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# MAKING COMMUNITY BANKING GREAT AGAIN

## HEARING

BEFORE THE

## COMMITTEE ON FINANCIAL SERVICES
## U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

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FEBRUARY 5, 2025

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**Serial No. 119–1**

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# C O N T E N T S

**Wednesday, February 5, 2025**

OPENING STATEMENTS


| | Page |
|---|---|
| Hon. French Hill, Chairman of the Committee on Financial Services, a U.S. Representative from Arkansas | 1 |
| Hon. Maxine Waters, Ranking Member of the Committee on Financial Services, a U.S. Representative from California | 4 |


STATEMENTS


| | |
|---|---|
| Hon. Andy Barr, Chairman of the Subcommittee on Financial Institutions, a U.S. Representative from Kentucky | 5 |
| Hon. Bill Foster, Ranking Member of the Subcommittee on Financial Institutions, a U.S. Representative from Illinois | 5 |


WITNESSES


| | |
|---|---|
| Mr. Patrick J. Kennedy, Jr., Founding Partner, Kennedy Sutherland, LLP | 6 |
| Prepared Statement | 8 |
| Ms. Susannah Marshall, Bank Commissioner, Arkansas Bank Department | 11 |
| Prepared Statement | 13 |
| Ms. Cathy Owen, Executive Chairman, Eagle Bank & Trust Company | 29 |
| Prepared Statement | 31 |
| Ms. Rebeca Romero Rainey, President & CEO, Independent Community Bankers of America | 39 |
| Prepared Statement | 41 |
| Ms. Mitria Spotser, Vice President of Federal Policy, Center for Responsible Lending | 56 |
| Prepared Statement | 58 |


APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD


| | |
|---|---|
| Hon. Nikema Williams: | |
| Equipment Leasing and Finance Association (ELFA) | 136 |
| Defense Credit Union Council (DCUC) | 138 |
| Hon. Barry Loudermilk: | |
| Government Accountability Office (GAO) December 2024 Report | 140 |
| Hon. William R. Timmons, IV: | |
| CID notice to Ms. Martinez | 251 |
| Hon. Maxine Waters: | |
| Letter of documents that are Submitted for the Record | 252 |
| 201 Consumer, Civil Rights, Labor, Legal Services, Community Organizations and Academics | 254 |
| Americans for Financial Reform (AFR) | 262 |
| National Association for Latino Community Asset Builders (NALCAB) | 268 |
| Rise Economy | 270 |
| HEAL Food Alliance | 275 |
| Small Business Majority | 278 |
| National Community Reinvestment Coalition (NCRC) | 281 |
| The Leadership Conference on Civil and Human Rights | 285 |
| Responsible Business Lending Coalition (RBLC) | 287 |

Page

Hon. Maxine Waters—Continued
Free Speech Coalition ..... 290
inclusiv ..... 295
The National Bankers Association (NBA) ..... 304
National Association of Consumer Advocates (NACA) ..... 307
Hon. Zachary Nunn:
Iowa Bankers Association Priorities ..... 309
Iowa Credit Union League Priorities (ICUL) ..... 312
Iowa Community Bankers Priorities (ICBA) ..... 314

RESPONSES TO QUESTIONS FOR THE RECORD

Written responses to questions for the record from Representative Maxine Waters
Mr. Patrick Kennedy, Jr. ..... 323
Ms. Susannah Marshall ..... 325
Ms. Rebeca Romero Rainey ..... 326
Ms. Mitria Spotser ..... 327
Written responses to questions for the record from Representative Mike Flood
Mr. Patrick Kennedy, Jr. ..... 328
Ms. Rebeca Rainey Romero ..... 329
Written responses to questions for the record from Representative Gregory Meeks
Ms. Cathy Owen ..... 331
Ms. Rebeca Romero Rainey ..... 335
Written responses to questions for the record from Representative Sean Casten
Ms. Susannah Marshall ..... 338

LEGISLATION

H.J.Res. ———, a resolution of disapproval on CFPB's overdraft rule ..... 339
H.R. ———, the Promoting New Bank Formation Act ..... 340
H.R. ———, the Small Lenders Exempt from New Data Excessive Reporting (LENDER) Act ..... 346
H.R. ———, the 1071 Repeal to Protect Small Business Lending Act ..... 349
H.R. ———, the Bank Loan Privacy Act ..... 352
H.R. ———, the Fair Audits and Inspection for Regulators' Exam (FAIR) Act ..... 354
H.R. ———, the Small Bank Holding Company Relief Act ..... 368

# MAKING COMMUNITY BANKING GREAT AGAIN

**Wednesday, February 5, 2025**

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
*Washington, D.C.*

The committee met, pursuant to notice, at 10:04 a.m., in room 2128, Rayburn House Office Building, Hon. French Hill [chairman of the committee] presiding.

Members Present: Representatives Hill, Lucas, Huizenga, Wagner, Barr, Williams of Texas, Loudermilk, Davidson, Rose, Steil, Timmons, Stutzman, Norman, Meuser, Kim, Donalds, Garbarino, Fitzgerald, Flood, Lawler, De La Cruz, Ogles, Nunn, Salazar, Downing, Haridopolos, Moore, Waters, Velázquez, Sherman, Scott, Lynch, Green, Cleaver, Himes, Foster, Beatty, Vargas, Gottheimer, Gonzalez, Casten, Tlaib, Torres, Garcia, Williams of Georgia, Fields, Bynum, and Liccardo.

Chairman HILL. The committee will come to order.

Without objection, the chair is authorized to declare a recess of the committee at any time. This hearing is entitled "Making Community Banking Great Again."

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 a 4 minute opening statement.

## OPENING STATEMENT OF HON. FRENCH HILL, CHAIRMAN OF THE COMMITTEE ON FINANCIAL SERVICES, A U.S. REPRESENTATIVE FROM ARKANSAS

Chairman HILL. Welcome to the House Financial Services Committee's first hearing for the 119th Congress. I am delighted to serve as chair, and I look forward to working with my subcommittee chairs, Ranking Member Waters, and all the members of the committee to bring common sense back to financial and economic policy that will both foster prosperity and growth for all of our citizens. That is the change that President Trump ran on, and that is what we are going to do in this committee.

It has been nearly 100 years since the House Financial Services Committee was chaired by somebody who had financial experience before their time in Congress. Many of you know that I was a community banker before being elected to Congress, and I want to bring being a banker and business vision to the committee, and one of the key pillars of that vision is indeed to try to make community banking great again. It is no coincidence that this is the theme for my first hearing of the chairmanship.

Most countries have just a handful of large national banks, but the United States has a large and diverse banking system with thousands of banks, from small and regional institutions to global money center banks that all coexist and work together with each other to meet the capital access needs and depository needs of our Americans. It is one of our great competitive advantages.

Alexander Hamilton, our first Treasury Secretary, himself said banks are the nurseries of the national wealth. When faced with unprecedented uncertainty during the time of the pandemic, it was our community banks that made an outsized share of the paycheck protection loans to small businesses keeping millions of Americans employed.

Community banks know their communities best, and research shows that when they close their doors, Americans suffer. Right now our community banks are disappearing across the country. Back in 1999, when I first founded my Arkansas-based company Delta Trust and Banking Corp, the United States had over 8,500 Federal Deposit Insurance Corporation (FDIC)-insured banks, including 190 new charters that year.

Fast forward to today, the United States has 4,000 banks while only 82 de novo charters have been issued since 2010. Small community banks and credit unions have suffered immensely under the regulatory requirements forcing them to devote more and more resources to lawyers and check-the-box compliance programs instead of serving their customers.

Back in 1995, Arkansas had 251 banks. Today it has 77. However, our local community banks and credit unions did not contribute to the financial crisis. They have continued to serve the critical engines for local economies despite being subjected to much of the same regulatory burden and regime as the largest, most complex institutions. To form a new bank today, Americans must submit a multiyear high-cost endeavor with several different Federal agencies just before they can be considered to open their doors. Initial capital requirements can be as high as $30 million in practice, making it nearly impossible to get started as an entrepreneur banker today. One founder in Texas told me that regulators were asking him to propose $50 million in paid-in capital before he could open his doors.

Over the last year, I have met with bankers from across America, including in Arkansas, Texas, Ohio, Florida, Oklahoma, Louisiana, and elsewhere. These visits have reinforced my view that we are not doing enough to ensure that banks of all sizes remain competitive both in their business model and in their ability to attract growth capital. That is why, last November, I released my principles that we are starting to talk about today, making community banking great again: 30-plus reform ideas to enhance the ability for financial institutions to serve their customers, attract investment, adopt and deploy technology, and grow their communities. I look forward to working with all my colleagues to, in fact, bring that to fruition.

I would like to first have the ranking member and I visit about a point of personal privilege. I want to acknowledge two staffers for their service on our committee. First, from the majority, Kim Betz and Larry Seyfried have done so much work to make this com-

mittee strong and outstanding over the past few years. Both are moving on. Friday will be their last day with the committee.

Kim has been a key staffer here for the past 6 years. She has been General Counsel, Policy Director, Deputy Staff Director, and Staff Director. Chairman Cole and Subcommittee Chairman Joyce have enticed her over to the House Appropriations Committee, so she will not be going far. I consider her a world-class double agent in appropriations absolutely watching out for those of us on the authorizing committee.

Larry has served as Director of Member Services and Coalitions during the 118th Congress, Deputy Director of Coalitions in this Congress. He has worked to make sure our members, and their offices get what they need to be successful and has been integral to the success of our committee in the last Congress and this one. We have benefited mightily from Kim and Larry's leadership and hard work, and I want to thank you for your service to our committee very much. [Applause.]

Now I would like to recognize my friend the ranking member of the committee, the gentlewoman from California, for a point of personal privilege.

Ms. WATERS. Thank you very much, Mr. Chairman.

I would like to acknowledge Esther Kahng, the Democrat's Chief Counsel, who will be departing Congress at the end of this week. Esther has served ably on my staff for 11 years. She first joined the committee in 2014 as a fellow fresh out of law school. She quickly distinguished herself with her sharp thinking and keen sense of public policy and was soon hired full time on to the committee staff.

As a staffer covering housing issues, Esther worked on a variety of issues, including the reauthorization of the Native American Housing and Self-Determination Act, the enactment of the Housing Opportunity Through Modernization Act, and the reforms to the National Flood Insurance Program. Later, she became a Director of Housing Policy leading a team of housing professionals and shepherding the committee's response to the housing challenges caused by the coronavirus disease (COVID)–2019 pandemic through the House and into law.

In 2020, Esther was promoted to be the committee's Chief Counsel, and in that role, she has refined the committee's processes and procedures, expanded our member services operation, worked across the aisle on bipartisan legislation, and given the Republicans a hard time every now and then. When it comes to enforcing the rules, Esther is driven, determined, and hardworking, but also very kind, thoughtful, and a mentor to current and former staff, many of whom are now her close friends outside the office.

She is a proud wife to her husband Corey, who is a teacher in a D.C. school, and she is an even prouder godmother to Josiah, who we see and hear in the office from time to time. We all are going to miss Esther, and I will miss her smile, her laugh, and her no nonsense attitude. All of us are incredibly proud of her and wish her the best as she embarks on this next phase of her life and thank her for her service. [Applause.]

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

Chairman HILL. I thank the ranking member. I could not agree with her more on the incredible wonderful staff we have on both sides of the aisle and how we are grateful for their service to the committee and on behalf of the American people.

I now recognize the ranking member for 4 minutes for an opening statement.

**OPENING STATEMENT OF HON. MAXINE WATERS, RANKING MEMBER OF THE COMMITTEE ON FINANCIAL SERVICES, A U.S. REPRESENTATIVE FROM CALIFORNIA**

Ms. WATERS. Good morning, everyone. Today we are here to discuss how to strengthen community banks and credit unions, vital institutions that are lifelines for families and small businesses all across the country, particularly in underserved communities. This committee has a long bipartisan track record of supporting all of these community lenders, including during the pandemic by allocating $60 billion for them to deploy emergency loans to small businesses and investigate—investing, rather, $12 billion to grow minority depository institutions and community development financial institutions, many of which are small banks and credit unions. If it were any other day, I would say that I hope we can build on these efforts, including by passing my bill to expand depository insurance to protect the payrolls of small businesses and their employees who want to keep their money at their banks, but I cannot do so as an unelected billionaire, Elon Musk, seizes control of the American people's money.

While President Trump unlawfully blocks sending money rightfully owed to Americans, imposes new import taxes on Americans and businesses buying everyday goods, and fires the Federal cops that go after everyone from Wall Street executives to violent insurrectionist criminals. Each of Trump's and co-President Musk's actions are designed to cut taxes for billionaires and give corporations free reign to rip off working class families. If the community banks are listening today, if they are listening, they should be worried about what is happening to their customers and small business clients and what they should be doing.

Trump is waging a trade war by threatening to tax Americans whenever they buy fruit, vegetables, gas, and even housing, and our small businesses will indeed feel the pain when they buy and sell their products. Even The Wall Street Journal has called Trump's import taxes the dumbest trade war in history, and, frankly, I agree.

Mr. Chairman, I do not have to tell you who these hardworking people prefer to bank with them. That is right, community banks and credit unions. I know Republicans have noticed several so-called reform bills for bank exam appeals, reporting requirements, and even capital levels. Completely misses the point when community banks' customers are being fleeced. Trump and his team are firing hundreds of Federal regulators hired in the last 2 years. This was after Trump imposed a hiring freeze, gutted their hiring initiatives mandated by law, and suspended all enforcement of consumer laws so the big banks like Wells Fargo can go right back to their old tricks.

I know that you are sincere, and I know that you have done a lot for community banks, and you want to continue to do. We want to work with you, but it is difficult when the President of the United States is offering initiatives and executive orders that really undermine community banks.

Chairman HILL. The gentlewoman yields back. I now recognize the Chairman of the Financial Institutions Subcommittee for Mr. Barr of Kentucky for 1 minute.

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

Mr. BARR. Thank you, Mr. Chairman.

I am pleased the first full committee hearing of the 119th Congress is focused on issues I have long cared about, and it is a credit to our chairman for focusing and prioritizing issues related to community banks. Today we are going to discuss how we can unbridle those community banks from the regulatory burden of the Biden and the Dodd-Frank Act and allow them to focus on what they do best, serving American families, farmers, and small businesses.

Throughout my time in Congress, I have pushed for changes to the regulatory landscape that promote competition, ensure right sizing, and hold regulators accountable. I was proud to reintroduce H.R. 478, a bill to reduce burdensome initial capital requirements and lending restrictions that have made de novo bank formation all but nonexistent over the last decade.

In addition to promoting new bank formation, we need to repeal the disastrous 1071 rulemaking and implement an independent appeals process to curtail regulatory overreach. I look forward to continuing to lead the Financial Institutions Subcommittee and getting to work.

Chairman HILL. The gentleman yields back.

The chair recognizes the Ranking Member of the Subcommittee for Financial Institutions, Mr. Foster of Illinois, for 1 minute.

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

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

The State of Illinois is home to more than 500 community banks and credit unions, employing over 41,000 Illinois residents. When I was starting a business with my brother years ago, I learned the value of having many banks, large and small, competing for our business. It allowed us to shop around for the interest rates and lending terms that were the best fit for our situation.

Today, community banks and credit unions face many challenges. They do not have the skill to compete with mega banks for large accounts, and they often do not have the technology or the consumer data to compete with online banks and financial technologies (fintechs), for smaller accounts. Now they are faced with a specter of competing against online payment systems like X Money at the same time that X owner's, Elon Musk, has been given unprecedented access to private payment data on every American business and every American.

Small bank customers were hit hard during the tariff wars of the first Trump, which threw us into a manufacturing recession a full year before COVID hit, and retaliatory tariffs devastated farm export markets in small towns across America requiring a $20 billion tax bailout simply to keep U.S. farmers afloat.

Small banks matter, and I look forward to working with the chair and this committee to address many of these issues.

I yield back.

Chairman HILL. The gentleman's time is expired.

Today we welcome the testimony of Mr. Pat Kennedy, Jr., founding partner of the law firm Kennedy Sutherland, San Antonio; Ms. Susannah Marshall, who is the Bank Commissioner from the Arkansas State Bank Department; Cathy Owen, Executive Chairman of Eagle Bank and Trust, located in Little Rock, Arkansas; Rebeca Romero Rainey, President and CEO of the Independent Community Bankers of America; and Mitria Spotser, Vice President of Federal policy for the Center for Responsible Lending.

We welcome all of you. Each of you will be recognized for 5 minutes to give an oral presentation of your testimony.

Without objection, your written testimony will be made part of the record.

Mr. Kennedy, we start with you. You are recognized for 5 minutes.

## STATEMENT OF PATRICK J. KENNEDY JR., FOUNDING PARTNER, KENNEDY SUTHERLAND, LLP

Mr. KENNEDY. Thank you, Mr. Chairman, Ranking Member Waters, and members of the committee. Thank you very much for inviting me to attend this hearing and submit written testimony.

I have been a practicing Lawyer representing community banks for 45 years, their shareholders, directors, and officers and related entities, on a wide range of matters so I have had a lot of exposure to the industry. I am also the principal shareholder of a Texas State savings bank with roots in rural West Texas, which in the last 5 years during the Paycheck Protection Program (PPP) as Ranking Member Waters had commented, this little, small bank did over 10,000 PPP loans, average size of about 11,000. We ended up as a little small community bank being the 10th largest Main Street lender in the country. A firm called Wells Fargo was number seven.

When I last had the opportunity to testify before this committee's Subcommittee on Financial Institutions at the invitation of Congressman Luetkemeyer in 2017, there were 6,300 banks in the United States. As of last September, 30 percent of those are gone, and we have about 4,500 banks today. This loss is extremely unfortunate and is a trend that I strongly encourage Congress to reverse.

In my professional career, I have witnessed the value of having locally owned and operated banks, particularly in rural communities. No other country in the world has anything like this historic population. It is a unique element of the American economy and, unfortunately, in the last 15 years, particularly since the enactment of Dodd-Frank, has undergone significant stress, and that is the reason for the continual decline.

Prior to 2008, there were approximately, as the chairman noted, 200 new charters annually over the prior 20 years. Today, that number has dwindled to something like 7 per year. During that same period, capital ratios and the Basel Committee, the European-based Basel Committee initiatives have been forced—designed, really, for the largest banks in the world but have been trickled down and forced on every community bank, even the smallest community banks, and placed enormous burdens on this unique set of an important group of banks.

Despite the laudable attempts of Congress during the first term to—during President Trump's first term to lessen that burden by the establishment of the community bank leverage ratio concept of getting away from the Basel at 9 percent, that still is a higher number and really continues to put pressure on profitability of community banks and I think discourages entrance into the business.

Twenty seven years ago, I was involved, and, thankfully, Congress adopted an amendment to the Internal Revenue Code that permitted banks for the first time to elect Subchapter S tax treatment, and that has been credited as one of the most important pieces of legislation unknowingly that has affected positively community banks in the last 50 years. About a third of the banks in the United States—at that time, there were 13,000, I think, and today, as we said 4,500—about a third of the banks in the United States are—maintain a Subchapter S election, and that was continued in the Tax Act of 2017, in section 199A. That expires this year, and so I call that to the attention of the committee. I know it is in the purview of the Ways and Means Committee, but it is extremely important that we make that provision permanent for the benefit of some 1,500 community banks, most of them rural based.

While there are many other laudable initiatives identified by the chairman in his initiatives, I want to underscore the importance of encouraging and allowing responsible innovation by community banks. Financial technology has and will continue to create substantial value for the industry through efficiency and reduction of costs. It is important that we have a regulatory framework that allows that innovation.

I would also point out that it is really important that we have open and timely discussion of material supervisory determinations. Public enforcement actions should, in my view, be reserved really for the most egregious situations, and cooperative and open dialog should be the word for the future.

Finally, I believe that the appropriate pricing of examination and application fees may need to be adjusted so that the industry is self-funding and the regulatory burden that is on community banks is lessened. Thank you very much.

[the prepared statement of Mr. Kennedy follows:]

Written Testimony of Patrick J. Kennedy, Jr.
Founding Partner of Kennedy Sutherland, LLP
Executive Chairman of TransPecos Banks, SSB
Before the
Committee on Financial Services
United States House of Representatives

February 5, 2025

Mr. Chairman, Ranking Member Waters and Members of the Committee, thank you for inviting me to appear at this hearing and to submit written testimony. I have been a practicing lawyer representing community banks, their shareholders, directors, officers and related entities on a wide range of matters for the past 45 years and am also the principal shareholder of a Texas State Savings Bank with roots in rural West Texas.

