to submit additional written questions for the witnesses to the chair. The questions will be forwarded to the witnesses for the response. Witnesses, please respond no later than October 14, 2025.

This hearing is adjourned.

[The information referred to can be found in the appendix.]

[Whereupon, at 4:36 p.m., the subcommittee was adjourned.]

APPENDIX

MATERIALS SUBMITTED FOR THE RECORD

9/9/25, 8:31 PM

Chicago's crypto ATMs are magnets for drug-dealing and scams on older adults - Chicago Sun-Times

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THE WATCHDOGS MONEY NEWS

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The U.S. Drug Enforcement Administration warns that "virtual currency continues to be a popular and growing method used to launder illicit proceeds derived from drug sales."

By Tom Schuba and Frank Main | Jan 17, 2025, 6:30am EDT



A smoke shop in Irving Park displays signage for a bitcoin ATM inside. | Anthony Vazquez/Sun-Times

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Bitcoin, the most valuable and well-known crypto asset, got widespread attention more than a decade ago as a tool to buy drugs on so-called darknet websites like Silk Road, which was shut down when its owner was arrested by the FBI in 2013.

And big issues with cryptocurrency-related crime remain.

9/9/25, 8:31 PM

Chicago's crypto ATMs are magnets for drug-dealing and scams on older adults - Chicago Sun-Times


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What you should know about cryptocurrency ATMS

What are crypto ATMs?

The loosely regulated machines — often at currency exchanges, convenience stores and gas stations — can be used to convert cash into crypto and vice versa. Transaction fees can be as high as 30%.

Why are crypto ATMs attractive to criminals?

Officials say drug dealers and traffickers use the machines to launder drug money. Vulnerable scam victims are also directed to use the ATMs to convert cash into crypto that's then routed to fraudsters. In most cases, the money can't be recovered.

What are lawmakers doing about crypto ATMs?

Legislation was introduced last year in the Illinois Senate to regulate crypto ATMs and cap usage fees, but the bills were never called for a vote. A state senator from Chicago says the issue may be addressed again after President-elect Donald Trump takes office. Trump has become a champion of cryptocurrencies and has promised to deregulate the industry.

The DEA says in [a recent report](#) on narcotics trafficking trends that Chicago has 1,167 cryptocurrency ATMs that draw users from other states that don't have as many of them. The machines, found at currency exchanges, convenience stores and gas stations, can convert cash into crypto and vice versa.

In addition to drug-dealing, the ATMs are used for scams. Criminals from other countries direct victims to the ATMs to send money they believe is destined for a new love interest or a utility or bank they're convinced they need to pay.

Illinois legislators proposed a crackdown last year that would have forced operators to register such ATMs with the state and cap usage fees that are often exorbitant. The legislation died in the Senate without getting voted on.

Now, President-elect Donald Trump is promising to deregulate cryptocurrency in a push to grow the volatile industry.

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Donald Trump speaks at the Bitcoin 2024 conference in Nashville on July 27. | Getty Images

Law enforcement officials tasked with combating illicit cryptocurrency transactions face a moving target.

Con artists are now relying more on artificial intelligence to coax vulnerable people to drain their bank accounts. The technology can mimic the voices of loved ones asking for financial help or demanding a ransom.

Ari Redbord, a former federal prosecutor and U.S. Treasury official, says criminals are continually tweaking their methods as technologies, laws and enforcement tactics shift.

"It's the whack-a-mole that law enforcement and criminals have played really since the beginning of time," says Redbord, now the global head of policy for TRM Labs, a San Francisco-based firm that helps government agencies, financial institutions and businesses investigate crypto-related crimes.

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[Cryptocurrency exchange opens headquarters in Fulton Market](#)

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Drug dealers embrace crypto

Court records offer a window into the shadowy world of crypto money laundering and drug-dealing.

In Florida, a darknet Ecstasy dealer was busted for using a bitcoin ATM at a vape shop to make more than \$32,000 in crypto transactions, according to federal prosecutors.

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A surveillance photo of Kevin C. Fusco at a U.S. Postal Service office on Jan. 20, 2022 in Palm Beach, Fla. | U.S. Department of Justice

<https://chicago.suntimes.com/the-watchdogs/2025/01/17/cryptocurrency-crypto-fraud-scam-drug-dealing-trafficking-money-laundering-chicago-illinois>

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the chemical compound found in Ecstasy.

But in 2022, Fusco was arrested again in Florida while on probation on charges of selling Ecstasy, fentanyl and methamphetamine. His probation was revoked and he's scheduled to remain in prison until 2031.

Experts say crypto is now being used by drug mules, street-level dealers and Chinese criminals who produce the chemicals used to manufacture fentanyl, the deadly synthetic opioid contributing to most drug deaths in the United States.

"I think at every point in the drug trade ... you see bad actors who are trying to figure out how they can move crypto — because you can move crypto across borders very effectively," Redbord says. "You can move it faster. You can move it in larger amounts. That said, we can trace and track it in ways we can't trace cash."



Ari Redbord, global head of policy at TRM Labs, a firm that helps government agencies, financial institutions and businesses investigate crypto-related crimes. | Provided

Last year, nine people were charged in federal court in Florida with laundering money for Mexican drug cartels. They allegedly used black market crypto exchanges — not ATMs — to wash the money.

Some of the proceeds came from drug sales in Illinois and some of the cash pickups were made in Chicago, according to an indictment. The crypto was allegedly sold for cash in Mexico and Colombia and then delivered to cartel leaders.

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cash-laundering efforts by drug cartels.

"As the major Mexican [drug trafficking organizations'] leadership becomes younger and more tech savvy," says the DEA's recent report on drug trafficking in Chicago, "the expectation is that there will be less reliance on traditional bulk cash smuggling out of the United States."

Scammers in Africa, Eastern Europe rely on crypto ATMs

Collin Almquist, who spent years tracking terror funding and now monitors digital currencies for New York-based Chainalysis, said crypto ATMs "are much more widely used for scam victim payments than drug purchases or drug trafficking."