When I last had the opportunity to testify before this Committee's Subcommittee on Financial Institutions in 2017 at the request of Mr. Luetkemeyer, there were over 6,300 banks in the United States. As of September 30, 2024, there were 4526, a loss of nearly 30% in the past eight years.[1]

This loss is extremely unfortunate and is a trend that I strongly encourage Congress to reverse. During my professional career I have witnessed the value of having one or more locally owned and operated banks, which can serve as engines in these local economies, particularly in smaller rural communities, that suffer from a lack of access to capital. No other country in the world has anything like this historic and even currently diminished community bank population.

This unique element of the American economy has undergone significant stress especially during the past 15 years. The enactment of Dodd Frank dramatically increased regulation on banks of all sizes. As a result, new bank charters effectively ceased in sharp contrast to the approximately 200 new charters that had been established annually over the prior 20 years.

Also, during this same period, Bank capital requirements were increased through adoption of the European based Basel Committee's initiatives which were designed for only the largest banks in the world. These complex and substantially higher capital levels were soon imposed on all banks – even the

[1] Statement of former FDIC Chairman, William M. Isaac - *"During the 1980s, when some 3,000 banks failed, the US banking system declined from 13,000 banks to 10,000. The largest bank at that time was Citibank at $100 billion. During the period since then, mergers and failures caused the U.S. bank population to decline further by a staggering 6,000 banks, leaving the U.S. bank population at a mere 4,000 banks. The four largest banks (JP Morgan Chase, Bank of America, Citicorp, and Wells Fargo) comprise some $12 trillion in asset size or roughly 50% of the total banking system. It is critically important that this consolidation trend be halted. It should be a priority that we add more and stronger community banks in the U.S.*

smallest community banks. This has placed costly and unnecessary burdens on Americas unique community bank system, limiting its attractiveness.

Despite laudable attempts by Congress and the agencies during President Trump's first term to lessen that burden through establishment of the Community Bank Leverage ratio concept, the 9% capital ratio minimum adopted by regulatory authorities despite industry recommendations of a more traditional 8% ratio, has continued to put profitability pressure on community banks and discourage entry into the business of banking.[2]

Congress thankfully expanded the value of the community bank charter 27 years ago by permitting banks to elect taxation under Subchapter S similar to the now most popular form of business entity – the limited liability company. The relative benefit of an S election was continued in Section 199A of the Tax Cuts and Jobs Act of 2017 but currently expires at the end of this year. Making 199A permanent for the benefit of the nearly 1500 community banks with an S election and the entire LLC and flow through business community is vitally important. The Main Street Certainty Act introduced last week would accomplish this objective.

While there are many other laudable initiatives identified by the Chairman, I want to underscore the importance of encouraging and allowing responsible innovation by community banks. Financial technology has and will continue to create substantial value for the industry through efficiency and reduction in costs for all.[3] This is an important means to cope with the ever-growing regulatory burdens experienced throughout all American business and importantly within the banking community. It is extremely important for the industry to have an appropriate regulatory framework and guidance to permit and encourage innovation.

Our rapidly advancing digital economy demands that prudential regulators embrace these trends and initiatives and continue to hire talented professionals who can stay fully abreast of these industry trends. Chairman Hill has also wisely suggested meaningful re-evaluation of the CAMELS rating system with focus on proper weighting of components and clear definitions. I would add that utilizing a more "dynamic" approach which captures trends rather than a snapshot of a point in time will foster a more thoughtful and robust community banking environment.

The regulatory enforcement framework could benefit from revision by more open and timely discussion of material supervisory determinations. Public enforcement actions should be reserved for egregious situations and should not be used to emphasize or publicize new policies or approaches developed from time to time. The industry could benefit by an overall more cooperative and open dialogue among banks and their regulators.

---

[2] James Watkins, President Secura Isaac Group provided the following statement - *"The regulators require only 8% leverage ratio of a de novo bank, which has not been through the business cycles, but requires a long-standing bank to hold 9% leverage capital – it is time to bring back common sense to capital requirements and lower the community banks leverage capital requirement."*

[3] Ian Maloney, SVP, Head of Policy and Regulatory Affairs, American Fintech Council "*There are over 200 banks currently engaged in innovative activities with financial technology companies. Ian Moloney, American Fintech Council"*

The personal risks of serving as a bank board member or controlling investors should also be rethought. While banking agencies should carefully vet new applicants and investors, they need to develop the resources to do so quickly, efficiently and effectively and not let new charters or other application decisions linger. I strongly support Chairman Hill's suggestion that bank merger applications be acted upon within 120 days and suggest this timeline be applied to all other bank agency applications.

Finally, I believe that appropriate pricing of examination and application fees may need to be adjusted to achieve the foregoing including potentially FDIC insurance assessments. The banking industry is and should be, self-funding. As such, regulatory burden can be adjusted to wisely promote community banking and its benefits whether defined by geography, affiliation or otherwise.

I again thank the Committee for permitting me to appear today.

Chairman HILL. Thank you, Mr. Kennedy.

Commissioner Marshall, you are recognized for 5 minutes.

**STATEMENT OF SUSANNAH MARSHALL, BANK COMMISSIONER, ARKANSAS STATE BANK DEPARTMENT**

Ms. MARSHALL. Good morning, Chairman Hill, Ranking Member Waters, and members of the Financial Services Committee. My name is Susannah Marshall, and I am the Commissioner of the Arkansas State Bank Department. I also serve as the Arkansas Securities Commissioner and on the Executive Committee of the Conference of State Bank Supervisors. I have dedicated my entire career to the banking and regulatory industry, starting as a commercial bank examiner in 1995.

As Commissioner, I regularly travel across Arkansas and spend time at our banks talking with bankers about their issues and working to understand the challenges facing the institutions, our economy, and consumers. The dual banking system and our State supervisors are a fundamental part of our U.S. financial services market that supports varied business models and brings together differing regulatory perspectives to produce better outcomes for our consumers and our local economies.

States charter and are the primary regulator of 79 percent of the Nation's banks, most of which are community banks. In general, these banks have assets under $10 billion, traditional business models, limited geographic footprints, and less complex risk profiles. They pose minimal financial stability risk.

The 70 banks my department oversees are all community banks in the truest sense, regardless of any regulatory or supervisory definition. Community banks are the economic bedrock of their communities and a solid foundation for the overall U.S. economy. Yet, over the last decade, we have lost nearly 2,000 community banks, one-third of their members in 2014, and only 62 de novo community banks formed over that same period.

Like many of my State supervisor colleagues, my department has a mandate for safety and soundness, consumer protection, and economic growth. We are accountable to the local communities and local institutions. A healthy economy means that all consumers, no matter where they live, have access to a broad array of financial services.

Community banks are central to this mission. They are a core component of a vibrant economy, especially in rural areas. In one quarter of U.S. counties, a community bank is the only physical banking presence and nearly 2/3 of all rural deposits are held by community banks. When community banks close, their neighborhoods suffer. Low income households are often the hardest hit. Our Nation's institutions simply do not reach the areas that depend on community banks for economic support. Those largest institutions do not reach those areas. The business models are not an adequate substitute for the relationship lending models so crucial to local small businesses and entrepreneurs. That is why State supervisors care so deeply about the health, vitality, and future of the community banking business model.

Unfortunately, this model is under tremendous pressure from a multitude of forces, from increased competition and funding chal-

lenges to high technology and personnel costs. In addition to these headwinds, a heavy blanket of ever increasing Federal regulatory and compliance cost is smothering an already severely stressed community banking sector. To preserve community banking and support the communities that rely on these institutions, we must act now. Regulations for community banks should be tailored to limit their risk profiles. We must focus Federal supervision on core safety and soundness risk and avoid imposing a process tax on banks. This supervisory approach often distracts bankers from financial issues that could actually pose significant risk to their institutions.

One such area in need of funding reform is the Bank Secrecy Act (BSA) and Anti-Money Laundering (AML) supervision. No one in our financial system wants it to be used by criminals or terrorists, but the current BSA/AML regime is burdensome; its effectiveness is often unclear, and the associated compliance costs are strangling smaller institutions.

Static regulatory thresholds that penalize banks for growing alongside the economy should be indexed or discarded for rules that focus on the relative complexity and business models and risk of the institution. Community banks must also continue to innovate. The next generation of customers is demanding more convenient access to services and new and innovative financial products.

Federal regulators, however, have responded with vague guidance in ever-increasing supervisory expectations that can stifle new business models. A culture shift among our Federal counterparts and meaningful coordination with State regulators can help harness the benefits of new technologies and protect consumers. Changes to the regulatory framework and the process for approaching de novo applications should encourage new market entrance.

Healthy merger applications, particular local to local mergers that preserve community banks, must be considered in a timely, transparent, and fair process. Today's hearing comes at a crucial time for the community banking industry, and I applaud the chairman and the members of the committee for your focus on this crucial sector. Without collective action from Congress and Federal banking agencies, we will continue to lose community banks at an alarming rate, and the communities that depend on their financial services will struggle to find simple alternatives. Working together, we can establish a regulatory and supervisory environment that allows the cornerstone of this industry to not just survive but thrive. Thank you.

[The prepared statement of Ms. Marshall follows:]

Arkansas State
Bank Department

Hugh McDonald
Secretary of Commerce
Susannah T. Marshall
Bank Commissioner
Arkansas State Bank Department

**TESTIMONY OF**
**SUSANNAH MARSHALL**
**COMMISSIONER**
**ARKANSAS STATE BANK DEPARTMENT**
**TO THE**
**U.S. HOUSE OF REPRESENTATIVES FINANCIAL SERVICES COMMITTEE**
**HEARING ON**
**"MAKE COMMUNITY BANKING GREAT AGAIN"**

**FEB. 5, 2025**

***Introduction***

Good morning, Chairman Hill, Ranking Member Waters, and members of the Financial Services Committee. My name is Susannah Marshall, and I am the Commissioner of the Arkansas State Bank Department. I began as a commercial bank examiner at the agency in 1995 and have dedicated my career to the banking and regulatory industry. I also have the privilege of serving as the Arkansas Securities Commissioner and on the Executive Committee of the Conference of State Bank Supervisors ("CSBS").[1]

I am enormously grateful for the opportunity given to me by Governor Sarah Huckabee Sanders to lead the regulatory oversight of the financial services sector in Arkansas. As Commissioner, I regularly travel across the state and spend time at our banks, talking with bankers about their issues and working to understand the challenges facing the institutions, our economy, and consumers. Overall, despite the challenging economic and interest rate environment of the last several years, the banking industry and Arkansas banks are in strong condition as we enter 2025.

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

State banking regulators like myself are part of the dual banking system – a fundamental part of the U.S. financial services market. Banks have a choice when it comes to charter and regulatory structure. These choices support varied business models and bring together differing regulatory perspectives to produce better outcomes for consumers and our local economies.

The states charter and are the primary regulator of 79% of the nation's banks.[2] Ninety-two percent of state charters are community banks,[3] generally with assets under $10 billion, more traditional business models, limited geographic footprints, and less complex risk profiles. These institutions pose minimal financial stability risk. My Arkansas State Bank Department team currently oversees 70 state-chartered banks,[4] and they are all community banks in the truest sense of the word, regardless of any regulatory definitions.[5]

Today, members of this Committee and my fellow panelists will speak to the critical role that community banks play in local markets. These banks are not just the economic bedrock of their communities, but they also form the solid foundation of the overall U.S. economy. They will be described over the next few hours as the lifeblood of their communities . . . as economic linchpins . . . as essential components for economic growth.

We have heard these statements for decades. Yet over the last 10 years, we have lost nearly 2,000 community banks[6] – one-third of their 2014 numbers.[7] Only 62 *de novo* community banks were formed over that same period.[8]

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[2] As of Sept. 30, 2024, there are 3,581 state-chartered banks with aggregate assets over $8 trillion. These banks vary in asset size, from global systemically important banks, regional and mid-sized banks to smaller institutions.
[3] As of Sept. 30, 2024.
[4] Arkansas state-chartered banks range in size from $50 million to $37 billion in assets.
[5] All but four Arkansas state-chartered banks have assets under $10 billion.
[6] *See* CSBS Board Chair Charlie Clark, *Opening Remarks by CSBS Chair Charlie Clark at the 2024 Community Banking Research Conference*, St. Louis (Oct. 2, 2024).
[7] In 2014, there were more than 6,100 community banks. At the end of 2024, that number had fallen by approximately 2,000 institutions. Over that same period, community banking system assets grew by 35%, while asset growth at banks over $100 billion was 69%, or nearly double.
[8] FFIEC, National Information Center.

Today's hearing comes at a critical time for the community banking system. Without collective action from Congress and the federal banking agencies, we will continue to lose community banks at an alarming rate, and the communities that depend on their financial services will struggle to find suitable alternatives. Working together, we can establish a regulatory and supervisory environment that allows these cornerstones of the economy to not just survive, but to thrive.

***State Supervision, Community Banks, and Economic Growth***

As the Commissioner for Arkansas banks, my department's mission is to maintain a "legal and regulatory structure" that "provides the public with convenient, safe, and competitive banking, which fosters economic development."[9] Many of my state bank supervisor colleagues share this mandate for safety and soundness, consumer protection, *and* economic growth. We are accountable to our local communities and local institutions for these responsibilities.

A healthy state, and national, economy means that consumers – wherever they live – have broad access to an array of financial services. Community banks are central to this mission. Collectively, community banks represent about 11% of banking industry assets, yet they fund 37% of all small loans to businesses and 63% of bank-originated agricultural loans nationwide.[10] They are a core component of a vibrant economy, especially in rural areas. In one-quarter of U.S. counties (627 counties), a community bank is the only physical banking presence, and nearly two-thirds of all rural deposits are held by community banks.[11] And, deposits held at community banks can be deployed as loans to local businesses and nonprofits, which further strengthens the local economy and helps neighborhoods grow.

Community banks also operate in ways far different from their larger counterparts by specializing in relationship lending, using their local knowledge to enhance traditional underwriting. These relationships and this local economic knowledge allow community banks to

[9] Arkansas State Bank Department, Mission and Vision (January 2025).
[10] FFIEC, Central Data Repository.
[11] Matt Hanauer, Brent Lytle, Chris Summers & Stephanie Ziadeh, *Community Banks' Ongoing Role in the U.S. Economy*, 106 Econ. Rev., Federal Reserve Bank of Kansas City (2021).

make better loans to small businesses, startups, and rural firms.[12] Community banks place a greater emphasis on long-term customer relationships and are more willing to incorporate soft information that is not easily quantifiable or readily available. Critically, relationship lending expands access to credit. This personalized approach helps reduce default rates, as community banks work with struggling borrowers rather than abruptly cutting off credit. Relationship lending is particularly beneficial for small businesses and farms and during economic downturns.[13]

When community banks close, their neighborhoods suffer, and low-income households are often the hardest hit.[14] Our nation's largest institutions and regional banks simply do not reach the rural communities that depend on community banks for economic support. Their business models are not an adequate substitute for the relationship lending model so crucial to local small businesses and entrepreneurs. That is why state supervisors care so deeply about the health, vitality, and future of the community bank business model. More than ever before, this model is under tremendous pressure from a multitude of forces.

***The Challenging Operational Environment for Community Banks***

Community banks operate in an increasingly competitive financial services marketplace. In the traditional banking model, deposits fund loans and the difference between deposit rates and loan yields produces a "net interest margin." Liquidity needs, market forces, and timing differences between deposit and loan repricing impact margins over time. And the extreme shift and increase in competition for deposits, coupled with more lending options, have placed tremendous pressure on net interest margins for community banks.[15] Sources of non-interest

[12] Luke Petach, Stephan Weiler & Tessa Conroy, *It's a Wonderful Loan: Local Financial Composition, Community Banks, and Economic Resilience*, 126 J. Banking & Fin. 106077 (2021).
[13] The value of relationship banking becomes most apparent during economic downturns. During the 2008 financial crisis, community bank lending to small businesses declined by only 2%, compared to a 79% decline among large banks. *See* Hanauer et al., *supra* note 11. During the pandemic, community banks had higher participation in the Paycheck Protection Program. *See* CSBS, "Community Banks Play Outsized Role in PPP Lending" (Dec. 11, 2020).
[14] Erik J. Mayer, *Big Banks, Household Credit Access, and Intergenerational Economic Mobility*, 59 J. of Fin. & Quant. Analysis, 2933 (Sept. 2024).
[15] Median community bank annualized NIM was 3.36% through Sept. 30, 2024.

income for community banks, such as fees for certain financial services, have also been stressed by competitive and regulatory pressures.

These financial challenges have been amplified by the rising cost of technology and personnel. Consumers are demanding a broader array of financial products and more streamlined access to services. The technology required to provide these innovations is expensive and can increase operational risks, such as data protection and cyber threats. The personnel needed to work in this environment are more technically skilled and more costly. Succession planning at community banks remains an area of tremendous concern.

And, in addition to all these headwinds, a heavy blanket of ever-increasing federal regulatory and compliance costs is smothering our severely stressed community banks.

Washington, D.C., is awash with statements about the importance and value of community banks. Unfortunately, regulatory and supervisory actions taken by federal agencies often impede the economic success of community banks with no real benefit to safety and soundness, consumer protection, or financial stability.

***The Supervisory and Regulatory Burden on Community Banks***

**Process Driven Federal Supervision**

State regulators are increasingly concerned that federal agencies prioritize supervisory processes over core safety and soundness risks. This creates a massive supervisory "process tax" that places community banks at a competitive disadvantage relative to larger banks that can more easily absorb these costs and to other financial service providers.

State regulators question whether this federal supervisory "process tax" results in safer banks or better consumer protection. It discourages innovation, and prevents new technologies, products, and services from maturing. Critically, it often distracts bankers and supervisors from focusing on core financial risks that could actually threaten the safety and soundness of an institution.

Acting FDIC Chairman Travis Hill highlighted this concern recently, indicating that examiners often focus on "a litany of process-related issues that have little bearing on a bank's core financial condition or solvency."[16]

Federal Reserve Board Governor Michelle Bowman – a former Kansas state bank supervisor – raised this issue last fall at the Community Banking Research Conference in St. Louis.[17] Governor Bowman noted, "the examination process often produces supervisory findings over-emphasizing non-core and non-financial risks, highlighting issues like IT and operational risk, management, risk management, and internal controls."[18]

CSBS Board Chair Charlie Clark from Washington State has also noted the impact of "downward creep," as regulatory and supervisory expectations for larger banks are inexorably imposed on smaller institutions. Chair Clark further explained, "As a regulator, I will always insist on safety and soundness and consumer protection. But I think we can accomplish these goals without a seemingly endless demand for more reporting and more personnel and more management and more process until these small banks can no longer shoulder the ever-growing regulatory costs."[19]

Focusing federal supervision on core safety and soundness concerns and eliminating costly and unnecessary process-driven reporting with little relation to financial health and consumer protection will help more effectively tailor compliance burdens for community banks. For example, the Bank Secrecy Act ("BSA") and anti-money laundering ("AML") regime is a critical supervisory area in need of fundamental reform, and another area where supervisory process focus, and rising associated compliance costs, are strangling smaller institutions.

No one wants our financial system to be used by criminals and terrorists to support illegal activities. State supervisors and the institutions we oversee want to do our part to prevent this illicit activity. Indeed, U.S. financial institutions spent $59 billion on BSA/AML

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[16] FDIC Vice Chairman Travis Hill, *Charting a New Course: Preliminary Thoughts on FDIC Policy Issues* (Jan. 10, 2025) (noting, in particular, the FDIC process-focused approach to "sensitivity to market risk" analysis).
[17] CSBS, Federal Reserve, and FDIC, Community Banking Research Conference, St. Louis (Oct. 2-3, 2024).
[18] FRB Governor Michelle W. Bowman, *Building a Community Banking Framework for the Future* (Oct. 2, 2024).
[19] *See* Clark, *supra* note 6.

compliance in 2023,[20] and state supervisors conducted more than 1,000 BSA/AML reviews at banks.[21] BSA/AML was designed to be a "risk managed" framework, but as implemented it has become a costly, process-oriented, high-risk, high-consequence[22] supervisory burden. It is also far from clear whether these considerable investments of time, resources, and personnel are yielding actual results[23] – and lack of transparency from FinCEN, law enforcement, and the national security community exacerbates this uncertainty.[24]

We can continue to impose this substantial reporting burden on banks, including community banks, but we should reflect on its costs and, as a nation and a Congress, consider whether more fundamental reforms are required.

**Static Federal Regulatory Thresholds**

Regulatory requirements are typically triggered by a bank's size or volume of activity. This means all banks, including community banks, face an increasing compliance burden as they grow.[25] We often talk about these asset-based thresholds as costly regulatory "cliffs."

The compliance impact of these "cliffs" occurs well in advance of an institution crossing a threshold. Community banks approaching these barriers must work with consultants, lawyers, and others to build out new systems, reporting capabilities, training programs, and more. Furthermore, banks of all sizes, but especially community banks, are often forced to increase staffing levels to simply "keep up" with the additional burden associated with the sheer volume of new regulations.

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[20] Forrester Consulting, *True Cost of Financial Crime Compliance Study, 2023: United States and Canada* (Nov. 2023).
[21] CSBS, Profile of State Chartered Banking.
[22] In addition to the potential for significant fines and penalties, BSA/AML violations can negatively affect a bank's "management" and overall CAMELS ratings and can impede regulatory approvals, such as mergers. *See, e.g.*, 12 U.S.C. § 1828(c)(11).
[23] For example, a 2024 GAO report found that law enforcement had only accessed about 5.4% of currency transaction reports filed in FinCEN's BSA Portal since 2014. *See* U.S. Government Accountability Office, *Currency Transaction Reports: Improvements Could Reduce Filer Burden While Still Providing Useful Information to Law Enforcement* (Dec. 2024).
[24] Despite years of effort, some estimate that the global BSA/AML regime is only capturing and seizing 1% of the illicit money flows. *See, e.g.*, Basel Institute on Governance, *Basel AML Index 2024: 13th Public Edition – Ranking Money Laundering Risks Around the World* (2024).
[25] Congressional Research Service, *Over the Line: Asset Thresholds in Bank Regulation* (May 3, 2021).

Too often, regulatory thresholds operate as an unnatural impediment to organic growth – institutions will choose to stay below the thresholds to avoid the significant compliance costs of exceeding the arbitrary regulatory barriers. I have talked with the leaders of community banks faced with this choice, and even if their business model, risk profile, or operational complexity is not going to change, they fear the approaching cliff. As a consequence, they feel forced to slow growth or lending functions or forego expansion opportunities simply because of the increased burden associated with crossing an impending asset threshold. The threshold forces them to accept the opportunity costs of their inability to scale. The real or perceived threat of these artificial regulatory barriers has a real-world, negative impact on our nation's community banks.[26]

Moreover, many of our regulatory thresholds are static and do not contemplate economic growth, changes in industry composition, or a bank's underlying risk or complexity. As just one example, the FDIC started a Continuous Examination Program ("CEP") in the early 2000s for banks once they reached $10 billion in assets, transitioning these banks from "point-in-time" examinations to more stringent ongoing supervision. While the banking system has evolved substantially over the past 25 years, the FDIC's $10 billion asset threshold for CEP remains the same. When it first started, fewer than 20 banks were part of the CEP (less than half of one percent of a supervisory portfolio of over 5,000 institutions). Today, nearly 60 institutions (roughly 2% of approximately 2,900 banks) surpass this static threshold, triggering more significant supervisory expectations and accompanying compliance burdens.[27] Static asset-based thresholds can quickly become arbitrary, penalizing community banks that have simply grown alongside the U.S. economy.

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[26] FRB Governor Michelle W. Bowman, *Brief Remarks on the Economy, and Perspective on Mutual and Community Banks*, The New England CEO Summit, Portsmouth, NH (Jan. 31, 2025). ("There are real costs not only to banks, but to communities, when the framework is insufficiently tailored, as community banks faced with excessive regulatory burdens may be forced to raise prices or shut their doors completely.")

[27] Indeed, several state nonmember banks with over $10 billion in assets are simultaneously part of the CEP supervision program and meet the FDIC's community bank research definition. *See* "Appendix A: Study Definitions," FDIC Community Banking Study (December 2020).

Data from the CSBS Annual Survey of Community Banks[28] indicates that regulatory compliance burden is significantly greater for small community banks. These challenges are amplified by the difficulty many community banks face in attracting and retaining employees with the technical and compliance skills necessary to meet growing regulatory and operational burdens – particularly for rural institutions. These regulatory burdens – and approaching regulatory "cliffs" – may encourage smaller community banks to sell or merge to manage the disproportionately higher compliance costs.

These regulatory barriers are established by statute or set by federal agencies. Congress and the federal agencies should systematically review these thresholds to ensure that they appropriately reflect the relative risk of the institutions they cover. Policymakers must consider indexing, where appropriate, to account for changes in economic or industry growth, rather than creating thresholds that are never reviewed, analyzed, or modified based on market conditions.

**Federal Regulatory Burden**

Ill-designed, poorly conceived, and inappropriately tailored regulations also pose considerable challenges.[29] In 2024 alone, the federal banking agencies proposed or finalized more than 30 rules totaling more than 4,000 pages.[30] Technically, many of these regulations cover only larger institutions, but supervisory practices regularly devolve their application to smaller institutions such as community banks.

These rules extend beyond the federal banking agencies and include requirements imposed by CFPB and FinCEN. For example, bankers are being asked to collect more, and sometimes redundant, personal information from customers to satisfy federal reporting

[28] CSBS, Annual Survey of Community Banks.
[29] In 2024, 89% of community bankers cited government regulation as the highest external risk they face, tying for first with the rising cost of funds. The share of community bankers listing regulation as an "extremely important" or "very important" risk has risen consistently over the last few years, up from 81% in the 2023 CSBS Annual Survey and from 77% in the 2022 survey. *See* CSBS, *2024 CSBS Annual Survey of Community Banks*, Presented at the 12th Annual Community Banking Research Conference (Oct. 2-3, 2024). Community banks responding to the Third Quarter 2024 Community Bank Sentiment Index survey noted government regulation, cyber threats, and the cost/availability of labor among their top concerns. *See* CSBS, *Community Bank Sentiment Index* (Oct. 8, 2024).
[30] *See* Clark, *supra* note 6.

obligations.[31] These rules are endlessly frustrating for customers, who just want to open a bank account or get a loan, and are incredibly costly for banks that must collect and protect the confidential information.

We encourage our federal counterparts to carefully and explicitly tailor their regulatory efforts based on the relative size and risk of an institution and to provide clear guidance to their examination teams that "supervisory creep" is not appropriate. In addition, we encourage the federal regulators to consider the cumulative costs and unintended consequences of proposed regulatory changes in a holistic manner.[32] Right-sizing our regulatory and supervisory expectations for community banks can help promote their success, without posing safety and soundness, consumer protection, or financial stability risks.

**Centralized Federal Decision-Making**

Over the past several years, my colleagues and I have noticed considerable delays and confusion as the federal banking agencies have shifted decision-making authority away from Federal Reserve Banks and FDIC local and regional offices to Washington, D.C. While coordination from headquarters is important for consistency and accountability, an appropriate balance must be struck. And, more recently, the result has been a "top-down" approach to bank supervision that treats all banks – and all risks – the same. Not allowing FDIC regional offices and Federal Reserve Banks to quickly address identified risks, or handle even mundane matters, traps banks in a supervisory limbo as they wait for distant policymakers to reach decisions that impact everything from business strategies to bank examination findings.[33]

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[31] *See, e.g.*, CFPB, Final Rule, *Small Business Lending Under the Equal Credit Opportunity Act (Regulation B)*, 88 Fed. Reg. 35150 (May 31, 2023); *see also* FinCEN, Final Rule, *Beneficial Ownership Information Reporting Requirements*, 87 Fed. Reg. 59498 (Sept. 30, 2022).

[32] FRB Governor Michelle W. Bowman, *Challenges to the Community Banking Model* (Oct. 11, 2024).

[33] FDIC data on bank examinations and applications activity provide a window into Washington-driven delays, but they do not paint the complete picture. For example, the FDIC notes that it failed to meet its safety and soundness exam turnaround time goals for one-third of bank exams in 2024. However, state regulators frequently encounter D.C.-driven delays during *joint* examinations conducted by states and the FDIC, and joint exam metrics are not even reported. Similarly, the FDIC consistently underperforms its application processing time goals (*e.g.*, in 2024, 61% of merger applications were approved within FDIC goal), but the data reported do not capture the significant amount of time, resources, and interaction required for an application to be deemed by the FDIC as "substantially complete" – the point at which the application review clock finally starts.

FDIC regions and the Federal Reserve districts, like state supervisors, are better positioned to understand individual institutions' business models and local economic conditions. Effective delegation also improves coordination between state and federal regulators and timely communication, decision-making, and remediation of supervisory concerns. Through its oversight authority, Congress should encourage the federal banking agencies to reverse this trend and increase delegation of more decision-making authority to local offices, particularly on routine supervisory issues and applications.

***Ensure Continued Access to Community Bank Funding Sources***

Community banks rely on a wide range of funding sources to extend credit in their communities and manage their liquidity. Bank funding strategies are influenced by a variety of factors, including business needs and local conditions, deposit opportunities and competition, federal liquidity facilities, regulatory requirements, supervisory expectations, and more. Recent proposals to dramatically change the regulatory treatment of brokered deposits[34] or to place conditions on Federal Home Loan Bank advances[35] would needlessly upend key community bank funding sources.[36]

In addition, our deposit insurance framework should enable a level playing field between banks of all sizes. During several weeks of heightened stress across the banking system in spring 2023 (*i.e.*, the weeks ending on March 15 and May 3), community and regional banks saw deposit outflows, while the largest "too big to fail" institutions experienced significant deposit inflows.[37] These deposit movements were driven by a perceived "flight to

[34] FDIC, Notice of Proposed Rulemaking, *Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions*, 89 Fed. Reg. 68244 (Aug. 23, 2024). Recently announced plans to withdraw the FDIC's brokered deposits proposal are a welcome development. *See* *Statement from Acting Chairman Travis Hill* (Jan. 21, 2025).
[35] *See, e.g.*, CSBS & NASCUS, Joint Letter Re: *Federal Home Loan Bank Core Mission Activities and Mission Achievement* (July 15, 2024); *see also* FHFA, Advisory Bulletin, *AB 2024-03: FHLBank Member Credit Risk Management* (Sept. 27, 2024).
[36] In a recent survey of community banks, CSBS found that 49% of community bank respondents use, and plan to continue using, brokered deposits. *See* CSBS, *2024 CSBS Annual Survey of Community Banks* (Oct. 2-3, 2024).
[37] Cecilia Caglio, Jennifer Dlugosz, and Marcelo Rezende, *Flight to Safety in the Regional Bank Crisis of 2023*, Federal Reserve Board (Dec. 19, 2024).

safety"[38] from a relatively small number of *very large depositors* (*i.e.*, uninsured depositors) rather than many small depositors.[39]

Community banks need to maintain deposit relationships with businesses and consumers, even when those funds exceed the deposit insurance coverage limit, which they often do.[40] Small businesses in rural Arkansas should not feel compelled to leave their community banking partners simply because they worry the federal government will not protect their funds unless they are placed with a "too big to fail" institution. While the costs, benefits, and tradeoffs of different deposit insurance reform options are certainly complex, Congress should have meaningful policy discussions about whether raising the deposit insurance coverage limits for business operational accounts would promote a more level playing field for community banks and their small business customers.[41] We should all share the objective of fair and equal depositor protections – both real and perceived.[42]

***Facilitate Community Bank Innovation Through Third-Party Partnerships***

To meet their customers' expectations and grow their businesses, community banks often must rely on core providers and other third-party vendors for new technologies. These partnerships can expose banks and customers to potentially unique and serious risks, particularly those related to cybersecurity or business continuity.

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[38] *Id.*

[39] Marco Cipriani, Thomas M. Eisenbach, and Anna Kovner, *Tracing Bank Runs in Real Time*, Federal Reserve Bank of New York Staff Reports, no. 1104 (May 2024, revised Dec. 2024).

[40] Research shows how small and medium sized enterprises' ("SMEs") payroll liabilities can quickly push business transaction accounts over the current $250,000 deposit insurance limit. The share of SMEs with monthly payroll exceeding the $250,000 limit is: 16% of companies with 25-49 employees; 43% of companies with 50-99 employees; 68% of companies with 100-249 employees; and 97% of companies with 250+ employees. *See* Luke Pardue and Tom Bowen, "New Data Shows Many Small Business Payrolls Exceed the FDIC Deposit Insurance Limits," Gusto (Apr. 13, 2023).

[41] This "targeted coverage" reform approach has been supported by the FDIC. *See* FDIC, *Options for Deposit Insurance Reform* (May 1, 2023).

[42] Former FDIC Chair Sheila Bair, *Frontline - Former FDIC Chair on Bank Collapses, the Federal Reserve and "Potential Fragility" in the Financial System* (March 16, 2023). ("I do worry about community banks.... [W]hat happens to them if the market starts assuming anybody, say, over $100 billion is going to have their uninsured deposits protected? Then that money is going to start going out of the community banks into those institutions that are viewed as having favored status. So these one-off bailouts that are particularly just for a couple of institutions create a lot of distortions and competitive disadvantages for others....")

Despite these risks, these innovative products and services are in high demand by customers, and community banks must find ways to meet this market demand and manage any associated risks. Federal regulators, however, have responded with vague guidance and ever-increasing supervisory expectations that can keep community banks from reaching the next generation of customers and maintaining competitive balance with other financial service providers.

Community banks need a clear roadmap that provides more opportunities to successfully innovate.[43] This framework should include standards and operational guidance for activities associated with traditional banking products and services, *e.g.*, deposit gathering, payments, custody, or lending. These executable standards would benefit community banks, consumers, third-party service providers, and state and federal supervisors.

To support the development of these operational guides, federal regulators should directly engage with state supervisors and other stakeholders to help mature the regulatory and supervisory framework for third-party partnerships and non-traditional business models.[44] A culture shift among our federal counterparts and meaningful coordination with state regulators can help harness the benefits of new technologies while mitigating associated risks and protecting consumers.

***Information Sharing and Cybersecurity Tools to Support Innovation***

State and federal regulators must be prepared to act quickly to address risks that can arise from new technologies and third-party vendors. To that end, state regulators encourage Congress to swiftly reintroduce and pass the Bank Service Company Examination Coordination

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[43] FRB Governor Bowman recently stated: "Regulators must be open to innovation in the banking system. Our goal should be to build and support a clear and sensible regulatory framework that anticipates ongoing and evolving innovation—one that allows the private sector to innovate while also maintaining appropriate safeguards." *Supra* note 26.

[44] Regulators can engage the private sector directly or stand up their own tech-focused initiatives. For example, I have participated in the FIS Fintech Accelerator program hosted at the Venture Center in Little Rock. The FDIC had its own public-facing engagement program, FDiTech, but it was dismantled under former Chairman Martin Gruenberg. Acting Chairman Travis Hill has stated he plans to revive this important initiative. *See* Hill, *supra* note 16.

Act,[45] which encourages federal and state regulators to coordinate examinations of third-party service providers and removes perceived barriers to information sharing.

Community bankers consistently cite cybersecurity as a top threat to their institutions. As a regulator, I continue to highlight cybersecurity as one of the most significant risks facing the banking industry and all stakeholders, including consumers. Despite these concerns and an evolving threat landscape, many tools that have historically been used to assess an institution's cybersecurity performance and risks, like the FFIEC Cybersecurity Assessment Tool, are being discontinued. State regulators developed and deployed a ransomware self-assessment tool to the community banks they supervise and are initiating a cyber hygiene awareness campaign this year.[46] However, it is critical for the federal banking agencies, working with state supervisors, to provide clear guidance to help community banks mitigate and avoid growing cyber threats. A good place to start may be existing standards and tools developed by CISA, NIST, and the private sector.

***Support New Bank Formation & Healthy Merger Activity***

By tailoring regulatory requirements and supervisory expectations, eliminating process-driven supervision to focus on core financial risks, and fostering innovation, Congress and the federal banking agencies can reduce unnecessary compliance costs for community banks. This welcome relief would provide additional financial flexibility for community banks to compete, mature new products and technologies, and continue to support their local communities. These regulatory changes could also help support a return of capital investment, new business models, and new entrants.

A healthy and dynamic banking system is marked by regular market entry and exit – *i.e.*, *de novo* bank formation, mergers and acquisitions ("M&A"), and even occasional failures. Unfortunately, restrictive federal policies, unnecessary application processing delays, and a refusal to consider new, technology-focused business models have kept new capital from entering the banking system and made it increasingly difficult to exit through healthy mergers.

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[45] Bank Service Company Examination Coordination Act of 2023, H.R. 1109/S. 1501, 118th Cong. (2023).
[46] CSBS, Ransomware Self-Assessment Tool (Oct. 15, 2024).

To support a healthy community banking ecosystem, our federal partners must take a more balanced approach. With appropriate guardrails, financial institutions can incorporate new technologies and business models into the banking system without posing financial stability or consumer protection risks. We cannot – and federal policy should not – attempt to eliminate all risks from the financial system. Efforts to eliminate all risk from *de novo* formation have discouraged prospective organizers and kept their capital, business plans, and talent out of the banking system. We must be willing to more appropriately balance our risk appetite to spur *de novo* bank formation.

Elsewhere in the bank life cycle, federal policy should facilitate healthy M&A activity that preserves community banking. Recent policies from the FDIC,[47] OCC,[48] and U.S. Department of Justice[49] move us in the wrong direction by making the M&A process less predictable, more costly, more opaque, and longer.[50] Recently announced plans to replace the FDIC's problematic 2024 Bank Merger Policy Statement are a welcome development.[51]

Congress and the federal banking agencies should go further and establish a *de minimis* exception for M&A transactions in highly concentrated rural markets. Many rural areas have only a limited number of community banks that represent the entire physical banking presence in the community. As a result, these markets are more likely to be highly concentrated.[52] This can impede in-market mergers of small banks in rural areas while unintentionally promoting acquisitions by large, out-of-market institutions.[53] The resulting larger institutions often have less familiarity and fewer ties to the local community. A *de minimis* exception for local/local mergers would help preserve community banks and the benefits they provide to their local communities.

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[47] FDIC, Final Statement of Policy, *Final Statement of Policy on Bank Merger Transactions*, 89 Fed. Reg. 79125 (Sept. 27, 2024).
[48] OCC, Final Rule, *Business Combinations Under the Bank Merger Act*, 89 Fed. Reg. 78207 (Sept. 25, 2024).
[49] U.S. Department of Justice, *2024 Banking Addendum to 2023 Merger Guidelines* (Sept. 17, 2024).
[50] CSBS, Comment Letter Re: *Request for Comment on Proposed Statement of Policy on Bank Merger Transactions* (June 17, 2024).
[51] FDIC, *Statement from Acting Chairman Travis Hill* (Jan. 21, 2025).
[52] *See* Bowman, *supra* note 26.
[53] Andrew P. Meyer, *Market Concentration and Its Impact on Community Banks*, Federal Reserve Bank of St. Louis, Regional Economist (Apr. 12, 2018).

***Conclusion***

We are losing ground in the fight to preserve our nation's community banks, and the time to reverse this trend is now. We must work together to ensure that the banking industry, and especially the community bank sector, has the tools and support necessary to form and flourish.

With direction from Congress and a commitment by federal agencies to substantive engagement and coordination with state supervisors, we can breathe new life into community banking. Along with my colleagues across the state system, I stand ready to support these crucial efforts.

I applaud Chairman Hill and the House Financial Services Committee for convening this important hearing, and I look forward to your questions.

Chairman HILL. Thank you, Commissioner.

Ms. Owen, you are recognized for 5 minutes.

**STATEMENT OF CATHY OWEN, EXECUTIVE CHAIRMAN, EAGLE BANK & TRUST COMPANY, LITTLE ROCK, ARKANSAS**

Ms. OWEN. Chairman Hill, Ranking Member Waters, and members of the committee, thank you for this opportunity to testify at today's hearing, "Making Community Banking Great Again." First, I want to thank Chairman French Hill. Not only is he a dedicated husband, father, and public servant, but he is also a dear friend. I have known him for over 50 years. His deep understanding of financial services and tenured bank experience is invaluable as he leads the committee.

I also want to thank each of you for serving on the House Financial Services Committee as you have an exceptionally important job ahead of you.