Tell us if you've been victimized

If you've been a victim of a scam involving a crypto ATM and want to share your story, please email tchube@suntimes.com or fmain@suntimes.com.

Notably, a scam known as "pig butchering" has been used to coax people into sending crypto to fraudsters posing as love interests.

Other popular scams prey on older adults instructed to send digital money to help an imperiled family member or pay a government debt. On Dec. 9, a New Lenox man deposited \$15,140 into a bitcoin ATM after scammers posing as Will County sheriff's officials told him he needed to make a payment for missing jury duty, according to the sheriff's office.

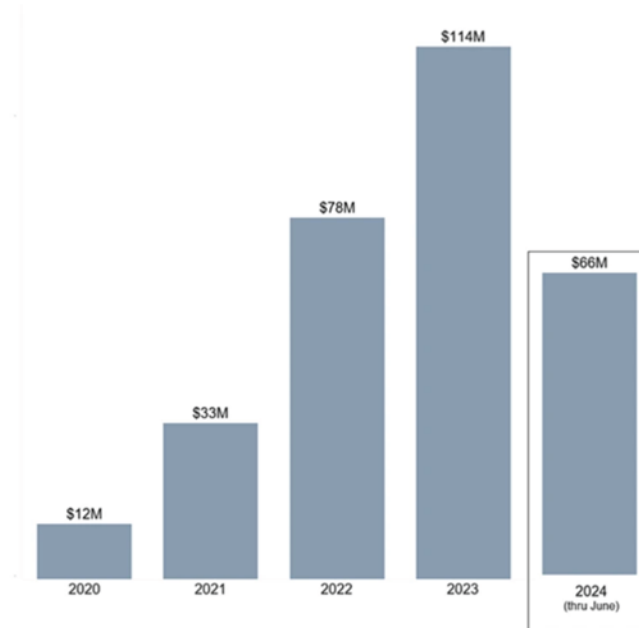
In September, the Federal Trade Commission issued a report showing fraud losses at bitcoin ATMs had risen from \$12 million in 2020 to \$114 million in 2023. Through the first half of last year, the number had already surpassed \$65 million.

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January 2020 - June 2024



These figures are estimates based on keyword analysis of the narratives provided in reports to the FTC's Consumer Sentinel Network that identified cryptocurrency as the payment method. Not all reports identify a payment method or include sufficient details in the report narrative to determine whether a BTM was used. The estimated number of reports by year are as follows: 902 (2020), 1,981 (2021), 3,698 (2022), 4,863 (2023), and 2,968 (through June 2024).

A graph included in a report issued in September by the Federal Trade Commission showing that fraud reported at Bitcoin ATMs has exploded in recent years. | Federal Trade Commission

But the FTC said its analysis "likely reflects only a fraction of the actual harm" because most fraud goes unreported.

James Morley, assistant special agent in charge of the Chicago field office for the Secret Service, says most of the cash from scams goes to criminals in Asia, Africa and Eastern Europe. But American companies also profit.

In March 2023, the crypto ATM industry was rocked by a criminal case in Cleveland involving Illinois-based Bitcoin of America. Sonny Meraban, the founder and chief executive, was accused of turning a blind eye to scammers who got their victims to send them cryptocurrency through the company's ATMs.

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raised homes in Miami and Naperville and the company's headquarters in Chicago.

Meraban was indicted on charges of conspiracy, corrupt activity and other crimes. But he pleaded guilty to the lesser charges of violating licensing requirements, receiving stolen property and possessing crime tools. He was sentenced in November 2023 to probation.



A mug shot of Sonny Meraban, founder and CEO of Bitcoin of America, an Illinois-based firm that was accused of turning a blind eye to rampant fraud. | Miami-Dade sheriff's office

Meraban also was ordered to forfeit more than 104 bitcoins valued at almost \$4 million when he was sentenced. Most of the money went to law enforcement agencies in Ohio, Illinois and Florida, but \$1.5 million was earmarked for taxes and another \$111,000 was split among 10 scam victims, court records show. The feds also seized Meraban's expensive cigarette boat.

<https://chicago.suntimes.com/the-watchdogs/2025/01/17/cryptocurrency-crypto-fraud-scam-drug-dealing-trafficking-money-laundering-chicago-illinois>

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Bitcoin ATMs to third-party accounts, prosecutors said. The scams targeted a Russian crime ring and a neighborhood group, officials said at a news conference.

Bitcoin of America wasn't accused of working directly with the criminals. Still, officials said more than 300 complaints were filed with the FTC about swindles involving the machines and the company.

The company, which operated thousands of ATMs across the country, also agreed to pay \$78,000 to scam victims in Connecticut and cease operations in that state, according to the Connecticut Department of Banking.

A message on the company's website says Bitcoin of America shut down on March 2, 2023. Meraban and the lawyer who represented him in Cleveland didn't respond to requests for comment.

Legislation dies in Springfield

State and federal lawmakers have recently focused on crypto ATMs in an effort to crack down on fraud.

In September, Sen. Dick Durbin, D-Ill., and six of his colleagues penned letters urging the country's largest bitcoin ATM operators to "take immediate action" to address scams targeting older adults.

President-elect Trump once said bitcoin "seems like a scam," but he's since become a crypto evangelist as his family business looks to profit from the digital gold rush. In September, Trump announced a new cryptocurrency venture, World Liberty Financial, in a partnership with [his two oldest sons and two tech entrepreneurs](#).

The Trump-influenced Republican platform promises to embrace and deregulate the industry. Government watchdogs warn that Trump, as president, could push for regulations that favor himself and his sons, a major financial conflict of interest, they say.

Last year, Trump promised to fire Gary Gensler, who targeted the crypto industry as chair of the federal Securities and Exchange Commission. Gensler has announced that he will step down Jan. 20, the day Trump is sworn in.

Last year in Illinois, legislators sought to serve as a check on operators of crypto ATMs with legislation that included a requirement to register kiosks with the state. The two bills weren't called for a vote.