I fear community banking has never been more difficult than it is today. Just as so many community bankers are striving to serve their customers and communities, many are also struggling to survive. We desperately need your help to address the overwhelming regulatory burden we face. I know you are the people we need to get the job done and offer my thanks in advance for your support of the chairman as he works to make community banks great again.

My name is Cathy Owen. I am Chair, President, and CEO of State Holding Company and Executive Chair of the Eagle Bank and Trust Company, a $490 million community bank in Central Arkansas with a rich 100-plus year history of serving its customers and communities. Last year, I celebrated 50 years in banking, having started my career as a shred clerk when I was a teenager.

In addition to running our bank, I am currently Vice Chair of the American Bankers Association (ABA). I have chaired the ABA's Government Relations Council and the American Bankers—excuse me, the Arkansas Bankers Association, and I am also very involved in advocacy efforts on behalf of America's banks. I am also a mother, a wife, and a grandmother.

In preparing for this hearing, I asked our compliance team to provide real-world examples of unnecessary and counterproductive regulatory red tape. Although well-intended, the Consumer Financial Protection Bureau's (CFPB's) final rule on section 1071 presents both a tremendous compliance burden on lenders and privacy concerns for small business loan applicants, and we strongly support congressional action to overturn it.

The lack of transparency and accountability at the CFPB is taking a heavy toll on America's banking industry and the millions of customers we serve. Replacing the sole director with a five-member bipartisan commission and placing the CFPB under the congressional appropriations process would introduce sorely needed accountability to the Bureau. We want to comply with the Community Reinvestment Act (CRA) and serve our communities, but there are vast gray areas left up to interpretation by both regulators and bankers. CRA should be reformed to clearly tell us what we need to do and what format and documentation is required.

Just before the end of 2024, our bank grew suddenly to over $500 million in assets. Regulators have informed us to comply with the new FDIC Improvement Act requirements by year end. Meaning, we only had 2 weeks to comply, which was impossible. Instead, we chose to shrink the bank by moving deposits of customers out of the bank.

If asset thresholds are imposed on the industry, they should be indexed to inflation. Borrowers constantly complain about the required waiting periods for receiving the closing disclosures in the Truth in Lending Act's trade rules when waiting an additional 3 to 6 days for actually closing and receiving their funds. This unnecessary red tape should be eliminated.

In my written testimony, I mentioned several bills that we support. One of those bills that I think is important is the Promoting New Bank Formation Act. This will promote increased availability of banking and financial services for local communities by helping to create new de novo banks.

Finally, combating fraud is a critical issue for our banks and customers. Congress and the regulatory agencies should pursue an all-of-government approach to combating fraud to reduce the number of Americans who fall victims to scams.

In conclusion, at Eagle Bank and Trust, we have a long history of service to our local communities in Arkansas, and our commitment to community development loans and investments is shared by the thousands of community banks across the country. Many of these banks are under pressure to survive due to regulatory overreach and unfair competition.

We support your ambitious agenda to provide needed regulatory relief for community banks and hope you will consider the many ideas presented in this testimony and ABA's blueprint for growth. Thank you once again.

[The prepared statement of Ms. Owen follows:]

*Testimony of*

**Cathy Owen**

*On Behalf of the*

**Eagle Bank & Trust Company,**

**Arkansas Bankers Association & American Bankers Association**

*Before the*

**House Financial Services Committee**

**February 5, 2025**

Testimony of

**Cathy Owen**

*On Behalf of the*

**Eagle Bank & Trust Company,**

**Arkansas Bankers Association & American Bankers Association**

*Before the*

**House Financial Services Committee**

**February 5, 2025**

Chairman Hill, Ranking Member Waters, and members of the Committee, thank you for the opportunity to offer testimony for today's Hearing: "Making Community Banking Great Again." My name is Cathy Owen, and I am Chair, President & CEO of State Holding Company and Executive Chair of Eagle Bank & Trust Company in Little Rock, Arkansas. In 2025, I will celebrate my 51st year in banking and this hearing could not be any timelier given the changes underway in our industry.

My family entered banking in 1967 when my father chartered First State Bank of Sherwood, because he observed a need for a bank in this unbanked community. He wanted me to learn about banking, which I did, and in 1984 I led the formation of State Holding Company as well as the purchase of the Heber Springs State Bank (Chartered 1919), which was scheduled to be closed the next day by regulators. I became the President of the bank and worked with the staff to rebuild a healthy bank. Later, the two banks were merged under what is now Eagle Bank & Trust Company.

Today, Eagle Bank & Trust is a 104 years old, $485 million state bank, with 13 branches in central Arkansas, and Mortgage Loan Offices in Arkansas, Idaho, Louisiana, Mississippi, and Tennessee. Our Mortgage Division has continuously been one of the top three originators in Arkansas. I am very proud of Eagle Bank's commitment to the communities we serve, which we fulfill by lending to small businesses and underserved communities, as well as providing financial education, stocking food pantries, and paying for school scoreboards.

Banks of all sizes and business models are drivers of healthy growth across our economy. Community banks are a very important part of this ecosystem and play a crucial role in both our local communities and national economy. Community banks help local businesses thrive by providing them with credit, and by becoming trusted advisors that help small businesses make good financial decisions and manage their capital.[1] One of the many examples of this commitment is a commercial loan we made recently for a small business to purchase and

[1] See, ABA Banking Journal at: https://bankingjournal.aba.com/2019/04/measuring-what-community-banks-bring-to-the-table/

renovate a retail center that helped stabilize a moderate-income census tract that created new businesses and jobs for low-to-moderate income individuals.

I am very pleased to speak on behalf of my community bank, the Arkansas Bankers Association, and as the Vice Chair of the American Bankers Association (ABA).[2]

**Committee Priorities and ABA's Blueprint for Growth**

I am deeply grateful for this hearing and the fast start by Chairman Hill on his robust agenda to repair the current regulatory environment and strengthen community banks. For the last few years, the banking industry has faced a "tsunami" of new rules and regulations from the financial regulators. ABA President and CEO Rob Nichols said in a December 19, 2023, letter to President Biden that "ABA is concerned about the cumulative impact of uncoordinated regulatory initiatives that have the potential to significantly disrupt retail and commercial banking in ways that will negatively impact the economy, and the customers banks serve." Unfortunately, not only did the avalanche of regulation continue, but it also actually increased, and we have been forced to take the unprecedented action of bringing six lawsuits against the CFPB and other federal regulatory agencies challenging rulemakings that have overreached or exceeded the agency's statutory authority.

Disturbingly, a host of new initiatives were pushed through the door in the waning days of the former administration by the CFPB that if not overturned by Congress or by the regulatory agencies could have profound and lasting negative effects on the industry, consumers and our economy.

That is why we appreciate and strongly support the goals of the Chairman Hill's "Principles to Make Banking Great Again." In that regard, we submitted detailed feedback on the Chairman's plan, and many of the Chairman's principles align closely with our policy priorities described in ABA's "Blueprint for Growth in 2025 and Beyond."[3] In the Blueprint, we outline several legislative and regulatory actions Congress, the administration and other policymakers can take to help banks, including community banks, drive a healthy economy, pursue rational regulation to preserve Main Street access to credit and capital, and foster a competitive and innovative financial services market.

My testimony will address several of these proposed actions, as well as a number of bills we support that have already or are likely to be introduced in this Congress.

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[2] The American Bankers Association is the voice of the nation's $23.9 trillion banking industry, which is composed of small, regional and large banks that together employ approximately 2.1 million people, safeguard $18 trillion in deposits and extend $12.5 trillion in loans.

[3] See, ABA Blueprint, https://www.aba.com/advocacy/what-we-stand-for/blueprint-for-growth

## I. Initiatives for a Healthy Banking System, to Grow the Economy and Inject Needed Capital into Local Communities

Banks of all sizes and business models play important roles in driving healthy growth across all corners of the economy. Our diverse banking ecosystem is comprised of more than two million dedicated employees partnering with policymakers to grow our economy and provide needed capital to communities, including rural and underserved areas. To help accomplish this, we recommend Congress take the following actions:

**Enact Legislation to Encourage Formation of De Novo Banks**. Bank consolidation is a long-term trend. In fact, there are 4,316 fewer banks in the U.S. today than in 2005. Of the banks active today, only 79 were established after 2010.[4]

We believe that consolidation could be tempered by robust de novo bank creation, and our industry has always welcomed competition. New entrants into any industry are a sign of growth and economic opportunity, bringing new vitality to the industry and to the people and communities that they serve. Additionally, new banks stimulate enhanced product offerings and services for businesses and consumers, which translates into greater economic activity and growth in local communities.

That is why we endorse legislation to spur the creation of new banks by easing federal capital requirements during their first few years of existence. The "Promoting New Bank Formation Act" (H.R. 478/S. 113) would establish a three-year phase-in period for new banks to comply with federal capital standards and make other changes to ease the regulatory hurdles for recently formed institutions. The bill was reintroduced in the House by Rep. Andy Barr (R- KY) and in the Senate by Sen. Cindy Hyde-Smith (R-MS).

**Enact Pro-Growth Tax Policy**. Enact pro-growth tax policy that encourages investment and expands opportunity for all Americans by ensuring a competitive corporate tax rate. For example, the Section 199A pass-through deduction should be continued because it enables many community banks to play a vital role in local economic development. We strongly support the Main Street Tax Certainty Act (H.R. 703/S. 213), led by Rep. Lloyd Smucker (R-PA) and Sen. Steve Daines (R-MT), which would make the tax deduction for qualified business income permanent.

**Enact ACRE**. Enact the Access to Credit for our Rural Economy Act (ACRE). It will sustain and grow rural America by lowering the cost of credit and making credit more widely available for farmers and ranchers financing agricultural real estate as well as the cost of homeownership in 17,000 rural communities. The ACRE Act is a bi-partisan tax-based solution to lowering costs for farmers, ranchers, and rural communities. We are looking forward to its reintroduction this Congress.

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[4] See, ABA letter in support of de novo legislation at: https://www.aba.com/advocacy/policy-analysis/Promoting-New-Bank-Formation-Act

**Support Mission-Driven Banks**. Support the work of Minority Depository Institutions (MDIs) and Community Development Financial Institutions (CDFIs) – banks that are uniquely focused on serving communities of color and low-to-moderate income communities – by ensuring robust funding for the CDFI Fund within the U.S. Treasury Dept. and creating a CDFI investment tax credit that would incentivize long-term capital investment in these vital institutions.

**Support Affordable and Sustainable Housing**. Approach housing policy holistically by supporting initiatives that create affordable and sustainable housing opportunities across all communities while ensuring liquidity to primary and secondary markets, including through government-sponsored enterprises (GSEs) and the Federal Home Loan Banks.

**Combat Fraud**. Combating fraud is a critical issue for our members and their customers, but the banking industry cannot win this fight on its own. Congress and the regulatory agencies should pursue an "all of government" approach to combatting financial fraud to protect consumers and reduce the number of Americans who fall victim to scams. Specifically, the administration should establish a White House office to develop and coordinate a National Scam and Fraud Prevention Strategy, the Federal Communications Commission should establish a database of reported spam text messages, and Congress should work to create a Financial Crimes Intelligence Center in every state, modeled after the FCIC located in Texas. We were very pleased that Chairman Hill included combatting fraud in his Principles to Make Banking Great Again and have provided detailed suggestions on a multi-faceted approach to help combat fraud. We would be very pleased to elaborate on these suggestions at your convenience.

**Inflation-Proof Regulatory Tailoring.** The banking industry is a strong proponent of regulatory tailoring and was supportive of 2018's bipartisan banking legislation (S. 2155) and its related rulemakings. However, like many rules, the S. 2155 rulemakings used static asset thresholds as a metric. Fixed dollar thresholds can become outdated over time, particularly in higher inflationary environments, leading to application of regulatory requirements that may not accurately represent an institution's risk profile or potential systemic impact. As a result, these thresholds should be indexed to the Consumer Price Index (CPI) or to total assets within the banking industry. This approach would maintain consistency and fairness and avoid "regulatory creep," ensuring that regulatory categories remain appropriately tailored as institutions grow alongside the broader economy.

## II. Implement Rational Regulation for a Dynamic Banking Industry.

Bank regulations have significant real-world consequences that stretch far beyond the regulated entities themselves - affecting the stability of the financial system, growth in underserved communities, and the cost and availability of financial products and services for consumers and businesses. Over the past several years, bank regulators have proposed and finalized regulations that will reduce access to affordable credit and undermine the dynamism and diversity of our banking system. We urge Congress and regulators to help mitigate the effects of such proposals by taking the following actions:

**Enact a Congressional Review Act Resolution Disapproving of the Final CFPB Overdraft Rule.** On December 12, 2024, the CFPB finalized a rule that goes beyond the agency's statutory authority and, if allowed to take effect, will lead banks to restrict, if not eliminate, access to overdraft. If not invalidated, the rule would effectively bring an end to overdraft services for

millions of consumers who – following receipt of a consumer-tested disclosure – choose to use the product to cover emergency expenses and other liquidity shortfalls, all to advance the prior administration's political campaign against so-called "junk fees."

The overdraft rule defines overdraft services offered by financial institutions with assets of $10 billion or more as "credit" subject to the Truth in Lending Act (TILA) and Regulation Z unless the overdraft fee charged to a consumer is at or below the institution's cost of providing the overdraft service, or (2) the overdraft fee charged to a consumer is set at or below a benchmark fee to be set by the CFPB. The final rule will impact banks of all sizes – including banks with $10 billion or less in assets – because they will face market pressure to conform their overdraft practices to the rule's requirements.

We urge Congress to use the Congressional Review Act procedure to disapprove of the rule so that TILA cannot be used by a future administration to regulate overdraft services—a product that is valued by many consumers.

**Repeal the Small Business Lending Data Collection Rule (Section 1071)**. Section 1071 of the Dodd Frank Act requires lenders to report 13 data fields on applications for credit by minority-owned, women-owned, and small businesses. It also requires the CFPB to publish the data annually with certain redactions.

In 2023, the CFPB finalized a rule that far exceeds Congress' statutory grant of authority; it requires lenders that originate at least 100 small business loans annually to collect 81 data fields on each application to a business with gross annual revenue (GAR) of $5 million or less. ABA has challenged the rule and will urge new leadership at the CFPB to freeze implementation and repropose a rule that is consistent with the statute. We applaud the work of Chairman French Hill, Chairman Blaine Luetkemeyer, and Chairman Roger Williams for leading legislative efforts in the 118th Congress to create relief from the 1071 rule through introduction of the Small LENDER Act, Bank Loan Privacy Act, and the Congressional Review Act challenge to the 1071 rule, respectively.

**Oppose New Credit Card Routing Mandates and Interchange Caps.** Oppose new government mandates on credit card routing such as the so-called Credit Card Competition Act (CCCA), and urge the Federal Reserve to put low- and moderate-income consumers before the needs of large retailers by withdrawing its proposal to impose misguided debit card interchange price controls that will raise the cost of basic checking accounts.

**Repeal the Community Reinvestment Act Final Rule (CRA)**. In February 2024 ABA and co-plaintiffs challenged the 2023 interagency final rule on the grounds that it exceeds the CRA statute. The court granted ABA's request for a preliminary injunction, concluding that ABA demonstrated a substantial likelihood of success on the merits, but the banking agencies have appealed that decision. ABA urges the banking agencies to issue a proposed rule that would repeal the 2023 CRA rule and replace it with the 1995 CRA rule, which remains in effect pending the resolution of ABA's legal challenge. Then the agencies should repropose updates to the 1995 CRA rule that are consistent with the agencies' authority under the statute.

**Enact the SAFE Banking Legislation**. Enact the SAFE Banking Act to get state-sanctioned cannabis cash off the street and into regulated financial institutions, making our communities safer and the cannabis industry more transparent to regulators, tax authorities and law enforcement.

**Delay Implementation of CFPB Section 1033 Open Banking Rules.** Delay implementation of rules to implement Section 1033 of the Dodd-Frank Act and finalize a pending CFPB rule to supervise data aggregators before significantly overhauling the 1033 rule to address scope, liability, and cost.

**Delay Implementation and Withdraw CFPB Late Fee Rule.** Delay implementation and withdraw the CFPB's rule on credit card late fees to preserve access to credit for low-and moderate-income borrowers as litigation remains active.

**Reform of Merger Rules.** The Department of Justice and the Federal banking agencies should move forward with their plans to revise the current bank merger guidelines, which date from 1995. The data and information traditionally examined in assessing a proposed merger's competitive impact often fail to reflect the true competitive landscape in which the banks operate. Merger analysis should include financial services available in the market beyond just those delivered through bank branches, including online delivery of financial services (by banks, mortgage companies, and other online lenders), money-market funds, Farm Credit System institutions, thrift institutions, credit unions, and fintechs and other nonbank firms. Recent actions by some of the agencies have confused the regulatory landscape and should be reconsidered, but the modernization process should continue.

**Stop Regulatory "Operation Choke Point" Initiatives**. As noted in our feedback to Chairman Hill regarding the Principles for Making Banking Great Again, we have expressed concerns regarding initiatives like Operation Choke Point, emphasizing that banks should not be compelled by regulators to terminate customer accounts without substantial justification. We advocate for clear guidelines to prevent the politicization of banking services. Further, the federal prudential regulators must be transparent as to the policies they apply through the supervisory process. In addition, they should develop those policies in accordance with the Administrative Procedure Act process, including feedback from industry as appropriate. Above all, a bank's decision to onboard, serve, and terminate a customer relationship should be based on their established risk appetite, not regulators or policymakers putting their fingers on the scale. This longstanding, free market approach has allowed us to reduce the number of unbanked in the country to its lowest level ever.[5]

**Enact CFPB Reforms**. Since its inception, the flawed leadership structure of the CFPB has led to large and counterproductive policy swings driven by electoral outcomes. These policy swings create uncertainty that discourages innovation and requires resources to be redirected to regulatory compliance and away from serving customers. To minimize these policy swings and to bring greater stability and balance to the CFPB, ABA urges Congress to support legislation establishing a Senate-confirmed, bipartisan commission at the Bureau. Further, we strongly

[5] See, https://www.fdic.gov/household-survey

support the Taking Account of Bureaucrats' Spending Act (H.R. 654), which would place the CFPB under the annual Congressional appropriations process.

**Stop Regulator Misuse of UDAAP.** The CFPB through guidance, enforcement and supervision has strayed from the limits Congress set for conduct that is "unfair" or "abusive." That is why ABA supported the Rectifying Undefined Descriptions of Abusive Acts and Practices Act (H.R. 6789) during the 118th Congress. The legislation would have set limits on what is considered "abusive" and support consumer choice and competition. We look forward to supporting this and similar legislation in the 119th Congress.

## III. Initiatives to Foster a Competitive Financial Services Market and Like-Kind Regulation

Government oversight of the financial services sector is critical to maintaining a safe and sound banking system, but regulations must be applied evenly across all financial services providers to protect consumers, businesses and the stability of the financial system. Applying like-kind regulation to like-kind activity and avoiding unnecessary distortions within the financial services marketplace – whether through price controls, unevenly applied regulations or subsidies – will ensure a level playing field and minimize migration of financial products to less regulated entities. Congress and policymakers should take the following actions:

**Enact Deposit Insurance Reform.** At a minimum, Congress should give the FDIC the authority and flexibility it needs to enable a timely response to crises, ensuring fair treatment across banks of all sizes and reducing reliance on the systemic risk exemption.

**Support National Bank Preemption**. Defend the dual banking system, a pillar of economic strength that spurs innovation and empowers banks to serve every market in the United States, from states' efforts to assert authority over basic operations of national banks.

## Conclusion

The banking industry is the lifeblood of the U.S. economy, and banks of all sizes are poised to assist consumers and businesses across the country achieve financial success. Despite challenges, we believe that the future of banking is bright, provided the policymakers make thoughtful changes to support growth and close gaps that promote regulatory arbitrage and put the financial system and consumers at risk.

At Eagle Bank & Trust, we have a long history of service to our local communities in Arkansas and our commitment to community development loans and investments is shared by the thousands of community banks across the country. Mr. Chairman and Members of the Committee, the American Bankers Association and Arkansas Bankers Association support your ambitious agenda to provide needed regulatory and other relief for community banking and we hope that you will consider the many ideas presented in this testimony and the Blueprint for Growth as you move forward with your agenda this year.

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

Chairman HILL. Thank you, Ms. Owen.
Ms. Rainey, you are recognized for 5 minutes.