CoinFlip, a Chicago-based firm with more than 5,000 bitcoin ATMs worldwide, was among the crypto interests that formally opposed the measures. The company and two co-founders have contributed a total of \$18,000 to political committees in Illinois since 2021, including \$2,500 last year to Cook County State's Attorney Eileen O'Neill Burke and \$1,000 in 2023 to Illinois Attorney General Kwame Raoul, state election records show.

CoinFlip spokesperson Dana Callahan says the company is actively working with officials to create regulations.

"Every day, people across the country use our kiosks for legitimate transactions because they want speed, convenience and the freedom to use cash to buy crypto," Callahan says. "We coordinate closely with law enforcement to protect consumers and prevent illicit activity, which is why we're working with Illinois legislators to push for state oversight and licensure, and a law that holds all companies to the same standards we follow with scam warnings [and] blockchain analytics to stop risky transactions and live customer service."

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an industry they don't consider completely legitimate.



State Sen. Bill Cunningham speaks during the launch of Pace's first electric bus at the Pace Southwest Division in Bridgeview on Jan. 19, 2024. | Pat Nabong/Sun-Times

Another reason the legislation didn't pass was that lawmakers thought the federal government should take the lead in regulating cryptocurrency, Cunningham says. Now that Trump is going to take office again next week, he fears the federal government won't do much to police the industry and thinks the General Assembly may need to take action.

For now, companies that operate bitcoin ATMs must register with the Treasury's Financial Crimes Enforcement Network, known in the industry as FinCEN. But some firms don't follow the rules, according to Morley of the Secret Service.

To combat crypto-related crime, the Secret Service has started placing warnings on bitcoin ATMs that advise the public of the potential for fraud, Morley says.

"One of the things that works in the criminals' favor is there's no one there to intervene," he says. "Well, this is a way where at least we could have a flyer over the top [of the ATMs], and hopefully someone takes time to read it and kind of see their situation that they're involved in is something we're flagging [and] they might think twice."

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Secret Service Assistant Special Agent in Charge James Morley | Provided

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firms in the country, with roughly 1,400 locations across dozens of states.

Grens quickly realized the ATMs attracted crime, and he ultimately decided to shut down the business after finding there was no way to profit without allowing illicit transactions. "The moral of the story is, if you do the right thing this industry wouldn't exist," he says.

Initially, Grens says the company's ATMs mostly served people involved in the sex trade or "drug dealers laundering money." By 2016, he and his partners found that most customers making large crypto purchases were scam victims. One woman lost \$1.2 million, he says.



Chicago has 1167 cryptocurrency ATMs like the one shown here, the DEA says in a recent report on narcotics trafficking trends. | Adobe

Grens tried to raise awareness within the industry, but he says the warnings were ignored by other companies raking in money by charging up to 30% in ATM usage fees.

"Everybody hated it because they're like, why are you trying to burn down our industry?" he says. "They ignored us like the plague."

Grens says he shut down his ATM business last year after a lengthy wind-down. DigitalMint now specializes in cybersecurity consulting and cryptocurrency payment solutions.

"When I founded the company, I'm like, 'I don't want to build something dirty,' " he says. "I love bitcoin. ... I think it could solve the payment system clunkiness and issues around the world.

"But like any industry, the black markets take advantage of it because there's no regulation."

To learn more about threats involving cryptocurrency, visit [the Secret Service's website](#).

<https://chicago.suntimes.com/the-watchdogs/2025/01/17/cryptocurrency-crypto-fraud-scam-drug-dealing-trafficking-money-laundering-chicago-illinois>

12/15



October 6, 2025

Chairman French Hill
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hill:

Enclosed are my responses to the questions for the record submitted following the September 9, 2025 hearing in the Subcommittee on Financial Institutions of the Committee on Financial Services titled "Promoting the Health of the Banking Sector: Reforming Resolution and Broadening Funding Access for Long-Term Resilience."

Thank you for the opportunity to testify, and please let me know if I may be of any further assistance.

Sincerely,

Hugh Carney
Executive Vice President, Financial Institution Policy & Regulatory Affairs
American Bankers Association



Questions for Hugh Carney

From Rep. Rose:

- 1. Mr. Carney, what percent of American Bankers Association members currently provide banking services to independent ATM operators?**

ABA does not currently have data illustrating the percentage of member banks that provide banking services to independent ATM operators.

From Ranking Member Waters:

- 1. Which of the following options best describes your self-identified race? (you may choose more than one)**

I respectfully decline to provide that information.

- 2. Which of the following options best describes your gender identity?**

I respectfully decline to provide that information.

FRENCH HILL, AR
CHAIRMAN



MAXINE WATERS, CA
RANKING MEMBER

United States House of Representatives
One Hundred Nineteenth Congress
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

September 23, 2025

Mr. Dory Wiley
President and Chief Executive Officer
Commerce Street Capital Business
1445 Ross Avenue, Suite 2700
Dallas, TX 75202

Dear Mr. Wiley:

Thank you for testifying before the Subcommittee on Financial Institutions of the Committee on Financial Services on September 9, 2025, at the hearing titled "Promoting the Health of the Banking Sector: Reforming Resolution and Broadening Funding Access for Long-Term Resilience." Per the instructions announced by the Chairman at the conclusion of the hearing, Members submitted additional questions for your response. Please respond to the questions below and submit your response by October 14, 2025.

Should you or your staff have questions or need additional information, please contact Kyle Smithwick or Svent Bossart at (202) 225-7502.