**STATEMENT OF REBECA ROMERO RAINEY, PRESIDENT & CEO, INDEPENDENT COMMUNITY BANKERS OF AMERICA**

Ms. RAINEY. Chairman Hill, Ranking Member Waters, and members of the committee, my name is Rebeca Romero Rainey, and I am President and CEO of the Independent Community Bankers of America (ICBA). I testify today on behalf of thousands of community banks across the country in rural, urban, and suburban markets.

Before joining ICBA, I was Chairman and CEO of Sentinel Bank, a $415 million bank and Minority Depository Institution (MDI) headquartered in Taos, New Mexico. I am a proud third generation community banker. Sentinel was founded by my grandfather, Eliu Romero, in 1969. Years earlier he had been denied a loan to finance a new law practice. That experience led him to start a bank that would provide credit for all in his community, and I am proud to carry on his legacy, first at Sentinel and now at ICBA.

Thank you so much for convening today's hearing on making community banking great again. I am delighted that we share a commitment to a future of great community banks to promote American prosperity, and I would like to say a few words about what makes community banks great. We have deep roots in the communities we serve. More than a thousand community banks are more than 100 years old and have survived historic systemic shocks, standing with our customers in catastrophic times. Others are de novo charters poised for growth, and we need more of those.

In a community bank, local deposits are reinvested back into local credit. The business model is the purest form of economic development that there is. We often serve communities overlooked by larger out-of-market institutions and offer customized products and personalized services to seat the unique—suit the unique needs of our customers.

Community banks are responsible for a disproportionate number of main street small business loans, especially in smaller communities, and some 70 percent of bank agricultural loans. In one in three U.S. counties, community banks are the only on-the-ground banking option. Whether historic or de novo, community banks are modernizing and embracing innovation and new technologies to reach more customers and small businesses. Responsible innovation is our motto.

I want to thank Chairman Hill for crafting a set of banking principles to guide policymaking in the new Congress. There is strong overlap between those principles and ICBA's agenda for the new Congress, which has been endorsed by all 44 of our State affiliates and is attached to my written testimony.

As we enter 2025, top of mind for community bankers and small business borrowers is the impending implementation of section 1071 of the Dodd-Frank Act. The intrusive data collection required under 1071 will compromise the privacy of small business applicants and effectively commoditize small business lending and increase the cost of credit. ICBA strongly supports Congressman Roger Williams' 1071 Repeal to Protect Small Business Lending

Act. Short of full statutory repeal, the law will be significantly improved by Chairman Hill's Small Lender Act, which would provide community banks and small businesses with critical relief to support ongoing credit and community growth.

To enhance the future of community banking, we need more de novo formation. Congressman Barr's Promoting New Bank Formation Act would promote the creation of de novos, especially in rural areas by providing more regulatory capital and lending flexibility to those banks. Chairman Hill's principles also include changes to resolution policy that would help ensure that failing banks are not purchased by the largest banks, thereby exacerbating industry consolidation, and waiver of the least cost resolution if the FDIC finds that a transaction would increase competition and facilitate economic growth, an examination reform that would create independent review and better transparency and accountability. The exam cycle would also be increased from 12 to 18 months for more well-rated highly capitalized community banks.

In addition, ICBA's agenda calls for measures to promote and strengthen our Community Development Financial Institutions (CDFI) and MDI members, curb the sale of trigger leads that compromise consumer privacy, create a flood of unwanted solicitations and confusion for customers, and address the surging problem of check fraud, among other provisions. I urge you to review my written statement for our full agenda for a more detailed discussion of these and other important provisions.

Let me close by again invoking my grandfather, Eliu. I seriously doubt he could have formed Sentinel in today's excessive regulatory and de novo environment. In fact, it would have been impossible. This should serve as a historical benchmark for the reforms we need to make community banking even greater.

[The prepared statement of Ms. Rainey follows:]

ICBA
One Mission. Community Banks.

Testimony of

**Rebeca Romero Rainey**

President and Chief Executive Officer

Independent Community Bankers of America

On behalf of the

**Independent Community Bankers of America**

Before the

U.S. House of Representatives

Committee on Financial Services

Hearing on

"Make Community Banking Great Again"

February 5, 2025

Washington, D.C.

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## Opening

Chairman Hill, Ranking Member Waters, and members of the Committee, I am Rebeca Romero Rainey, President and CEO of the Independent Community Bankers of America, and I testify today on behalf of thousands of community banks across America. Thank you for convening today's hearing on "Make Community Banking Great Again." I'm delighted that we share a commitment to a future of great community banks. Our nation's prosperity depends on them. The new Congress and Administration present an opportunity to transform the regulatory environment for community banks, sparking economic growth in rural, suburban, and urban markets. We look forward to working with this committee in the coming weeks to leverage and amplify the unique and extraordinary value our great community banks bring to local economies. Attached to this statement is ICBA's "**Transforming Regulation for Growth: The Community Bank Legislative Agenda**," which has been endorsed by all 44 of our affiliated state associations.

Before proceeding, I would like to take a moment to introduce myself. Before joining ICBA, I was Chairman and CEO of Centinel Bank of Taos, a $415 million asset bank and Minority Depository Institution in Taos, New Mexico. I'm a third-generation community banker. Centinel was founded by my grandfather, Eliu E. Romero, in 1969 after he was denied a loan to finance his start-up law practice. I'm proud to carry on his legacy – first at Centinel and now at ICBA – of investing in communities by providing access to credit on an equitable basis to all responsible borrowers.

## What Makes Community Banks Great?

While many of you already appreciate the value of community banks, others are new to this committee. Welcome! I will take a minute to describe the unique role community banks play in the American economy.

Community banks have deep roots in the communities they serve, often for many generations. More than 1,000 community banks are more than 100 years old and have survived the Great Depression, the Great Recession, and numerous other systemic shocks, standing by their customers in catastrophic times. Others are de novo charters, poised for growth. We need more of these!

In a community bank, local deposits are reinvested back into local credit, not exported to distant markets. We often serve communities overlooked by larger, out-of-market institutions. In one in three U.S. counties, community banks are the only on-the-ground banking option.

While we make all types of loans needed in our communities, community banks are responsible for a disproportionate number of Main Street small business loans, especially in small communities, and around 70 percent of bank agricultural loans. Unlike other institutions, we take the time and care to customize products and services based on the unique needs of our customers. Commoditized products are poor fit for the communities we serve.

Finally, old or new, community banks are modernizing and embracing innovation and new technologies to reach more customers and small businesses. "Responsible innovation" is our motto. We lean into the future and the promise it holds.

I hope this gives you a better appreciation for our passion for community banking. A strong industry is vital to a prosperity that reaches all markets, demographics, and geographies.

## Chairman Hill's Banking Principles

I want to thank Chairman Hill for crafting a set of banking principles to guide policymaking and regulatory oversight in the 119th Congress. ICBA is committed to realizing these thoughtful and comprehensive principles, and we are pleased to provide detailed feedback for your consideration.

I will summarize here ICBA's views on Chairman Hill's principles. There is, unsurprisingly, strong overlap between those principles and ICBA's agenda for the new Congress, "**Transforming Regulation for Growth: The Community Bank Legislative Agenda,"** which is attached to this testimony.

**Advance Tiered Regulation**

The most basic thing we seek is responsible regulatory relief. Inefficient and prescriptive regulations continue to encumber community bank lending, drive industry consolidation, and inhibit local economic growth.

Regulatory thresholds create tiered regulation for an industry that ranges the spectrum from multi-trillion-dollar institutions to locally based community banks. Simple common sense – which is making a comeback – tells us that regulatory mandates designed for systemically risky, high-volume, transaction-based institutions are a poor fit, and indeed destructive to, community banks. "One-size-fits-all" regulations disproportionately burden community banks that don't have dedicated legal and compliance departments and have smaller asset bases over which to spread compliance costs.

Current thresholds are overdue for an update, and we are pleased to see this project among the Chairman's principles. Examples of outdated thresholds include: the CFPB's examination threshold which exempts banks with assets of less than $10 billion, the Community Reinvestment Act thresholds which define Small Bank and Intermediate Small Bank with different assessment criteria, the asset threshold under which a well-managed and well-capitalized bank qualifies for an 18-month exam cycle, among numerous others.

I urge this committee to make a thorough review of all existing regulatory thresholds and update them where it can be safely done, without sacrificing fundamental consumer protections or safety and soundness. Doing so is the simplest way to provide needed regulatory relief and promote essential lending without rewriting statutes. Updated thresholds should reflect the growth in average asset size of community banks over the decades as the industry consolidates.

**Relief from Intrusive Small Business Data Collection Rule**

Top of mind for community bankers and small business borrowers is the destructive impact of the CFPB's final rule under Section 1071 of the Dodd-Frank Act. The rule has not yet been implemented but is already having an adverse impact.

As you know, the CFPB's rule requires community banks and other financial institutions to collect and report 81 pieces of data on every small business loan application, well beyond what is required by statute. Intrusive data collection will compromise the privacy of small business applicants, effectively "commoditize" small business lending, and increase the cost of credit.

ICBA thanks members of this committee for passage in the last Congress of bipartisan legislation under the Congressional Review Act to repeal the CFPB rule.

With the new Congress and Administration, you have the opportunity to fully repeal Section 1071, completing and expanding on the work you started last Congress under the Congressional Review Act.

Just this week, Congressman Roger Williams, who chairs the Small Business Committee, introduced the "1071 Repeal to Support Small Business Lending Act." Statutory repeal of mandated data collection, embodied in this legislation, is the simplest and best solution. ICBA thanks Congressman Williams for his straightforward approach.

Short of full statutory repeal, the exemptions would be significantly improved by Chairman Hill's Small LENDER Act, which would exempt from the rule banks that make fewer than 500 small business loans in each of the two preceding years (versus only 100 such loans under the rule) and would define a "small business" as a business with less than $1 million in annual revenue (versus $5 million under the rule). The Small LENDER Act would provide community banks with significant relief and, in turn, would provide small businesses the credit they need to continue to grow.

**De Novo Charters**

I have noted above the accelerating trend of consolidation in the banking industry, driven in large part by increasing regulatory compliance costs. The complexity and volume of new regulation is a strong disincentive for de novo bank charters. I doubt that my family's bank, Centinel, or many other community banks would have been chartered if they had been faced with the daunting regulatory cost and complexity and high minimum capital expectations that exist today.

Consolidation fundamentally reduces competition in the market for financial products and services, increasing loan interest costs and driving down interest paid on deposits. Community bank consolidation, coupled with the dearth of new charters, will leave many communities – particularly rural communities – without a local bank or access to local credit.

This country needs more de novo charters to offset the impact of consolidation and increase access to safe and sound financial services for consumers and small businesses across the nation. Before passage

of the Dodd-Frank Act, de novo banks were created at a rate of 170 new charters per year on average. Since that time, we have averaged only a handful of new charters per year. This is a dramatic shift that deserves action by this committee.

ICBA thanks Representative Andy Barr for reintroducing the Promoting New Bank Formation Act (H.R. 478), which would promote the creation of de novo community banks, especially in America's rural areas. H.R. 478 would provide more regulatory, capital and lending flexibility for newly chartered banks, facilitating their creation and promoting their viability.

**Currency Transaction Reports**

Turning to another source of costly frustration to community banks, the thresholds under the Bank Secrecy Act have not been adjusted since the law was enacted in 1970. ICBA recommends raising the currency transaction report (CTR) threshold from $10,000 to $30,000 and indexing future increases on an annual basis. The outdated threshold captures far more transactions than originally intended. A higher threshold would produce more targeted, useful information for law enforcement. ICBA calls for the implementation of Section 6204 of the Anti-Money Laundering Act of 2020, which requires the Treasury secretary to review the efficacy of the current BSA-reporting thresholds.

**New Sources of Community Bank Capital Needed**

Since 2007, the public capital markets have often been either unavailable or unattractive to many community banks and holding companies. Community banks have had to rely more on existing shareholders, directors and insiders for capital raises and less on new investors, including institutional investors.

ICBA's recommendations include reform of SEC Regulation D so that anyone with a net worth of more than $1 million, including the value of their primary residence, would qualify as an "accredited investor." The number of non-accredited investors permitted to purchase stock under a private offering should be increased from 35 to 70.

About 1,500 community banks – or a third of all banks – are organized under Subchapter S of the tax code. Subchapter S banks are "pass through" entities, taxed at the shareholder level. Shareholders are responsible for paying taxes on their pro-rata of the bank's net income, whether that income is distributed or not.

ICBA is pleased that Chairman Hill's Principles include a policy change that would promote capital raising and transfer of shares at Subchapter S banks. Under current law, a Subchapter S bank may have no more than 100 shareholders. Increasing the shareholder limit, as the Chairman recommends, would allow these banks to raise more capital and bank shares would become more liquid by increasing the pool of available investors at each bank. Higher and more liquid capital translates into more community lending.

ICBA recommends additional changes to Subchapter S. Under current law, individual retirement accounts (IRAs) are not permitted to purchase or hold shares in Subchapter S companies in any industry. I know many bankers who would like to use their personal IRAs to inject capital into their banks and solicit capital from IRAs owned by others.

Further, Subchapter S banks should be allowed to issue preferred shares, which are currently prohibited. Preferred shares allow a bank to raise capital without diluting ownership (preferred shares are non-voting) so that the bank may retain its character as a closely held institution focused on its community.

These changes under SEC Regulation D and tax code Subchapter S would strengthen banks in the service of their communities.

The greatest threat facing Subchapter S bankers and their small business customers this year is the pending expiration of tax code Section 199A, enacted in the Tax Cuts and Jobs Act, which provides for a 20 percent deduction of business income. The loss of this deduction would amount to a punitive and destructive tax increase and capital loss for Subchapter S banks. Section 199A helps keep Subchapter S banks in rough parity with C corporation banks, which are taxed at 21 percent. We ask the support of this committee for H.R. 703, sponsored by Representative Lloyd Smucker, which would permanently extend Section 199A. We thank the Chairman and the many other members of this committee who have already cosponsored this important legislation.

I refer you to our legislative agenda for the full list of our tax policy recommendations.

**Resolution of Failing Institutions**

Chairman Hill's Principles include changes to resolution policy in the case of failing institutions. The proposed changes, such as waiver of the Least Cost Resolution (LCR) if the FDIC finds that a transaction would increase competition and facilitate economic growth and restrictions to waivers on the national deposit cap rule which prohibits mergers that would result in an institution holding more than 10 percent of bank deposits nationwide. These changes would increase the pool of available bidders on failing banks and help ensure that these banks are not purchased by the largest banks thereby exacerbating the problem of industry consolidation which harms competition.

**Bank Exam Reform**

Chairman Hill's Principles include recommendations to create more fairness, accountability, and transparency in the bank examination process. Bank examiners too often focus on technicalities rather than substantive and material issues of risk mitigation.

The Principles include reform of the appeals process, such as provided for in the FAIR Exams Act, sponsored by the Chairman in the last Congress, which would create an independent body for the review of exam appeals, among other provisions. The Chairman also recommends an 18-month exam cycle for more well-managed and well-capitalized banks. The extended exam cycle threshold is currently set at $3

billion bank assets. ICBA supports increasing this threshold to $6 billion, which would provide relief for approximately 150 community banks, allowing them to divert resources toward customers.

**Deposit Insurance Reform**

Community banks are highly stable institutions in which consumers have confidence in the security of their deposits. ICBA thanks Chairman Hill, Ranking Member Waters and the members of this committee for its thoughtful, deliberative approach to any reform of deposit insurance and appreciates our inclusion in these important discussions.

We look forward to working with the Committee and the FDIC on thoughtful and targeted deposit insurance reform that is appropriately tiered and risk weighted. A primary objective of any proposed reform should be to end any misconception that too-big-to-fail institutions enjoy an implied, unlimited deposit insurance guarantee.

Historically, ICBA has supported transaction account guarantee (TAG) programs, which protect small business operating and payroll accounts. The FDIC should have discretion to quickly establish a TAG, or other measures necessary, to protect institutions and the financial system in the moment of failure. When banks fail, there is simply not time to work with other agencies and Congress to identify solutions. The FDIC should have an at-the-ready, frictionless process for bank resolution that does not pick winners and losers that results from unnecessary red tape.

**Promote and Strengthen Community Development Financial Institutions and Minority Depository Institutions**

ICBA will continue to support legislation that helps promote and strengthen our CDFI and MDI members. We look forward to working with members of the committee to help our members serve their customers in rural and underserved areas by advocating for policies that will facilitate de-novo formation, preserve funding for the CDFI Fund, foster partnerships between minority depository institutions and other financial institutions, and support tax credits to help drive equity investment into CDFIs.

## Strengthening Financial Consumers

As the financial landscape evolves, new threats emerge to America's financial consumers. Policy changes are needed to keep pace with technological developments and more sophisticated fraud. The policy recommendations below would protect and strengthen America's financial consumers.

**End "Trigger Leads" Harassment**

Legislation is needed that would restrict credit reporting agencies from the sale of consumers' contact information when they apply for a residential mortgage. These "trigger leads" compromise consumer privacy and create a flood of unwanted solicitations and confusion for community bank customers. ICBA urges Congress to resume work on the Homebuyers Privacy Protection Act, bipartisan legislation advanced in the 118th Congress. I thank Congressmen John Rose and Ritchie Torres for their concerted work on this legislation, along with Chairman Hill and many other members of the committee who cosponsored the Homebuyers Privacy Protection Act last Congress.

**Close ILC Loophole to Limit Big Tech Overreach**

Industrial loan companies (ILCs) are the functional equivalent of full-service banks without regulation by the Bank Holding Company Act. This exemption invites risk into the financial system. ILCs owned by non-financial companies, including Big Tech, violate the longstanding separation of banking and commerce by allowing commercial entities to own banks. New ILC charters controlled by dominant social media and e-commerce conglomerates would give these companies yet more economic power and reach into the lives of Americans. ICBA supports statutory closure of the ILC loophole.

**Help Community Banks Eliminate Check Fraud**

The administrative agencies must play a stronger role in combatting the alarming rise in check fraud, which has surged by 385% since the pandemic and costs Americans and small businesses billions of dollars every year. ICBA has called for a coordinated effort by the federal banking agencies, the National Credit Union Administration, the U.S. Postal Service, the Financial Crimes Enforcement Network, and other agencies. Greater congressional oversight of this critical effort will ensure it is effective.

**Credit Card Routing Mandates**

ICBA will continue to strongly oppose controversial legislation that would create complex new credit card routing mandates. Such mandates would force an overhaul of the payments landscape at significant systemic cost. This cost would ultimately be borne by consumers and the community banks that serve them. Credit card routing mandates would only benefit the largest "big-box" and big online merchants including Amazon, Walmart, and others at the expense of consumers.

**Protecting Customer Data**

The CFPB recently finalized a rule under Section 1033 of the Dodd-Frank Act that requires banks to create and maintain an API-enabled "developer portal" which non-bank fintechs and other third parties could use to access customer data. The rule creates a threat to consumer data security and privacy. Banks cannot effectively be responsible to ensure the security protocols of potentially thousands of fintechs seeking access to their customers' data. In addition, banks must be permitted to charge reasonable fees to third parties – who will financially benefit from access to customer data – in order to

offset the significant costs of compliance with this rule.

**Digital Assets**

ICBA looks forward to continual engagement with the committee on any digital assets legislation. Any disruption or disintermediation that results in loss of liquidity that flows to consumers or small business customers through the financial system must be taken into account, while ensuring the overall safety and soundness and the payments system on which American commerce depends.

**Equitable Treatment of Financial Services Providers**

ICBA strongly believe that all financial services providers should be subject to the equivalent supervision, oversight, and taxation. Credit unions and Farm Credit System lenders offer the same products and services as banks but enjoy significant tax and regulatory advantages that ultimately harm community banks and the communities they serve.

**Closing**

ICBA thanks this committee for convening this important hearing and for the opportunity to present the views of the community banking industry. Together, we can make community banks even greater. Regulation has the power to make or break credit availability in thousands of communities across America. ICBA believes that the Chairman's Principles and our policy recommendations will play a critical role in creating a robust economy and a more competitive financial landscape to better serve small businesses and consumers.

I'm happy to take your questions.

**Attached: ICBA's "Transforming Regulation for Growth: The Community Bank Legislative Agenda**"

ICBA
One Mission. Community Banks.