Sincerely,

French Hill
Chairman

FRENCH HILL, AR
CHAIRMAN



MAXINE WATERS, CA
RANKING MEMBER

United States House of Representatives
One Hundred Nineteenth Congress
Committee on Financial Services
2124 Rayburn House Office Building
Washington, DC 20515

Questions for the Record

Subcommittee on Financial Institutions of the Committee on Financial Services
Hearing, titled: Promoting the Health of the Banking Sector: Reforming Resolution and
Broadening Funding Access for Long-Term Resilience
September 9, 2025

From Ranking Member Waters:

1. Which of the following options best describes your self-identified race? (you may choose more than one)
 - a) White or Caucasian
 - b) Black or African American
 - c) Hispanic/Latinx
 - d) Asian
 - e) Middle Eastern/North African
 - f) Choose not to answer
 - g) Prefer to self-describe (please specify)
 2. Which of the following options best describes your gender identity?
 - a) Woman
 - b) Man
 - c) Non-binary
 - d) Transgender Man
 - e) Transgender Woman
 - f) Choose not to answer
 - g) Prefer to self-describe (please specify)
-

119TH CONGRESS
1ST SESSION

H. R. 3234

To amend the Federal Deposit Insurance Act to modify the amount of reciprocal deposits of an insured depository institution that are not considered to be funds obtained by or through a deposit broker, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2025

Mr. EMMER (for himself, Mrs. BEATTY, Mr. MEUSER, and Ms. MOORE of Wisconsin) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Federal Deposit Insurance Act to modify the amount of reciprocal deposits of an insured depository institution that are not considered to be funds obtained by or through a deposit broker, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. AMOUNT OF RECIPROCAL DEPOSITS THAT ARE**
2 **NOT CONSIDERED TO BE FUNDS OBTAINED**
3 **BY OR THROUGH A DEPOSIT BROKER.**

4 Section 29(i) of the Federal Deposit Insurance Act
5 (12 U.S.C. 1831f(i)) is amended by striking paragraph (1)
6 and inserting the following:

7 “(1) IN GENERAL.—The sum of the following
8 amounts of reciprocal deposits of an agent institu-
9 tion shall not be considered to be funds obtained, di-
10 rectly or indirectly, by or through a deposit broker:

11 “(A) An amount equal to 50 percent of the
12 portion of the total liabilities of the agent insti-
13 tution that is less than or equal to
14 \$1,000,000,000.

15 “(B) An amount equal to 40 percent of the
16 portion, if any, of the total liabilities of the
17 agent institution that is greater than
18 \$1,000,000,000, but less than or equal to
19 \$10,000,000,000.

20 “(C) An amount equal to 30 percent of the
21 portion, if any, of the total liabilities of the
22 agent institution that is greater than
23 \$10,000,000,000, but less than or equal to
24 \$250,000,000,000.

25 “(D) An amount equal to 20 percent of the
26 portion, if any, of the total liabilities of the

1 agent institution that is greater than
2 \$250,000,000,000, but less than or equal to
3 \$1,000,000,000,000.

4 “(E) An amount equal to 2 percent of the
5 portion, if any, of the total liabilities of the
6 agent institution that is greater than
7 \$1,000,000,000,000.”.

8 **SEC. 2. DEFINITION OF AGENT INSTITUTION.**

9 Section 29(i)(2)(A)(i) of the Federal Deposit Insur-
10 ance Act (12 U.S.C. 1831f(i)(2)(A)(i)) is amended by
11 striking subclause (I) and inserting the following:

12 “(I) when most recently exam-
13 ined under section 10(d) was assigned
14 a CAMELS rating of 1, 2, or 3; and”.

○

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[DISCUSSION DRAFT]119TH CONGRESS
1ST SESSION**H. R.** _____

To amend the Federal Deposit Insurance Act, the Bank Holding Company Act of 1956, and the Home Owners' Loan Act to require the consideration of certain entities and factors when evaluating proposed acquisitions, mergers, and consolidations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. FITZGERALD introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Federal Deposit Insurance Act, the Bank Holding Company Act of 1956, and the Home Owners' Loan Act to require the consideration of certain entities and factors when evaluating proposed acquisitions, mergers, and consolidations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Bank Competition
5 Modernization Act".

1 **SEC. 2. COMPETITIVE FACTOR CONSIDERATIONS.**

2 (a) IN GENERAL.—Section 18(c) of the Federal De-
 3 posit Insurance Act (12 U.S.C. 1828(c)) is amended—

4 (1) in paragraph (4)—

5 (A) in subparagraph (C)—

6 (i) in clause (i), by striking “or” at
 7 the end’;

8 (ii) in clause (ii), by striking the pe-
 9 riod at the end and inserting “; or”; and

10 (iii) by adding at the end the fol-
 11 lowing:

12 “(iii) if the proposed acquisition,
 13 merger or consolidation under this section
 14 would result in an entity with less than
 15 **【\$10,000,000,000】** in assets.”; and

16 (B) by adding at the end the following:

17 “(D) CONSIDERATIONS.—When compiling
 18 a report on competitive factors relative to in-
 19 sured depository institutions under this para-
 20 graph at the request of the responsible agency,
 21 the Attorney General shall consider the banking
 22 products and services offered by the following
 23 types of entities, including loans and deposits:

24 “(i) Depository institutions, as such
 25 term is defined in section 3(c) of the Fed-

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1 eral Deposit Insurance Act (12 U.S.C.
2 1813(c)).

3 “(ii) Depository institution holding
4 companies, as such term is defined in sec-
5 tion 3(w) of the Federal Deposit Insurance
6 Act (12 U.S.C. 1813(w)).

7 “(iii) Industrial loan companies, in-
8 dustrial banks, or other similar institu-
9 tions, as such term is defined in section
10 2(c) of the Bank Holding Company Act
11 (12 U.S.C. 1841(c)).

12 “(iv) Entities chartered and operating
13 under the Farm Credit Act of 1971.

14 “(v) Nonbank financial companies, as
15 such term is defined in section 102 of the
16 Financial Stability Act of 2010.

17 “(vi) Insured credit unions and non-
18 insured credit unions, as such terms are
19 defined in section 101 of the Federal Cred-
20 it Union Act.”; and

21 (2) by adding at the end the following:

22 “(14) FOR PROPOSED RESULTING ENTITIES
23 WITH THAN 【\$10,000,000,000】 IN ASSETS.—If a pro-
24 posed acquisition, merger or consolidation under this
25 section would result in an entity with less than

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1 **【\$10,000,000,000】** in assets, then the responsible
2 agency shall find that such acquisition, merger, or
3 consolidation would not—

4 “(A) result in a monopoly, or be in fur-
5 therance of any combination or conspiracy to
6 monopolize or to attempt to monopolize the
7 business of banking in any part of the United
8 States; and

9 “(B) have the effect in any section of the
10 country of substantially to lessening competi-
11 tion, tending to create a monopoly, or in any
12 other manner restraining trade.”.

13 (b) FOR BANK HOLDING COMPANIES.—Section 3(c)
14 of the Bank Holding Company Act of 1956 (12 U.S.C.
15 1842(c)) is amended by adding at the end the following:

16 “(8) CONSIDERATIONS WITH RESPECT TO COM-
17 PETITIVE FACTORS.—When evaluating competitive
18 factors relative to a proposed acquisition, merger, or
19 consolidation, under paragraph (1), the Board shall
20 consider the banking products and services offered
21 by the following types of entities, including loans
22 and deposits:

23 “(A) Depository institutions, as such term
24 is defined in section 3(c) of the Federal Deposit
25 Insurance Act (12 U.S.C. 1813(c)).

1 “(B) Depository institution holding compa-
2 nies, as such term is defined in section 3(w) of
3 the Federal Deposit Insurance Act (12 U.S.C.
4 1813(w)).

5 “(C) Industrial loan companies, industrial
6 banks, or other similar institutions, as such
7 term is defined in section 2(e) of the Bank
8 Holding Company Act (12 U.S.C. 1841(c)).

9 “(D) Entities chartered and operating
10 under the Farm Credit Act of 1971.

11 “(E) Nonbank financial companies, as
12 such term is defined in section 102 of the Fi-
13 nancial Stability Act of 2010.

14 “(F) Insured credit unions and noninsured
15 credit unions, as such terms are defined in sec-
16 tion 101 of the Federal Credit Union Act.

17 “(9) FOR PROPOSED RESULTING ENTITIES
18 WITH THAN **【\$10,000,000,000】** IN ASSETS.—If a pro-
19 posed acquisition, merger or consolidation under this
20 section would result in an entity with less than
21 **【\$10,000,000,000】** in assets, then the Board shall
22 find that such acquisition, merger, or consolidation
23 would not—

24 “(A) result in a monopoly, or be in fur-
25 therance of any combination or conspiracy to

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1 monopolize or to attempt to monopolize the
2 business of banking in any part of the United
3 States; and

4 “(B) have the effect in any section of the
5 country of substantially to lessening competi-
6 tion, tending to create a monopoly, or in any
7 other manner restraining trade.”.

8 (c) FOR SAVINGS ASSOCIATIONS.—Section 10(e)(2)
9 of the Home Owners’ Loan Act is amended by adding at
10 the end the following:

11 “(8) CONSIDERATIONS WITH RESPECT TO COM-
12 PETITIVE FACTORS.—When evaluating competitive
13 factors relative to a proposed acquisition, merger, or
14 consolidation, under paragraph (1), the Board shall
15 consider the banking products and services offered
16 by the following types of entities, including loans
17 and deposits:

18 “(A) Depository institutions, as such term
19 is defined in section 3(c) of the Federal Deposit
20 Insurance Act (12 U.S.C. 1813(c)).

21 “(B) Depository institution holding compa-
22 nies, as such term is defined in section 3(w) of
23 the Federal Deposit Insurance Act (12 U.S.C.
24 1813(w)).

1 “(C) Industrial loan companies, industrial
2 banks, or other similar institutions, as such
3 term is defined in section 2(c) of the Bank
4 Holding Company Act (12 U.S.C. 1841(c)).

5 “(D) Entities chartered and operating
6 under the Farm Credit Act of 1971.

7 “(E) Nonbank financial companies, as
8 such term is defined in section 102 of the Fi-
9 nancial Stability Act of 2010.

10 “(F) Insured credit unions and noninsured
11 credit unions, as such terms are defined in sec-
12 tion 101 of the Federal Credit Union Act.

13 “(9) FOR PROPOSED RESULTING ENTITIES
14 WITH THAN 【\$10,000,000,000】 IN ASSETS.—If a pro-
15 posed acquisition, merger or consolidation under this
16 section would result in an entity with less than
17 【\$10,000,000,000】 in assets, then the Board shall
18 find that such acquisition, merger, or consolidation
19 would not—

20 “(A) result in a monopoly, or be in fur-
21 therance of any combination or conspiracy to
22 monopolize or to attempt to monopolize the
23 business of banking in any part of the United
24 States; and

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1 “(B) have the effect in any section of the
2 country of substantially to lessening competi-
3 tion, tending to create a monopoly, or in any
4 other manner restraining trade.”.

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[DISCUSSION DRAFT]119TH CONGRESS
1ST SESSION**H. R.** _____

To amend the Bank Holding Company Act of 1956 to generally permit
holding merchant banking investments of up to 15 years.

IN THE HOUSE OF REPRESENTATIVES

Mr. WILLIAMS of Texas introduced the following bill; which was referred to
the Committee on _____

A BILL

To amend the Bank Holding Company Act of 1956 to gen-
erally permit holding merchant banking investments of
up to 15 years.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Merchant Banking
5 Modernization Act”.

6 **SEC. 2. MERCHANT BANKING ACTIVITIES.**

7 Section 4(k)(7)(A) of the Bank Holding Company
8 Act of 1956 (12 U.S.C. 1843(k)(7)(A)) is amended by in-

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1 setting “Under such regulations, the period of time gen-
2 erally permitted for holding merchant banking invest-
3 ments shall not be less than 15 years. For any merchant
4 banking investment held on the date of enactment of the
5 Merchant Banking Modernization Act, the holding period
6 of time permitted shall not be less than 15 years from
7 the initial date of the investment.” after the period at the
8 end.

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[DISCUSSION DRAFT]119TH CONGRESS
1ST SESSION**H. R.** _____

To amend the Federal Deposit Insurance Act to ensure that certain custodial deposits of well capitalized insured depository institutions are not considered to be funds obtained by or through deposit brokers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Federal Deposit Insurance Act to ensure that certain custodial deposits of well capitalized insured depository institutions are not considered to be funds obtained by or through deposit brokers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Community Bank De-
5 posit Access Act of 2025”.