# Transforming Regulation for Growth: The Community Bank Agenda

ICBA's legislative agenda would create a framework of streamlined regulation and low taxation for community banks and their customers. Community bank credit fuels local economic growth in thousands of communities across America.

ICBA and community bankers look forward to working with policymakers to advance this agenda.

## Fix Destructive Regulatory Burden

Overly prescriptive regulations continue to encumber community bank lending and inhibit economic growth. Excessive regulation of community banks drives industry consolidation that will directly harm consumers and small businesses. Community bank regulatory relief will promote the flow of credit and economic opportunity for households and small businesses.

Simple, transparent, and streamlined regulations can be administered more efficiently and reduce government cost, saving taxpayer dollars.

ICBA recommendations include:

**Update Regulatory Thresholds for Community Banks**. Congress and the regulatory agencies should comprehensively review and update the many thresholds used to tier bank regulation and supervision. Tiered regulation recognizes the significant differences between community banks and large, complex institutions in terms of the risks they pose to consumers and to the financial system. To work as originally intended and remain aligned with an evolving financial services landscape, thresholds for regulatory accommodations and exemptions based on asset size, risk profile, and transaction volume should be continually reviewed and adjusted upward as community banks consolidate and the average asset size of banks increases.

**Relief from Intrusive Small Business Data Collection Rule**. The CFPB's rule under Dodd-Frank Section 1071 requires community banks and other financial institutions to collect and report 81 pieces of data on every small business loan application, well beyond what is required by statute. Intrusive data collection will compromise the privacy of small business applicants, effectively "commoditize" small business lending, and increase the cost of credit.

The 118th Congress demonstrated its staunch opposition to the CFPB rule by passing bipartisan House and Senate legislation to repeal it, only to be vetoed. In addition, legislative fixes were advanced that would exempt more community banks and more small business borrowers.

ICBA urges the 119th Congress to promptly repeal or substantially revise Section 1071 to limit the implementation of a destructive rule.

**The Supreme Court's Chevron Reversal Should Lead Policymakers to Reconsider More Harmful and Inefficient Rules**. In June 2024, a Supreme Court ruling effectively curbed *Chevron* deference, which gave agencies discretion to interpret ambiguous laws through rulemaking. This ruling creates an opportunity for a comprehensive review of regulations with the goal of cost cutting and more efficient government.

**Modernizing the Bank Secrecy Act**. ICBA recommends raising the currency transaction report (CTR) threshold from $10,000 to $30,000 and indexing future increases on an annual basis. The current threshold, set in 1970, is significantly outdated and captures far more transactions than originally intended. A higher threshold would produce more targeted, useful information for law enforcement. ICBA calls for the implementation of Section 6204 of the Anti-Money Laundering Act of 2020, which requires the Treasury secretary to review the efficacy of the current BSA-reporting thresholds.

**Strengthening Accountability in Bank Exams: A Workable Appeals Process**. An independent body should be created to receive, investigate, and resolve material exam complaints from banks in a timely and confidential manner. This would create much-needed checks and balances in the current system, which grants examiners almost unfettered and unassailable authority. A workable appeals process would hold examiners accountable and prevent retribution against banks that file complaints.

**Relief from Internal Control Mandates**. An exemption from SEC-mandated internal control audit requirements should be created for publicly traded banks with a market capitalization of at least $350 million or less regardless of revenue. This should be paired with an equivalent exemption from FDIC-mandated internal control audit (Part 363) for banks with assets of less than $5 billion. Under current law, any company with market capitalization of $75 million or less or a company with less than $700 million in market capitalization with annual revenue less than $100 million is exempt from the SEC mandate. Any bank with assets of less than $1 billion is exempt from the FDIC mandate. Because community bank internal control systems are monitored continually by bank examiners, they should not have to sustain the unnecessary annual expense of paying an outside audit firm. This provision would substantially lower unnecessary accounting costs for small banks without creating more risk for investors or the deposit insurance fund. It would allow these banks to redirect resources toward community lending.

**Facilitate New Capital Investment Through Private Offerings.** SEC Regulation D should be reformed so that anyone with a net worth of more than $1 million, including the value of their primary residence, would qualify as an "accredited investor." The number of non-accredited investors permitted to purchase stock under a private offering should be increased from 35 to 70.

## Ensuring a Competitive Financial Landscape

The separation of banking and commerce is a longstanding principle of American financial policy and has been critical to our nation's economic success. Community banks embrace innovation in financial technology, which offers the promise of reaching more consumers and expanding products and services.

As Congress continues to review and reform the legal and regulatory framework of financial services, we urge them to ensure that it promotes community bank innovation. Congress should create a level playing field and ensure frameworks do not harm consumers, distort competition, or provide regulatory advantages to new entrants in the marketplace over current providers, such as community banks.

The competitive advantages enjoyed by tax-exempt credit unions and Farm Credit System lenders warrant special scrutiny.

**Preserve and Enhance a Competitive Tax Environment.**

ICBA advocates for pro-growth tax relief for America's small businesses, families, and community banks. Expiring provisions of the Tax Cuts and Jobs Act should be permanently extended to provide long-term certainty for business planning, including:

- The 20-percent deduction for pass-through income (Section 199A).
- The structure of individual rates and brackets that allows Americans to keep more of their hard-earned dollars.
- The higher deduction under the alternative minimum tax (AMT).
- An estate tax exemption that does not force sales of family-owned businesses.

Full expensing for equipment purchases and the deductibility of business interest are pro-growth policies and must be restored. Further, we urge Congress to build on the success of the TCJA by an additional reduction in corporate rate. The 21 percent corporate has proven one of the most impactful components of that legislation, increasing corporate investments and job creation. Additional relief would accelerate American economic growth.

Comprehensive tax legislation must include the Access to Credit for Rural Economies (ACRE) Act to promote rural economic development. The ACRE Act would create a tax exclusion for

interest received on qualifying loans to farmers, ranchers, and rural homeowners and thereby reduce interest rates for these borrowers.

Tax reform should include a review of the tax exemption enjoyed by today's multi-billion-dollar credit unions. These institutions have outstripped their public mission and tax-exempt purpose and are now leveraging their tax exemption to purchase tax-paying community banks. The pace of these acquisitions in recent years is driving the consolidation of financial services across all markets, to the harm of consumers and small businesses.

These tax policies are important to creating economic growth and jobs for American workers.

**Close ILC Loophole to Limit Big Tech Overreach**. Industrial loan companies (ILCs) are the functional equivalent of full-service banks without regulation by the Bank Holding Company Act. This exemption invites risk into the financial system. ILCs owned by non-financial companies, including Big Tech, violate the longstanding separation of banking and commerce by allowing commercial entities to own banks. New ILC charters controlled by dominant social media and e-commerce conglomerates would give these companies yet more economic power and reach into the lives of Americans. ICBA supports statutory closure of the ILC loophole.

**Promoting De Novo Community Banks.** De novo community bank formation is needed to offset the loss of smaller community banks through consolidation and help ensure a robust community bank landscape serving small businesses and households. ICBA supports a flexible and tailored supervisory policy for de novo banking applicants.

**Ensuring Effective Digital Assets Regulation.** Effective and comprehensive regulation is needed to recognize and balance the risks and benefits of emerging technologies. ICBA strongly opposes efforts to grant nonbank stablecoin issuers access to the Federal Reserve master account or payment rails and special-purpose charters that do not subject nonbank stablecoin issuers to the standards of safety, soundness, and fairness that apply to insured depository institutions.

**Credit Card Routing Mandates.** ICBA will continue to strongly oppose controversial legislation that would create complex new credit card routing mandates. Such mandates would force an overhaul of the payments landscape at significant systemic cost. This cost would ultimately be borne by consumers and the community banks that serve them. Credit card routing mandates would only benefit the largest "big-box" merchants including Amazon, Walmart, and others at the expense of consumers.

**Curb or Eliminate Tax Subsidies for Rapid-Growth, Bank-Like Credit Unions.** The outmoded subsidization of credit unions is an inefficient use of taxpayer dollars and ripe for repeal. Today's multi-billion-dollar credit unions are leveraging their tax subsidy to purchase tax-paying community banks. This trend is reducing consumer choice and eroding the tax base of states, localities, and the federal government. ICBA urges Congress to restore balance to the

American financial services marketplace and help close the growing budget deficit by re-examining the 100-year-old credit union tax subsidy.

## Revitalize Rural America

The recent elections reaffirmed the critical voice of rural Americans, who have earned a place at the center of our policy agenda. The vital interests of rural economies must be prioritized in the 119th Congress. Rural communities are poised for growth and prosperity with the right combination of thoughtful policies. Community banks, funding nearly 80 percent of bank-originated agricultural loans, play a critical role in creating and sustaining rural economic prosperity. The following provisions will help rural America and strengthen community banks.

**Farm Bill.** ICBA advocates for a robust Farm Bill in 2025 that raises USDA guaranteed loan limits in addition to providing a strong farm safety net that includes robust commodity price supports and enhanced crop insurance options for producers.

**Farm Credit System Crowding Out Rural Community Bank Lending**. The Farm Credit System (FCS) is a government-sponsored enterprise (GSE), and FSC lenders enjoy unfair tax and funding advantages over rural community banks. These advantages allow FCS to cherry-pick the best customers and loans from taxpaying community banks by underpricing local markets. In recent years, the FCS has sought expansive non-farm lending powers in an effort to compete directly with commercial banks for non-farm customers. Congress should hold hearings on the FCS given their rapid consolidation and questionable non-farm lending pursuits.

**Tax Incentives for Community Bank Agriculture and Home Loans.** ICBA strongly supports the Access to Credit for Rural Economies (ACRE) Act, which has enjoyed broad bipartisan support. ACRE would create lower interest rates for farmers, ranchers, and rural homeowners by creating a tax exclusion for interest income on loans secured by agricultural land and residential mortgages in rural communities. The ACRE Act should be included in any comprehensive tax legislation in the 119th Congress.

## Strengthening Financial Consumers

As the financial landscape evolves, new threats emerge to America's financial consumers. Policy changes are needed to keep pace with technological developments and more sophisticated fraud.

**End "Trigger Leads" Harassment.** Legislation is needed that would restrict credit reporting agencies from the sale of consumers' contact information when they apply for a residential mortgage. These "trigger leads" compromise consumer privacy and create a flood of unwanted solicitations and confusion for community bank customers. ICBA urges Congress to resume work on the Homebuyers Privacy Protection Act, bipartisan legislation advanced in the 118th Congress.

**Eliminate Check Fraud**. The administrative agencies must play a stronger role in combatting the alarming rise in check fraud, which has surged by 385% since the pandemic and costs Americans and small businesses billions of dollars every year. A coordinated effort is needed by the federal banking agencies, the National Credit Union Administration, the U.S. Postal Service, the Financial Crimes Enforcement Network, and other agencies. Congressional oversight of this critical effort will ensure it is effective.

**Protecting Customer Data**. The CFPB recently finalized a rule under Section 1033 of the Dodd-Frank Act that requires banks to create and maintain an API-enabled "developer portal" which non-bank fintechs and other third parties could use to access customer data. The rule creates a threat to consumer data security and privacy. Banks cannot ensure the security protocols of potentially thousands of fintechs seeking access to their customers' data. In addition, banks must be permitted to charge reasonable fees to third parties – who will financially benefit from access to customer data – in order to offset the significant costs of compliance with this rule.

Chairman HILL. The gentlewoman yields.

Ms. Spotser, you are recognized for 5 minutes, and welcome.

**STATEMENT OF MITRIA SPOTSER, VICE PRESIDENT OF FEDERAL POLICY, CENTER FOR RESPONSIBLE LENDING**

Ms. SPOTSER. Thank you so much.

Good morning, Chairman Hill, Ranking Member Waters, and members of the committee.

Over the weekend, I had a moment to really think about the title of this hearing and ultimately what we were talking about in making community banking great again. It occurred to me that the way to make community banking great again, if it is not already great, is to put communities first.

What I would like to talk to you about today in this short amount of time that I have are policies that put communities first and relationship banking and the people that financial institutions serve and policies that undermine the relationships that community bankers are designed to reinforce and build.

Let us start with community relationships or community policies that actually help banking and help people. Those are policies that level the playing field between banking depository institutions and nondepository institutions because one of the biggest challenges that banks are facing right now is the encouragement of other lenders who are not abiding by the same regulatory obligations. By stepping in and holding those institutions accountable, making them abide by disclosures to consumers and allowing consumers the information to make informed decisions about what is the best product, we can elevate community banks and help consumers make strong financial decisions that keep them financially secure.

Another way that we can actually put communities first by developing a community banking agenda is by actually increasing the amount of funding that we allocate to the institutions who are doing that work, and that includes CDFIs. Enforcing the work that they do as well as the technical assistance that they provide to so many small businesses across the United States is essential for us reinforcing the notion that our lending relationships as community bankers drives small business.

Finally, another thing that we can do to stimulate community banking and put communities first in the process is seriously consider proposals that are designed to increase resources for small businesses by raising their deposit insurance cap and making those institutions feel more comfortable.

I would encourage us as a group to actually think about those types of policies and their direct benefit in not only helping and assisting community financial institutions but also assisting the consumers that they serve.

Now, there are a number of other policies, and unfortunately, some of them are being considered in connection with this hearing, that I do not think actually put communities first. One of those policies I have to be very clear about is the overemphasis on deregulation. It was not that long ago that we can all remember the 2008 financial crisis, but what we sometimes do not talk about in the midst of talking about regulatory burden is what led to that crisis. The reality is that it was a series of deregulation, a lack of

emphasis on oversight that—particularly as it relates to larger financial institutions—that led to the financial crisis, and community banks, even though they engaged in sound banking practices, were forced to feel the consequences due to the economic downturn and impact that it had on consumers. Deregulation is the type of policy and practice that leads to harm on a long-term basis for community banks.

The other thing that leads to harm here is policies that undermine the independence and the effectiveness of the regulator that is charged with ensuring that there is a level and fair playing field for financial institutions and consumers, and that regulator is the Consumer Financial Protection Bureau. There has been a lot of conversation about what is going to happen with the CFPB, and certainly there have been changes in the leadership.

I think it is true that reasonable minds can disagree as to the full impact or specific provisions with respect to the Bureau, but what reasonable minds cannot disagree with is the reality that ensuring that consumers are protected in the financial marketplace, stamping out predatory financial products, making sure that consumers have accurate information are all things that are essential for our financial marketplace to function effectively.

For those reasons, we need to pursue an agenda, a regulatory agenda and a legislative agenda, that puts communities first by ensuring that we have appropriate rules and regulations governing the financial marketplace. Thank you so much.

[The prepared statement of Ms. Spotser follows:]

**Testimony of Mitria Wilson Spotser**

**Vice President, Center for Responsible Lending**

**United States House of Representatives**
**Committee on Financial Services**

**"Make Community Banking Great Again"**

**February 5, 2025**

**Introduction**

On behalf of the Center for Responsible Lending, I would like to thank you Chairman Hill, Ranking Member Waters, and Members of the House Financial Services Committee for the opportunity to submit testimony for today's hearing entitled, "Make Community Banking Great Again." I am the Vice President of Federal Policy at the Center for Responsible Lending (CRL). CRL is a non-partisan, nonprofit research and policy advocacy organization working to make our financial markets stronger and more productive by increasing access, fairness and economic opportunity for all.

CRL is an affiliate of Self-Help, a community development financial institution headquartered in Durham, NC. Since 1980, Self-Help has provided over $11 billion in financing to 168,000 families, individuals, and businesses underserved by traditional financial institutions. Self-Help has accomplished that goal by financing hundreds of homebuyers each year and providing affordable financing for nonprofits, child-care centers, community health facilities, public charter schools, and other residential or commercial real estate projects. Through its credit union network, Self-Help also serves over 190,000 people by offering a full range of financial products and services in states across the nation—including North Carolina, South Carolina, California, Illinois, Florida, Georgia, Washington state and Wisconsin.[1]

**I. Community Banking Is Already Great.**

At the outset, CRL thinks it is important to say that community banking in the United States today ***is*** great. Community lenders, which include community banks, community development

[1] Learn more at www.self-help.org and www.self-helpfcu.org.

financial institutions ("CDFIs"), and credit unions already play an essential role in the financial markets and our nation's economy as a whole. These community lenders include 4,104 community banks with $3.2 trillion in assets,[2] 99.5% of the 4,499[3] federally insured credit unions in the United States with $2.31 trillion in assets,[4] and 1,435[5] certified CDFIs with total assets of more than $450 billion.[6]

Community lenders and the financial services that they provide are both important and distinctive. Small depository lenders and CDFIs frequently use a business model that usually involves smaller transactions and is based on the institution having much closer ties to both the borrowers and communities that they serve. The result is a tailored lending and underwriting process with a track record that demonstrates success.

**A. Community Banking Institutions Play an Essential Role in Providing Capital.**

This locally based, relationship-focused banking model plays a key role in fueling our nation's economic growth. For example, in addition to creating two-thirds of all net new jobs in the United States, small businesses account for 43.5 percent of the nation's gross domestic product. [7] And it is community banking institutions that serve as a primary source for much of

[2] "FDIC. (2024). FDIC insured institutions reported net income of $715 billion. FDIC. https://www.fdic.gov/news/press-releases/2024/fdic-insured-institutions-reported-net-income-715-billion."
[3] The number and asset number represents all credit unions including the 21 with assets over $10 billion.
[4] National Credit Union Administration. (2024). Quarterly data summary: 2024 Q3. https://ncua.gov/files/publications/analysis/quarterly-data-summary-2024-Q3.pdf.
[5] This number includes 356 banks and bank holding companies and 494 credit unions.
[6] Community Development Banks Association. (2024, December 31). CDBA transition recommendations on CDFI Fund [PDF]. https://www.cdbanks.org/sites/default/files/pdfs/2024-12-31%20CDBA%20Transition%20Recommendations%20on%20CDFI%20Fund_final_3%20%282%29.pdf
[7] Small Business Administration. (2023, March 14). What's new with small business. https://advocacy.sba.gov/2023/03/14/whats-new-with-small-business/

the capital used to finance these businesses.[8] Consequently, it is no surprise that data from the credit union trade association, America's Credit Unions, indicates that credit unions have a $297 billion economic impact or that a key component of achieving that impact stems from $105.9 billion in outstanding small business loans from Low Income Designated credit unions These numbers suggest that, in the banking context—despite the fast pace of technological innovation and its evolving impact on how consumers engage with the financial market—the lending process to small businesses in the United States remains largely unchanged. It is still local. It is still heavily "relationship-oriented."[9] And it is still "staff-intensive."[10]

That is why, when the nation was facing economic challenges brought about by the pandemic, community banking institutions led the charge to assist small businesses. According to data from the Independent Community Bankers Association, community banking institutions provided, "4.7 million PPP loans worth $429 billion served 55.8 percent of all PPP recipients and accounted for nearly 60 percent of the program's total loan amount."[11] Within that lending, community banks made "nearly 87 percent of the PPP loans to minority-owned small businesses, 81 percent of the PPP loans to women-owned small business, and nearly 69 percent of the PPP

[8] *See* Speech by Governor Lael Brainard, "Community Banks, Small Business Credit, and Online Lending" (September 30, 2015), available at https://www.federalreserve.gov/newsevents/speech/brainard20150930a.htm.
[9] FDIC Chairman Martin J. Gruenberg, "Speech, 12th Annual Community Banking Research Conference," (Oct. 2, 2024), available at https://www.fdic.gov/news/speeches/2024/remarks-chairman-martin-j-gruenberg.
[10] FDIC Chairman Martin J. Gruenberg, "Speech, 12th Annual Community Banking Research Conference," (Oct. 2, 2024), available at https://www.fdic.gov/news/speeches/2024/remarks-chairman-martin-j-gruenberg.
[11] Independent Community Bankers of America, "Testimony of Alice P. Frazier Before the United States House of Representatives Committee on Small Business, Hearing on 'Empowering Employee Owned Businesses and Cooperatives Through Access to Capital,'" at 2 (September 30, 2021), available at https://www.congress.gov/117/meeting/house/114081/witnesses/HHRG-117-SM00-Wstate-FrazierA-20210930.pdf

loans to veteran-owned small businesses."[12] That focus on delivering loans to traditionally underserved businesses is key given the prevalence of data showing that minority and women-owned businesses are, in fact, the fastest growing segments of all small businesses in the United States,[13] and the demographic reality that minority populations currently account for 8 out of 10 net-new households in the United States.