1 **SEC. 2. LIMITED EXCEPTION FOR CUSTODIAL DEPOSITS.**

2 (a) IN GENERAL.—Section 29 of the Federal Deposit
3 Insurance Act (12 U.S.C. 1831f) is amended by adding
4 at the end the following:

5 “(j) LIMITED EXCEPTION FOR CUSTODIAL DEPOS-
6 ITS.—

7 “(1) IN GENERAL.—Custodial deposits of an el-
8 igible institution shall not be considered to be funds
9 obtained, directly or indirectly, by or through a de-
10 posit broker to the extent that the total amount of
11 such custodial deposits does not exceed an amount
12 equal to 20 percent of the total liabilities of the eligi-
13 ble institution.

14 “(2) DEFINITIONS.—In this subsection:

15 “(A) CUSTODIAL DEPOSIT.—The term
16 ‘custodial deposit’ means a deposit that would
17 otherwise be considered to be obtained, directly
18 or indirectly, by or through a deposit broker, if
19 the deposit is deposited at 1 or more insured
20 depository institutions, for the purpose of pro-
21 viding or maintaining deposit insurance for the
22 benefit of a third party, by or through any of
23 the following, each acting in a formal custodial
24 or fiduciary capacity for the benefit of a third
25 party:

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1 “(i) An insured depository institution
2 serving as agent, trustee, or custodian.

3 “(ii) A trust entity controlled by an
4 insured depository institution serving as
5 agent, trustee, or custodian.

6 “(iii) A State-chartered trust company
7 serving as agent, trustee, or custodian.

8 “(iv) A plan administrator or invest-
9 ment advisor, acting in a formal custodial
10 or fiduciary capacity for the benefit of a
11 plan, as defined in section 3 of the Em-
12 ployee Retirement Income Security Act of
13 1974 (29 U.S.C. 1002).

14 “(B) ELIGIBLE INSTITUTION.—The term
15 ‘eligible institution’ means an insured deposi-
16 tory institution that accepts custodial deposits,
17 that were not deposited at the insured deposi-
18 tory institution in return for fees paid by the
19 insured depository institution pursuant to an
20 agreement with a third party, if the insured de-
21 pository institution—

22 “(i) has less than \$10,000,000,000 in
23 total assets as reported on the consolidated
24 report of condition and income as reported

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1 quarterly to the appropriate Federal bank-
2 ing agency;

3 “(ii)(I) when most recently examined
4 under section 10(d) was found to have a
5 composite condition of outstanding or
6 good; and

7 “(II) is well capitalized; or

8 “(iii) has obtained a waiver pursuant
9 to subsection (c).

10 “(C) PLAN ADMINISTRATOR.—The term
11 ‘plan administrator’ has the meaning given the
12 term ‘administrator’ in section 3 of the Em-
13 ployee Retirement Income Security Act of 1974
14 (29 U.S.C. 1002).

15 “(D) WELL CAPITALIZED.—The term ‘well
16 capitalized’ has the meaning given the term in
17 section 38(b).”.

18 (b) INTEREST RATE RESTRICTION.—Section 29 of
19 the Federal Deposit Insurance Act (12 U.S.C. 1831f) is
20 amended by striking subsection (e) and inserting the fol-
21 lowing:

22 “(e) RESTRICTION ON INTEREST RATE PAID.—

23 “(1) DEFINITIONS.—In this subsection—

24 “(A) the terms ‘custodial deposit’, ‘eligible
25 institution’, and ‘well capitalized’ have the

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1 meanings given those terms in subsection (j);

2 and

3 “(B) the term ‘covered insured depository
4 institution’ means an insured depository institu-
5 tion that—

6 “(i) under subsection (e) or (d), ac-
7 cepts funds obtained, directly or indirectly,
8 by or through a deposit broker; or

9 “(ii) while acting as an eligible insti-
10 tution under subsection (j), accepts custo-
11 dial deposits while not well capitalized.

12 “(2) PROHIBITION.—A covered insured deposi-
13 tory institution may not pay a rate of interest on
14 funds that, under subsection (e) or (d), are obtained,
15 directly or indirectly, by or through a deposit broker
16 or on custodial deposits that are accepted while not
17 well capitalized that, at the time the funds or custo-
18 dial deposits are accepted, significantly exceeds the
19 limit set forth in paragraph (3).

20 “(3) LIMIT ON INTEREST RATES.—The limit on
21 the rate of interest referred to in paragraph (2) shall
22 be not greater than—

23 “(A) the rate paid on deposits of similar
24 maturity in the normal market area of the cov-
25 ered insured depository institution for deposits

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1 accepted in the normal market area of the cov-
2 ered insured depository institution; or
3 “(B) the national rate paid on deposits of
4 comparable maturity, as established by the Cor-
5 poration, for deposits accepted outside the nor-
6 mal market area of the covered insured deposi-
7 tory institution.”.

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[DISCUSSION DRAFT]119TH CONGRESS
1ST SESSION**H. R.** _____

To amend the Economic Growth, Regulatory Relief, and Consumer Protection Act to adjust the Community Bank Leverage Ratio, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Economic Growth, Regulatory Relief, and Consumer Protection Act to adjust the Community Bank Leverage Ratio, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Community Bank Cap-
5 ital Flexibility and Growth Act of 2025”.

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1 **SEC. 2. COMMUNITY BANK LEVERAGE RATIO.**

2 (a) IN GENERAL.—Section 201 of the Economic
 3 Growth, Regulatory Relief, and Consumer Protection Act
 4 (12 U.S.C. 5371 note) is amended—

5 (1) in subsection (a)(3)(A), by striking
 6 “\$10,000,000,000” and inserting
 7 “**[\$15,000,000,000]**”; and

8 (2) in subsection (b)(1), by striking “not less
 9 than 8 percent and not more than 10 percent” and
 10 inserting “not less than 6 percent and not more
 11 than 8 percent”.

12 (b) RULEMAKING DEADLINE.—Not later than the
 13 end of the **[180-day]** period beginning on the date of en-
 14 actment of this Act, and after reviewing the report issued
 15 pursuant to section 3(b), the Board of Governors of the
 16 Federal Reserve System, the Comptroller of the Currency,
 17 and the Federal Deposit Insurance Corporation shall pro-
 18 pose and, not later than **[1 year]** after the date of the
 19 enactment of this Act, such agencies shall finalize rules
 20 to carry out the amendments made by subsection (a).