But the impact of community banking institutions doesn't stop there. Many CDFIs have also been instrumental in both educating individual consumers and providing small businesses with the technical assistance they need to scale.[14] Their work in this respect, according to the Opportunity Finance Network, complements CDFIs' more than $111 billion in financing for rural, urban, and Native American communities that, through 2022, produced 14,000 community facilities, funded 850,000 microenterprises and other small businesses, added 2.4 million additional housing units, and helped create or maintain 3 million jobs.[15]

**B. The Current Strong, But Flexible, Federal Regulatory Environment Helps to Keep Community Banking Safe for Everyone Involved.**

As this Committee considers the regulatory burdens facing community banking institutions, it is important for policymakers to remember why financial regulations are essential to preserving the health of this nation's economy. Done correctly, responsible financial regulations are a good thing. They protect consumers from abusive and harmful financial

[12] *Id.*
[13] *See* United States Census Bureau, "Census Bureau Releases New Data on Minority-Owned, Veteran-Owned and Women-Owned Businesses,"
[14] https://www.cdfifund.gov/programs-training/programs/cdfi-program
[15] OFN Annual Member Survey, FY 2022, available at https://www.ofn.org/cdfi-impact/.

products while increasing access to beneficial financial products, help ensure the safety and soundness of financial institutions like community banks, CDFIs, and credit unions, and prevent systemic risk from threatening to undermine the nation's financial market as a whole.

**1. History Reminds Us of Why We Need to Keep Strong Federal Oversight and Consumer Protections in Place.**

Recent history has already shown us the consequences of under regulation and relaxed supervision in the financial market. In addition to the recent failures of regional banks Silicon Valley Bank (SVB), Signature Bank, and First Republic Bank—which were attributed, in part, to lax regulatory supervision[16]—we cannot afford to forget that, in the wake of the 2008 financial crisis, more than six million American consumers lost their homes through foreclosure.[17] And, according to the Federal Deposit Insurance Corporation, more than 500 banks shuttered their doors—with most of those institutions being community banks.[18] In the absence of effective regulation pre-crisis, community banks were often forced, unsuccessfully, to compete for funding with irresponsible lenders.

The failure to have a responsible regulatory environment also resulted in taxpayers paying $7 trillion to bail out financial institutions through loans and, according to some reports,

[16] Fed, Fed announces the results from the review of the supervision and regulation of Silicon Valley Bank, led by Vice Chair for Supervision Barr (Apr. 28, 2023).
[17] NYU School of Law, "Starting Over: Michael Ohlrogge tracks post-foreclosure outcomes during the Great Recession", available at HYPERLINK "https://www.law.nyu.edu/news/ideas/michael-ohlrogge-great-recession-foreclosures"https://www.law.nyu.edu/news/ideas/michael-ohlrogge-great-recession-foreclosures. (last accessed 02/02/25).
[18] Federal Deposit Insurance Corporation, Failed Bank List, accessed at https://www.fdic.gov/bank/individual/failed/banklist.html

an additional $22 trillion through the federal government's purchase of assets.[19] In addition, our nation's economy was undermined and plunged into a severe recession. To put it bluntly, community banks had to close shop, people lost their jobs, small businesses went under, and many Americans—from small entrepreneurs to families—struggled to make ends meet because they were unable to obtain the credit and capital they needed to sustain their financial position or expand their asset base.

The negative nature of these consequences should make one thing clear:

> ***Proactive, responsible financial regulations—like those enacted under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank)[20]—are both necessary and key to protecting consumers, taxpayers, small businesses, community banking institutions, and the nation's economy overall.***

And it should be equally clear that oversight is necessary for every actor in the financial market, whether they are as large as Citigroup, a mid-size regional institution, a community bank lender, CDFI, or credit union like CRL's own affiliate, Self-Help, or a fintech, non-depository lender offering earned wage advance products like Earnin. All financial institutions—including non-depositories—benefit from the underlying purposes of financial regulation: protecting consumers, ensuring the safety and soundness of these institutions, preventing unfair competition, and defending the nation's financial market from systemic risk.

[19] John Carney, "The Size of the Bank Bailout: $29 Trillion," CNBC, December 14, 2011, accessed at http://www.cnbc.com/id/45674390#.
[20] Public Law 111-203 (2010).

**2. Within the Financial Regulatory Environment, Flexibility Remains Key.**

This is not to suggest, however, that federal financial regulations or oversight should adopt a "one size fits all" approach. To the contrary, because of the important role that community banks, CDFIs, and credit unions play, CRL continues to believe that—while customers of financial institutions of all sizes need and deserve core consumer protections —it is nonetheless appropriate to tailor these regulations to the size and complexity of the institutions. Importantly, the CFPB has been a leader in developing such tailored rules. For example, the Bureau's Ability to Repay and Qualified Mortgage rule contain a provision permitting small lenders operating in rural or undeserved areas to make balloon payment mortgages and also contain more flexible standards for defining qualified mortgages for smaller lenders. Similarly, the Bureau's escrow rule, mortgage servicing rule, remittance rule, and HMDA reporting rule all contained exemptions for smaller providers of these products.

And, because these points are especially relevant to today's hearing, it is important to remember that the Bureau's overdraft rule covers only the largest financial institutions and the Bureau's small business data collection rule excludes lenders making fewer than 100 small business loans—an exemption which applies to roughly 90% of small lenders according to the Bureau's estimates. Additionally, the Bureau has scaled the effective date for the rule to the size of the covered institutions, so that the smaller lenders covered by the rule—those originating between 100 and 250 loans per year—have an additional 15 months to comply after the rule takes effect for the largest covered lenders. CRL believes that these actions demonstrate how the CFPB, in particular, has adopted a positive approach to implementing regulatory flexibility for smaller financial institutions.

## II. Community Banking Can Become Even Greater if We Adopt a Common-Sense Approach to New Legislation and Regulations.

CRL continues to believe that the best approach to making community banking even greater is to first listen to community banking institutions and the consumers who use them. For example, in the 2024 Annual Survey of Community Banks by the Conference of State Banking Supervisors, institutions identified net interest margins and the cost of funds as the two most extremely important, external risks facing community banks today.[21] Highlighting this point is both timely and relevant given that **NONE** of the legislative proposals being considered in connection with today's hearing would either directly or indirectly address these issues.

Instead, the Committee appears to confuse the interests of this nation's largest banks with those of community bankers. A key example of this is consideration of the draft resolution to repeal the CFPB's recent overdraft rule—a regulation that, by its own terms, does not apply to community banking institutions.[22] Rather than allow large financial institutions to advance their own interests under the guise of improving the business environment for community lenders, CRL urges the Committee to devote its attention to the important, and often bipartisan, policy opportunities that exist which can actually help community banks be greater. Examples of these opportunities are:

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[21] Conference of State Banking Supervisors, 2024 CSBS Annual Survey of Community Banks at 7, available at https://www.csbs.org/sites/default/files/other-files/FINAL2024CSBSSurvey.pdf.

[22] *See* Consumer Financial Protection Bureau, Overdraft Lending: Very Large Financial Institutions, Docket No. CFPB-2024-0002, RIN 3170-AA42, at 240 ("This final rule will affect the consumer business of certain depository institutions with more than $10 billion in assets."), available at https://files.consumerfinance.gov/f/documents/cfpb_overdraft-final-rule_2024-12.pdf.

(1) Improving the efficiency of anti-money laundering reporting requirements in order to reduce compliance costs for small lenders;[23]

(2) Reimplementing pandemic-era provisions that expanded small credit unions' access to the National Credit Union Administration's Central Liquidity Facility by allowing corporate credit unions to act as agents for smaller, non-CLF member credit unions having less than $250 million in assets;[24]

(3) Examining proposals to increase the deposit insurance cap for small business accounts;

(4) Leveling the playing field between traditional depository institutions and fintech providers by requiring fintechs to comply with existing consumer protection laws;[25]

(5) Increasing federal technical and financial assistance for community lending institutions in a manner similar to the bipartisan $12 billion funding allocation for capital investments in CDFIs and community banks with MDI designations in 2020; and

(6) Reducing business uncertainty by encouraging administration and agency officials to refrain from issuing orders that: (a) freeze the federal grant funds used by community lenders and their small business clients, or (b) direct those lenders to stop engaging in activities that directly benefit underserved businesses and communities.[26]

Finally, to directly address concerns about cost of funds and net interest margins, both Congress and the Administration should be considering policies that would better position community depository lenders to compete for low-cost funding sources against other institutions, such as investment firms and fintech lenders. These changes represent meaningful opportunities

[23] *See* ICBA White Paper, "MODERNIZING ANTI-MONEY LAUNDERING AND ANTI-TERRORIST FINANCING LAWS AND REGULATIONS," (July 2018), available at https://www.icba.org/docs/default-source/icba/advocacy-documents/bsa-white-paper.pdf.
[24] *See* Jim Nussle for America's Credit Unions, Letter Re: Today's Hearing: "Lender of Last Resort: Issues with the Fed Discount Window and Emergency Lending," (February 15, 2024).
[25] *See* Testimony of Mitria W. Spotser, United States House of Representatives Committee on Financial Services "Modernizing Financial Services Through Innovation and Competition" (October 25, 2023), available at https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=408989.
[26] See, e.g., OMB Memorandum M-25-13; Exec. Order No. XXXX, 3 C.F.R. XXX (2025), "Ending Radical and Wasteful Government DEI Programs and Preferencing," available at https://www.whitehouse.gov/presidential-actions/2025/01/ending-radical-and-wasteful-government-dei-programs-and-preferencing/.

to advance the interests of community lenders, while also preserving protections for the consumers that they serve.

With respect to these consumers, CRL notes that many of the proposals being considered by the Committee today are in direct conflict with the public will. Specifically, a bipartisan poll conducted by Lake Research Partners and Chesapeake Beach Consulting finds that, across party lines:

> '➢ Voters overwhelmingly believe regulation of financial services to protect consumers is important, and that there should be more of it[;]
> ➢ They strongly support CFPB policies to limit excessive credit card late fees, reduce bank overdraft charges, and limit the impact of medical debt on credit reports [; and]
> ➢ Bipartisan majorities support CFPB action to fight discrimination in all areas of banking, including through greater transparency around small business loans."[27]

## III. Many of the Legislative Proposals Considered at Today's Hearing May Harm, Rather than Help, Community Lenders and the Communities They Serve.

Given this reality, we have serious concerns that many of the legislative proposals being considered at today's hearing could do more harm than good.

CRL opposes the rescission of the CFPB's overdraft rule.[28] The resolution seeks to rescind CFPB's final overdraft fee rule, which closes an outdated loophole that has promoted abusive practices and allowed the nation's biggest banks to earn billions in profits from the most

[27] Celinda Lake, David Mermin, Emily Garner, Lake Research Partners, Robert Carpenter, Chesapeake Beach Consulting, "New Bipartisan Polling Shows Support for Financial Regulation," (September 5, 2024), available at https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/poll-lake-research-cfpb-sep2024.pdf.
[28] Resolution of disapproval OD Rule. CFPB. Overdraft Lending: Very Large Financial Institutions. 89 Fed. Reg. 249. December 30, 2024 at 106768.

financially vulnerable families. If allowed to proceed, the Bureau's overdraft will save households $5 billion annually.[29] The rule will help reduce exploitive practices and increase fairness and transparency. Most debit card overdrafts are for less than $26 —far below the typical fee—and are repaid within 3 days, resulting in the equivalent of a 16,000 percent annual percentage rate (APR) loan, often for transactions consumers would rather have denied.[30] Banks have also charged overdraft fees when the account had sufficient funds, manipulated the order of transactions, and engaged in other abuses.[31] Finally, overdraft causes tens of millions of account closures each and is a top reason for debanking by underserved consumers.[32]

CRL also believes that Dodd Frank's Section 1071 and the mission to increase transparency in small business lending should not be subject to more roadblocks. Three of the proposed bills being considered by the Committee in connection with this hearing will either roll back or block section 1071, an amendment to the Equal Credit Opportunity Act[33] that requires financial institutions to collect demographic data on small businesses and to provide this information to

[29] CFPB. [Press Release] "CFPB Closes Overdraft Loophole to Save Americans Billions in Fees" Dec. 12, 2024
[30] CFPB. [Fact sheet]. "The CFPB's proposed rule to curb excessive fees on overdraft loans by very large banks and close a decades old loophole." 2024.)
[31] CFPB Takes Action to Stop Banks from Harvesting Overdraft Fees Without Consumers' Consent | Consumer Financial Protection Bureau
[32] Harvard Business School, "Bouncing Out of the Banking System: An Empirical Analysis of Involuntary Bank Account Closures," Dennis Campbell, Asis Martinez-Jerez, and Peter Tufano, April 2012, https://www.hbs.edu/faculty/Pages/item.aspx?num=41390; Consumer Financial Protection Bureau, Federal Register Notice, "Final Rule on Overdraft Lending: Very Large Financial Institutions," December 30, 2024, https://www.federalregister.gov/documents/2024/12/30/2024-29699/overdraft-lending-very-large-financial-institutions#footnote-65-p106773.

[33] Title VII of the Consumer Credit Protection Act 15 U.S.C. §§ 1691-1691f

the CFPB. The rule, which was finalized in 2023, is only triggered when a financial institution annually accepts at least 100 applications for small business credit.[34]

Currently, there is almost no nationwide data on small business lending.[35] Implementation of Section 1071 will provide consumers, industry, and regulators with a better understanding of the small business marketplace; allowing regulators to identify lending desserts, better tailor and narrow regulatory focus, and accomplish the statute's purpose "to facilitate enforcement of fair lending laws and enable communities, governmental entities, and creditors to identify business and community development needs and opportunities for women-owned, minority-owned, and small businesses.[36]"

For these reasons, CRL opposes the first two bills listed below and has some concerns regarding the third bill surrounding Section 1071 that the committee will consider today:

- *The 1071 Repeal to Protect Small Business Lending Act*[37] would repeal Section 1071 of the Dodd-Frank Act. CRL opposes this bill because it will continue the status quo of opaqueness surrounding small business lending and the continuation of discriminatory lending practices. Businesses can only expand if they have access to credit. An informed consumer decision is only possible if the consumer is able to understand the small business marketplace which requires the very data that passage of this bill will stop from collecting and making available to the public.

[34] Consumer Financial Protection Bureau. (2023). Final Small Business Lending Rule, 88 FR 35150.
[35] Consumer Financial Protection Bureau, Key Dimensions of the Small Business Lending Landscape at 19 (May 2017), https://bit.ly/2Uu7D23
[36] 15 U.S.C.A. § 1691c-2. In U.S. Code Annotated. Retrieved February 3, 2025, from https://uscode.house.gov/
[37] 1071 Repeal to Protect Small Business Lending Act

- *The Small Lenders Exempt from New Data and Excessive Reporting (LENDER) Act*[38] would exempt the smallest financial institutions from the data collection requirements of Section 1071 and also narrow the definition of a small business. The CFPB elected to define small businesses as those with under $5,000,000 in revenue and exempt financial institutions making fewer than 100 small business loans from coverage of the rule. The CFPB also provided for a phased implementation period, with the rule becoming effective for the largest institutions in July 2025, and for smaller institutions in 2026.

  The exemption the CFPB adopted covers over 80% of all small business lenders while still covering 91% to 94% of all small business loans. In contrast, this bill would cover only loans made to businesses with under $1,000,000 in revenue; would increase the reporting threshold to 500 loans, thereby exempt an additional 10% to 15% of all lenders; and would delay the effective date until March 2026. The CRL believes that the CFPB struck an appropriate balance between minimizing regulatory burden on small lenders while still serving the core purposes of the rule and thus supports the Rule's current definition of small business, its reporting threshold, and its implementation timeline. We are, however, open to exploring with the Committee whether some adjustments in the reporting threshold and in the implementation timeline for smaller entities is warranted.

[38] Small LENDER Act

- *The Bank Loan Privacy Act*[39] would restrict the CFPB's ability to delete or modify data that is made public under Section 1071. The statute currently requires that 1071 data be "made available to the public generally by the Bureau, in such form and in such manner as is determined by the Bureau, by regulation" and the statute allows the CFPB to "delete or modify data collected under this section which is or will be available to the public, if the Bureau determines that the deletion or modification of the data would advance a privacy interest." Under this bill, the Bureau could only make such deletions or modifications by rule following notice and comment. We are uncertain as to the rationale for this restriction. There is, we believe, a widespread agreement as to the importance of protecting the privacy interests of applicants for small business loans. To the extent that doing so requires redacting or modifying data that is collected to reduce the risk of reidentification or to otherwise protect privacy the CFPB should have the flexibility to do so as experience shows such redactions or modification to be appropriate. Requiring rulemaking before this can occur could serve to delay business privacy protections.

CRL also believes that altering requirements that promote safety and soundness is generally a bad idea for community banks, taxpayers, and the financial market. Accordingly, we also have significant concerns with the bills listed below in their current state:

- *HR 478: The Promoting New Bank Formation Act,* [40] seeks to increase the number of de novo bank charters by reducing capital and other regulatory hurdles, especially during

[39] Bank Loan Privacy Act
[40] Promoting New Bank Formation Act

their first three years, with additional capital reductions for *rural* de novo community banks. It would limit regulatory review of revised business plans for *de novo* banks to 30 days (otherwise they would be automatically approved) and eliminate a cap on agricultural loans. Though CRL is supportive of the desire to spur the creation of *de novo* banks, especially in the increasing number of banking desserts found in rural and marginalized communities, we think it is critical to remind policymakers of the risks involved.

Though lowering capital requirements for de novo institutions, particularly in areas considered "banking deserts" may seem to be a feasible strategy for attracting banking to these areas, historical performance appears to indicate that operating expenses tend to be higher for institutions operating in such areas and growth opportunities can be limited. With thinner margins and higher operating expenses, lower capital requirements on these de novo banks could serve to increase the inherent risk exposure for these institutions with the excess risk underwritten by the deposit insurance fund.

Capital requirements are established based on the risk profile and appetite of the deposit de novo institution's business plan. Smaller de novos tend not to have access to costly capital raising options through the open markets, so phasing in capital requirements over time could prove difficult in such communities, particularly if the organization does not perform in line with its established and approved business plan.

- We also oppose the *Fair Audits and Inspections for Regulators (FAIR) Exams Act*[41] which, in its current form, would allow larger banks and community banks to delay material supervisory determinations by invoking an appeals process through an independent examiner. Federal regulators would be required to defer to these decisions and the delay could raise safety and soundness considerations by allowing institutions to fail to address compliance issues in a timely manner.

**Conclusion**

Thank you again for the opportunity to testify on the important role that community banking plays in our financial markets and how that role can be strengthened by the adoption of commonsense policies that protect consumers, support relationship-based banking, and maintain the safety and soundness of our financial markets to the benefit of all involved. We welcome the opportunity to work with all members of this Committee to expand the positive impact that community-based banking has on the economy.

[41] Fair Audits and Inspections for Regulations Exams Act

Chairman HILL. The gentlewoman yields. Thank you so much.

I recognize myself for 5 minutes for questions. Commissioner Marshall, it is so good to see you.

I told her when she walked in, I trembled a little bit because she used to be my regulator when I was a banker. She still makes me nervous being in the same room.

You served our State for over 30 years, and we have a vibrant banking sector. We have some of the Nation's most competitive financial institutions and successful, and I will say, big, small investment, money management, credit union, commercial banking. Congratulations on doing a good job both as Securities Commissioner and Banking Commissioner of the State, big responsibility.

Ms. Spotser, in her testimony, I saw on page 13, asserts that there is no—there is a lack of data about small business lending in the United States and hints for a strong support for section 1071 in Dodd-Frank's implementation, this rulemaking that we have been talking about for the last few years.

Are you familiar with the call report data on small business lending, Commissioner?

Ms. MARSHALL. Thank you for your comments, Mr. Chairman. When we look at 1071, I can assure you that, as a regulator, I am as concerned about that as the banks are. I believe that CFPB took an outsized approach to their implementation of this rule, and I applaud this group and others that—and Congress as you are going to look at 1071 and the future of it. The amount of data that is going to be required to be collected by the banks and the reporting of that data will increase and provide a significant burden on our institutions.

Chairman HILL. Could you see it driving small business lending out of the depository institution sector to the biggest banks in the country and some automated credit box or, even more so, out of the regulated financial sector into the online small business lending sector? Is that possible, do you think?