21 **SEC. 3. REVIEW OF THE COMMUNITY BANK LEVERAGE**
 22 **RATIO.**

23 (a) IN GENERAL.—The Board of Governors of the
 24 Federal Reserve System, the Comptroller of the Currency,
 25 and the Federal Deposit Insurance Corporation shall com-
 26 mence a review of the Community Bank Leverage Ratio

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1 (“CBLR”) developed under section 201 of the Economic
2 Growth, Regulatory Relief, and Consumer Protection Act,
3 and rules issued thereunder, which shall include a consid-
4 eration of how to modify and calibrate the CBLR to en-
5 courage more qualifying community banks to opt-in to the
6 CBLR framework, with an additional focus on—

7 (1) those qualifying community banks with
8 fewer assets; and

9 (2) providing regulatory compliance burden re-
10 lief so that the CBLR is simple to apply.

11 (b) REPORT.—[Not later than the end of the [150-
12 day] period beginning on the date of enactment of this
13 Act,] the Board of Governors of the Federal Reserve Sys-
14 tem, the Comptroller of the Currency, and the Federal De-
15 posit Insurance Corporation shall issue a report to the
16 Committee on Financial Services of the House of Rep-
17 resentatives and the Committee on Banking, Housing, and
18 Urban Affairs of the Senate containing—

19 (1) all findings and determinations made in car-
20 rying out the review under subsection (a); and

21 (2) specific recommendations on modifications,
22 if any, to—

23 (A) the calculation of the numerator and
24 denominator of the CBLR;

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1 (B) the treatment of specific asset classes
2 or exposures to better reflect the risk profiles of
3 community banks;

4 (C) the definition of and qualifying criteria
5 for a qualifying community bank;

6 (D) enhancements to the procedures for
7 opting into or out of the CBLR framework, in-
8 cluding streamlined reporting and transition
9 mechanisms;

10 (E) the grace period to facilitate the tran-
11 sition to and from a modified CBLR regime;
12 and

13 (F) any statutory changes that may be
14 needed to address such recommendations.

15 (c) QUALIFYING COMMUNITY BANK DEFINED.—In
16 this section, the term “qualifying community bank” has
17 the meaning given that term in section 201(a)(3)(A) of
18 the Economic Growth, Regulatory Relief, and Consumer
19 Protection Act (12 U.S.C. 5371 note).

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[DISCUSSION DRAFT]119TH CONGRESS
1ST SESSION**H. R.** _____

To amend the Federal Deposit Insurance Act to provide an exception to the least-cost resolution requirement, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Federal Deposit Insurance Act to provide an exception to the least-cost resolution requirement, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Least Cost Exception
5 Act”.

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1 **SEC. 2. LEAST COST EXCEPTION.**

2 (a) IN GENERAL.—Section 13(c)(4) of the Federal
3 Deposit Insurance Act (12 U.S.C. 1823(c)(4)) is amend-
4 ed—

5 (1) in subparagraph (A)(ii), by inserting “ex-
6 cept as provided in subparagraph (I),” before “the
7 total amount”; and

8 (2) by adding at the end the following:

9 “(I) LEAST COST EXCEPTION.—

10 “(i) IN GENERAL.—With respect to an
11 exercise of authority by the Corporation
12 described in subparagraph (A), the Cor-
13 poration may, at the discretion of the Cor-
14 poration, select an alternative that is not
15 the least costly to the Deposit Insurance
16 Fund, if the Corporation determines
17 that—

18 “(I) the selected alternative is
19 the least costly to the Deposit Insur-
20 ance Fund of all alternatives that—

21 “(aa) do not involve a trans-
22 action with a global systemically
23 important banking organization;
24 and

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1 “(bb) do not exceed the cost
2 of liquidating the insured deposi-
3 tory institution;

4 “(II) the cost to the Deposit In-
5 surance Fund of the selected alter-
6 native is no greater than **[120]** per-
7 cent of the cost of the alternative that
8 is the least costly to the Deposit In-
9 surance Fund of the alternatives that
10 involve a sale of all or substantially all
11 assets of the insured depository insti-
12 tution to, and assumption of all or
13 substantially all liabilities of the in-
14 sured depository institution by, a
15 global systemically important banking
16 organization;

17 “(III) the additional cost to the
18 Deposit Insurance Fund of the se-
19 lected alternative is mitigated by lim-
20 iting further concentration of the
21 United States banking system in glob-
22 al systemically important banking or-
23 ganizations; and

24 “(IV) in the case of a selected al-
25 ternative that involves another person

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1 purchasing assets of the insured de-
2 pository institution or assuming liabil-
3 ities of the insured depository institu-
4 tion, such person agrees to pay an as-
5 sessment to the Deposit Insurance
6 Fund in an amount equal to the cost
7 to the Deposit Insurance Fund of the
8 selected alternative, minus the cost to
9 the Deposit Insurance Fund of the
10 least costly alternative that would
11 have been selected absent the applica-
12 tion of this subparagraph, where such
13 amount is calculated by the Corpora-
14 tion on a present-value basis, using a
15 realistic discount rate, and the timing
16 for the payment of such amount is de-
17 termined by the Corporation.

18 “(ii) REPORT TO CONGRESS.—Not
19 later than 30 days after selecting an alter-
20 native described in clause (i), the Corpora-
21 tion shall issue a report to the Committee
22 on Financial Services of the House of Rep-
23 resentatives and the Committee on Bank-
24 ing, Housing, and Urban Affairs of the
25 Senate containing an analysis of the eco-

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1 nomic difference between the cost to the
2 Deposit Insurance Fund of the selected al-
3 ternative and the cost to the Deposit In-
4 surance Fund of the least costly alternative
5 that would have been selected absent the
6 application of this subparagraph.

7 “(iii) GLOBAL SYSTEMICALLY IMPOR-
8 TANT BANKING ORGANIZATION DE-
9 FINED.—In this subparagraph, the term
10 ‘global systemically important banking or-
11 ganization’ means—

12 “(I) a global systemically impor-
13 tant BHC, as such term is defined in
14 section 217.402 of title 12, Code of
15 Federal Regulations, or any successor
16 thereto; and

17 “(II) any affiliate thereof.”.

18 (b) RULE OF CONSTRUCTION.—Section 13(e)(4)(H)
19 of the Federal Deposit Insurance Act (12 U.S.C.
20 1823(e)(4)(H)) does not apply to the amendments made
21 by subsection (a).

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[DISCUSSION DRAFT]119TH CONGRESS
1ST SESSION**H. R.** _____

To require the Federal banking agencies to carry out a study on shelf
charters and modified bidder qualification processes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To require the Federal banking agencies to carry out a
study on shelf charters and modified bidder qualification
processes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Enhancing Bank Reso-
5 lution Participation Act”.

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1 **SEC. 2. STUDY ON SHELF CHARTERS AND MODIFIED BID-**
2 **DER QUALIFICATION PROCESSES.**

3 (a) STUDY.—The Board of Governors of the Federal
4 Reserve System, the Comptroller of the Currency, and the
5 Federal Deposit Insurance Corporation shall, jointly,
6 carry out a study of—

7 (1) the use by the Comptroller of the Currency
8 of shelf charters, including all conditional or prelimi-
9 nary shelf charter approvals granted between Janu-
10 ary 1, 2008, and the date of enactment of this Act;

11 (2) the use by the Federal Deposit Insurance
12 Corporation of the modified bidder qualification
13 process;

14 (3) whether shelf charters and modified bidder
15 qualification processes were considered or used in
16 connection with the 2023 bank failures; and

17 (4) with respect to such bank failures, the ex-
18 tent to which greater use of shelf charters and modi-
19 fied bidder qualification processes could have—

20 (A) expanded the pool of participants in
21 the acquisition of such failed banks;

22 (B) resulted in greater competition and di-
23 versity in market outcomes;

24 (C) protected the Deposit Insurance Fund;
25 or

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1 (D) strengthened financial stability and re-
2 duced the need to invoke the systemic risk ex-
3 ception.

4 (b) REPORT.—Not later than 270 days after the date
5 of enactment of this Act, the Board of Governors of the
6 Federal Reserve System, the Comptroller of the Currency,
7 and the Federal Deposit Insurance Corporation shall,
8 jointly, issue a report to the Committee on Financial Serv-
9 ices of the House of Representatives and the Committee
10 on Banking, Housing, and Urban Affairs of the Senate
11 containing—

12 (1) all findings and determinations made in car-
13 rying out the study required under subsection (a);
14 and

15 (2) an identification of statutory or regulatory
16 barriers to the use and effectiveness of shelf charters
17 and modified bidder qualification processes in the
18 resolution of failed banks, including recommenda-
19 tions for legislative and regulatory changes.

20 (c) DEFINITIONS.—In this section:

21 (1) MODIFIED BIDDER QUALIFICATION PROC-
22 ESS.—The term “modified bidder qualification proc-
23 ess” has the meaning given such term in the press
24 release of the Federal Deposit Insurance Corpora-
25 tion titled “FDIC Expands Bidder List for Troubled

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1 Institutions Plan Allows Those Without a Bank
2 Charter to Participate in the Process” published No-
3 vember 26, 2008.

4 (2) SHELF CHARTER.—The term “shelf char-
5 ter” has the meaning given such term in the report
6 issued by the Comptroller of the Currency titled
7 “Activities Permissible for National Banks and Fed-
8 eral Savings Associations, Cumulative” published
9 October 2017.

[DISCUSSION DRAFT]119TH CONGRESS
1ST SESSION**H. R.** _____

To prohibit the use of certain concentration limit exceptions applicable to mergers involving a failed bank if there are other qualifying bids, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. LYNCH introduced the following bill; which was referred to the Committee on _____

A BILL

To prohibit the use of certain concentration limit exceptions applicable to mergers involving a failed bank if there are other qualifying bids, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Failing Bank Acquisi-
5 tion Fairness Act”.

1 **SEC. 2. CONCENTRATION LIMIT EXCEPTIONS ONLY AVAIL-**
2 **ABLE WHEN NO OTHER QUALIFYING BIDS.**

3 (a) NATIONWIDE CONCENTRATION LIMIT WITH RE-
4 SPECT TO DEPOSITS.—Section 44(e) of the Federal De-
5 posit Insurance Act (12 U.S.C. 1831u(e)) is amended by
6 adding at the end the following: “Notwithstanding the pre-
7 vious sentence, if the responsible agency receives more
8 than one application under subsection (a)(1) for approval
9 of a merger transaction involving the acquisition of the
10 same bank in default or in danger of default or with re-
11 spect to which the Corporation provides assistance under
12 section 13(c), the responsible agency may only approve
13 such an application without regard to subsection (b)(2)(A)
14 if none of the other applications can be approved in com-
15 pliance with subsection (b)(2)(A).”.

16 (b) CONCENTRATION LIMIT WITH RESPECT TO CON-
17 SOLIDATED LIABILITIES.—Section 14(c) of the Bank
18 Holding Company Act of 1956 (12 U.S.C. 1852(c)) is
19 amended—

20 (1) by redesignating paragraphs (1), (2), and
21 (3) as subparagraphs (A), (B), and (C) (and adjust-
22 ing the margins accordingly);

23 (2) by striking “With the” and inserting the
24 following:

25 “(1) IN GENERAL.—With the”; and

26 (3) by adding at the end the following:

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1 “(2) LIMITATION.—If the Board receives more
2 than one application for an acquisition of a bank in
3 default or in danger of default or with respect to
4 which the Federal Deposit Insurance Corporation
5 provides assistance under section 13(c) of the Fed-
6 eral Deposit Insurance Act, the Board may only give
7 consent under paragraph (1) to waive the concentra-
8 tion limit if none of the other applications can be ap-
9 proved without such consent.”.