Ms. MARSHALL. I agree, Mr. Chairman, because the consumer already struggles with providing the amount of information that banks are required to collect from them. They do not understand that. The banks are struggling to collect that information and in a small business setting, no two small business loans are alike. There is nothing that is going to make a great comparison when looking at one small business loan to the other. I grew up in a family with two small businesses, and I can assure you they were very different, but our community bank served us well.

Chairman HILL. I think that is a good point, but on this point about data, I believe we collect for—every depository institution in the country reports on their financial statements' loans under $100,000 and loans between 100 and $250,000. Is that right?

Ms. MARSHALL. Off the top of my head, Mr. Chairman, I do not—I cannot confirm that, but I can assure you the call report data is expansive. It is growing every day, and the burden that those institutions are required for even additional documentation is significant.

Chairman HILL. Because I have access to chat generative pretrained transformer (ChatGPT), I can report to you that RD–C, part 2 of the call report, requires banks to report all loans under

$100,000 and all loans between 100 and $250,000. Clearly, that is data, and it is indicative of small businesses.

Cathy Owen, sometimes I think the regulators are not all on the same page, and the bigger the company, the more likely they are not on the same page. In your experience, are the Federal Reserve System (Fed), the FDIC, and the State all on the same page on community reinvestment or whether or not you can have a fintech partnership or how they coordinate their exams?

Ms. OWEN. We are a Fed State bank, so I can only comment on the Federal Reserve and the State Bank Department. For the large part, we are very fortunate in that our Fed region and our State Bank Department do work very closely together and coordinate closely.

Chairman HILL. Thank you.

Ms. Rainey, what do you think about that? What do you hear from your members on that? Exam coordination and are they on exactly the same page about reviewing a fintech investment or how the CRA should operate, the Community Reinvestment Act, operate or any other—and coordinating exams, particularly for your members that are larger and maybe subject to direct examination by the CFPB, for example?

Ms. RAINEY. This is something we hear a lot about, and I can tell you that there is not a lot of direct coordination and a lot of confusion in terms of what one entity might require and another to what extent they may examine, best practices, how they get rolled down to community banks. There is not a lot of coordination today.

Chairman HILL. Mr. Kennedy, thinking about the—I hear a lot of comments, and I noted them about how bank CEOs and boards of directors are thinking about the Capital Adequacy, Asset Quality, Management, Earnings, Liquidity and Sensitivity to Market Risk (CAMELS) rating, the transparency of it, and some bankers have asserted anecdotally that it is not a fair process. As a bank director, founder, lawyer, can you comment on how the CAMELS process might be reformed.

Mr. KENNEDY. As a lawyer, not specifically in reference to our bank, but just in my 40-plus years of representing banks and seeing the application of CAMELS, I think your suggestions about focusing in on following the definitions and making those definitions clear. In my comments, I commented on the idea that instead of doing an exam on a point in time with a snapshot, think more about a dynamic trend for the bank in terms of how they apply, how the regulators would apply that CAMELS rating. It is very important. Those ratings can lead to a whole lot of positive or negative things, so I think that is a very important matter to cover.

Chairman HILL. Thank you very much. Thank the panel.

I now recognize the ranking member, the gentlewoman from California, for 5 minutes of questions.

Ms. WATERS. Thank you very much, Mr. Chairman.

Ms. Spotser, welcome back. It is so nice to have a former staffer testify before our committee. Good to see you.

Ms. SPOTSER. Thank you, ma'am.

Ms. WATERS. Today Democrats would offer the types of bills our committee should be considering. If we are going to do reform, it is just not about getting rid of regulations. We should be consid-

ering bills that lower costs for families and small businesses and protect community banks and credit unions.

For example, I have a bill that will halt all Trump import tax increases and his dumb trade war until we know that small businesses and the community banks will not be harmed. I have another bill that rejects co-President Musk's efforts to end deposit insurance and the FDIC. These bills will ensure there is a future for community banks. Ms. Spotser, as I explained in my opening statement, I am deeply troubled by Trump's and the unelected billionaire Musk's early actions, including the effort to pause all kinds of Federal financial assistance. Would you discuss—you have done that somewhat, but would you continue to discuss how these efforts would hurt individuals and small banks and how they would undermine the community lenders they prefer to bank with. For example, if loans backed by the Federal Housing Administration and Small Businesses Administration were no longer available, would that make it harder for banks and credit unions to provide mortgage and small business lending?

Ms. SPOTSER. It certainly would, and one of the things that I would like to point out is, not too long ago, I actually received a telephone call from one of our colleagues at another organization who had received a message basically indicating that they would no longer be able to actively work in providing technical assistance to small businesses as a result of the funding freeze and a series of the executive orders. I think these types of policies directly impact our ability to do what we do best as community bankers, right, which is first, small businesses. Give them the resources that they need to scale, and so, as we go forward, we have to think about making a conscious decision to pursue policies that empower businesses rather than hurt them.

Ms. WATERS. Thank you. The Trump Administration even included interest payments on our national debt and a list of programs they maybe paused before a court blocked their freeze. If we were to default on our debt, would that not trigger a broad economic crisis that would harm community banks, credit unions, and their customers?

Ms. SPOTSER. It certainly sounds like it would, yes, ma'am.

Ms. WATERS. Thank you. What will happen when Trump's new import taxes are imposed on a bank? This can happen in a month. Will that raise the cost of groceries and gas for consumers? What about farmers who export their crops? Will they be harmed when our neighbors respond by taxing American exports? Will all of this make it harder for community bank customers to repay their loans?

Ms. SPOTSER. Yes, ma'am. I think the broader question here is exactly what you are saying. All of these decisions have an impact on the wallets of Americans. As a result of that, it creates pressure for them to actually continue to pay their debts, and that has an implication for every financial institution.

Ms. WATERS. Thank you. Now, if we care about community banks and credit unions, Congress must not turn a blind eye to all the harm Trump is trying to inflict on working families, small businesses, community financial institutions, and our economy. Again, Mr. Chairman, and members, we support community banks, and both sides of the aisle do, but it is not going to be simply getting

rid of regulations that we have worked so hard to put in place so that we could protect our community banks. I think it is important for us to look at some of these executive orders and what they are doing and the possible harm that they may cause our community banks, and so that is what our members are going to do today. We are just going to be very open about what we understand is being done, because we all want to protect our community banks. We do not want to undermine them at this important time in the history of the changes that are being made in this country.

I yield back the balance of my time.

Mr. HUIZENGA [presiding]. The gentlelady's time has expired.

I now recognize myself for 5 minutes.

Ms. Romero Rainey, you testified this morning that, when banks fail, a speedy resolution is critical, which I fully agree with, and you had said that the FDIC should not "pick winners and losers." I would contend, and many of us over here who lived through what happened with Silicon Valley Bank (SVB) and a few other recent bank failures is that they were lacking in that area. They did, in fact, pick winners and losers, and we saw that scenario play out. Not only was former FDIC Chair Marty Gruenberg slow to react to the failures of Silicon Valley Bank, we heard that—as chair of the Oversight and Investigations Committee— but we also heard that time and time and time again from people who were involved in it, both Silicon Valley Bank and Signature Bank.

When it came to First Republic, he allowed their assets to be purchased by a large U.S. bank rather than eroding—rather than putting it out for bid and really having a reinforcement of the competitive nature of the banking landscape.

I want to know, are there ways that you think the FDIC specifically could improve the bidding process that would include everybody in that failed bank assets when those unfortunately occurred—occurrences happened?

Ms. RAINEY. Yes, and I appreciate the question. I think there are many ways for us to examine what is required under least cost resolution that, in time of a failure, would ensure that: one, we are not simply allowing the largest banks in this country to grow even larger; that we are taking into account the unique needs of the communities and the customers they serve; and looking at the concept of least cost resolution to be defined over a period of time, not in just that singular moment. This is something we would welcome engagement with the committee on.

Mr. HUIZENGA. Do you believe community banks have the ability, and are they in a position to absorb the assets of banks like this?

Ms. RAINEY. Absolutely, and I think, as we reflect on these situations, there were many examples of smaller banks that were willing to bid that, again, if there were more flexibility and the willingness to look at these costs over, again, an extended period of time. Multiple banks with unique ties to those communities could have stepped up to the plate and ensured a better resolution for those customers.

Mr. HUIZENGA. In 2018, this committee passed on a bipartisan basis actually, some relief to those community banks. Yet, we still have some who are saying that we need to regulate you all as we would a large city bank or other large banks. Can you help the

committee understand how Congress can build on the tailoring requirements that were, as part of Senate bill 2155 back 6, 7 years ago, and how it helped revitalize the banking sector.

Ms. RAINEY. Tailoring is critical for a viable future where community banks thrive.

Mr. HUIZENGA. That is because they are just different risk profiles?

Ms. RAINEY [continuing]. different risk profiles, and the concept one size fits all is not what we need when it comes to bank regulation. The risk model that is a community bank is succinctly different from those of the larger banks.

Mr. HUIZENGA. Some would want to call that rolling back. Others would call that maybe commonsense application, right? If you have a different type of animal that we are dealing with, is it appropriate to then have different regulations on them, correct?

Ms. RAINEY. That is correct. For a smaller community bank that is focused on ensuring the success of that community thrives, that risk profile is going to look completely different, again, from the larger institutions.

Mr. HUIZENGA. Ms. Marshall, I want to turn to you here. In a recently released survey of the Conference of State Banking Supervisors, community banks listed regulations as one of their chief external risks. Is that what you are seeing in Arkansas and among your other colleagues?

Ms. MARSHALL. Yes, sir, absolutely, and I appreciate the point to the sentiment index survey that—and in our community bank survey where regulatory burden is highlighted as one of the number one risks facing institutions. When I go out and visit with my banks, whether it is in Western Arkansas or Eastern Arkansas or my colleagues across this country, I can assure you that it is top of mind for them.

Mr. HUIZENGA. I think I know the answer to this, but you would not say that Senate bill 2155 actually caused these previously mentioned banks to fail.

Ms. MARSHALL. No, sir.

Mr. HUIZENGA. I did not think so. I just wanted to make sure we were on the same page here.

Ms. Marshall, Ms. Owen, I want to follow up on comments from Chair Hill about de novo banking. My home State of Michigan, we currently have 79 chartered banks, which is down from 86 just a year ago. That represents nearly 2,000 branches, 50,000 employees, and $314 billion in customer deposits.

Ms. Marshall, your testimony highlighted just how hard it is to form a new bank. I am hearing that same message from back home. What can we do as the consequences—what are going to be the consequences? My time is expiring, but very quickly.

Ms. MARSHALL. I think the message I am tailoring is appropriate and getting away from process-driven examinations.

Mr. HUIZENGA. Great. Thank you. I know we have a title of "Making Community Banking Great Again," but ultimately it is all of our goal to make sure that credit is available, and through access, whether it is credit unions. Those are those communities that really are where the rubber hits the road.

With that, I recognize the gentleman from California, Mr. Sherman, who is recognized for 5 minutes and 30 seconds.

Mr. SHERMAN. Thank you.

I want to thank the ranking member for focusing on how disruption disrupts our entire economy and hurts every private sector decision-maker. The ranking member points out that this administration was toying with the idea of maybe we just will not make payments on our national debt. How is somebody supposed to do business and take all the risks involved in being in the private sector?

We have a 25 percent tariff on Canada. Then we do not. Then we might. Then it depends on whether their Prime Minister says something nice about how our President looks.

How is a community bank—and this is just a rhetorical question—supposed to decide whether to make a loan to a business when they do not know whether they are going to lose all their Canadian and Mexican sales next month? It is just throwing a wrecking ball at everything in our economy. Gets good ratings. Dominates the news cycle. I think it would be—it is hard to say that being a community banker is great when you have to deal with that.

We have to make banking great, not just for the bankers and the community bankers, but for the consumers. For God's sakes, we cannot abolish the CFPB. They produce $21 billion for consumers. We are going to save $6.1 billion on overdraft fees. The way to make banking great is not to leave consumers without protection.

Another thing that was not so great about banking a couple years ago was the collapse of several banks, including Signature Bank, where we are told that one of the factors was that the FDIC was understaffed. Now we are told that they are still understaffed. They do not have enough bank examiners, but 200 bank examiners who had offers are now seeing those offers pulled. Now, those barely qualified might wait around to see, but the ones with the most qualifications, the ones that are wanted by the private sector, will have 10 other jobs by the end of next week. They are gone.

We also see the FDIC being told, if you work for the FDIC, hey, you can get 8 months' pay for quitting your job. Who is going to quit? The people who can easily get an even better job in the private sector, we lose our best and our brightest.

I will ask Ms. Spotser. If the FDIC is unable to prevent future bank failures, is that bad for the image of community banks and their ability to attract depositors?

Ms. SPOTSER. It certainly is.

Mr. SHERMAN. I thought that was an easy question.

Community banks make mortgage loans. They cannot afford to maintain—to hold those loans on their balance sheet. They sell them to Fannie and Freddie. If we abolish Fannie and Freddie, is that good for community banks?

Ms. SPOTSER. No, not at all.

Mr. SHERMAN. Okay. We have a law in Florida—which I hope this committee would see fit to preempt—that says anytime you are turned down for a loan in Florida, you can say that it is because of my political beliefs, and you start a State investigation. Is that good for community banks?

Ms. SPOTSER. I am not familiar with the law, sir, but it does not sound like it is good.

Mr. SHERMAN. It creates a circumstance where the Federal law says that you better not reveal the fact that you filed a suspicious activity report, but the Florida law says you have to explain why you did not want to do business with somebody who was suspicious. You are in a conundrum where you are forced to do something by State law, prohibited doing something for Federal law. Does that make community banking great?

Ms. SPOTSER. It certainly creates compliance challenges.

Mr. SHERMAN. Okay. Then we have rules that apply—let us just say we still have a CFPB. There are those who say we will impose those rules on loans made in dollars, but we will exempt crypto. Since banks have their deal with dollars—all of them I know—if they are at a competitive disadvantage for the crypto industry, does that make community banking great?

Ms. SPOTSER. No, sir.

Mr. SHERMAN. I yield back.

Mr. HUIZENGA [presiding]. The gentleman has 6 seconds. The gentleman yields back.

With that, the gentleman from Oklahoma, Mr. Lucas, is now recognized for 5 minutes.

Mr. LUCAS. Thank you, Mr. Chairman, and thank you to all of our witnesses for testifying today.

Community banks are the heartbeat of local communities. In my district, it is agriculture, it is energy, it is Main Street, and community bankers uniquely address the needs of those capital-intensive industries like the ones in my home State.

Ms. Owen, before I start my first question to you, I would just like to offer an observation. My first banker was an older banker at the time. He had been my father's banker, he had been both of my grandfather's banker, and as a very young banker, he banked 2 of my great-grandfathers, so community banking and those relationships are important to me having lived it firsthand.

Ms. Owen, what does it mean—and I know—just simply say this is a hearing about stressing the importance. What does it mean for the local community when community banks are able to thrive in communities like mine and in many across the country?

Ms. OWEN. It is huge for the communities, the customers. If a community bank cannot thrive, then we cannot serve that community. We cannot buy school uniforms. We cannot supply food for the food pantries. We cannot provide financial education. We cannot make the loans that are necessary for those communities.

Mr. LUCAS. Turning to you, Ms. Romero Rainey. The chairman and the vice chairman have discussed how, in 2018, Congress rolled back some regulatory burdens placed on community banks. Could you expand, from your perspective, what other areas of focus does Congress need to consider building on that progress?

Ms. RAINEY. Certainly. I think as we build on that progress of creating, again, not a one-size-fits-all path to regulation, whether we are talking about the exam environment in which community banks operate and how we allow for more flexibility for well-capitalized and well-managed institutions. I think another significant opportunity is how we think about de novo banking.

Again, the one-size-fits-all charter for a community in Oklahoma does not look the same as it does in downtown New York City, and we need to think about it differently in terms of what regulation should be required and how we appropriately give flexibility. That is really what we are looking for. As we serve unique communities of all shapes and sizes across this country, we need that flexibility. It is not about—it is about enforcing and creating added approach to safety and soundness but giving us the flexibility to manage within that.

Mr. LUCAS. Ms. Marshall, we have seen a dramatic decrease in the number of new banks created in the last 20 years, as my colleagues have noted. I have listened personally to investors talk about, at different times in the last 20 years, where the regulators were so focused on making people take problem banks that they would not allow—would not encourage new charters, de novos, until that was taken care of.

What are some of the challenges that you see in entering the market, and what should the government do to consider incentivizing new bank formation?

Ms. MARSHALL. Yes, sir, and Arkansas is no different. We have only seen 20—pardon me. In 20 years, we have not seen a new de novo bank application, and that is a trend I would like to see change, not just for my State, but across the country.

I believe we need to focus on ensuring those interested parties that our industry is open for business. We need to focus on reminding them that the regulatory burden is manageable, and we can do that through tailoring, as I have mentioned before. We need to spend this time and take this opportunity to review static thresholds that have, quite frankly, not been indexed or reviewed in quite some time, because $10 billion today is not what it was when some of those thresholds were put into place. I allude to the Bank Secrecy Act or other thresholds within the regulatory environment.

We also need to ensure that we have healthy entrance into the marketplace, and we also have that opportunity for exits through mergers and acquisitions (M&A) activity and no barriers to that for local-to-local bank mergers.

Mr. LUCAS. I just want to say that access to capital is a hugely important topic in districts with the kind of industries I have back in Oklahoma, and I look forward to working with my colleagues on the committee and the new administration to address these issues that we highlighted today.

I think of my first old banker who was a multigeneration banker and he had his institution open for 5 and a half days a week. On Saturday afternoon, when he closed at noon, he would get in his pickup and he would drive around the county looking at your farm, looking at your field, looking at your business, doing a personal eye assessment of what was going on. He survived the Great Depression. He survived the drought of the '50s. He survived the meltdown of the 1980s. I have the greatest of respect for that kind of community banker.

I yield back.

Mr. HUIZENGA. The gentleman's time has expired.

With that, the gentleman from Georgia, Mr. Scott, is now recognized for 5 minutes.

Mr. SCOTT. Thank you, Chairman.

Ms. Spotser, thank you for your excellent and well-delivered testimony. I learned a lot. Most importantly, put communities first. You are absolutely right. Our banking system is much like a heart in the body. It pumps blood throughout. Our banks do the same thing. That is what pumps our money, our lending out. It is the basis.

Now, Ms. Spotser, yesterday, the former CEO of Silicon Valley Bank, Mr. Ken Wilcox, warned that President Trump's deregulation agenda could lead to more bank failures similar to those experienced by Silicon Valley and others in 2023. Worst of all, Mr. Wilcox said this. He said that "We could potentially see failures like those seen during the 2008 financial crisis because of loosened regulatory enforcement."

Now, tell us, do you agree with Mr. Wilcox's statement, and where do you see President Trump's banking deregulation agenda causing the most damage?

Ms. SPOTSER. Thank you for that question, sir.

One of the most fascinating things is that we are at a time where Americans across the country are already facing financial hardship. We see that because we see that people are more likely to pay just the minimum statement—minimum due on their credit cards. We see that when we hear consumers talk about the fact that they are struggling to buy groceries.

Any act that makes it more expensive to access credit and any act that does that by virtue of, quite candidly, a policy that pursues deregulation but allows as a result of deregulation for consumers to experience paying more what we have called in the past junk fees is a policy that actually will, in the long-term basis, hurt us all.

Mr. SCOTT. Going to your point about putting the communities first—excuse me. I have a slight cold.

Ms. Spotser, in your opinion, what happens when the people in the community who are advocating for caution, who are advocating for soundness, are not even involved in the decision making process about such a critical area?

Ms. SPOTSER. I think we all suffer, and I think that we have heard from all of the witnesses on the panel. The thing that makes community banking so important and relevant is that it is relationship-based. It involves people actually listening or institutions actually listening to their customers and hearing their concerns as well as their desires to build. If it is relationship-based banking and that is what makes it important, then, obviously, it is critical to pay attention to the concerns that are raised by communities.

Mr. SCOTT. How is this environment exacerbated specifically speaking about community banks?

Ms. SPOTSER. I think we have heard a bunch of conversations about the challenges. With larger financial institutions as well as nonbanking, nondepository institutions not being held accountable to the same standard, it creates a situation where community banks can be less competitive. That is one of the biggest challenges here.

I think that the ways to increase the competitiveness of community banks have something to do with giving them opportunities to

expand their competitiveness by, for example, increasing the amount of deposit cap that relates to small businesses, providing increased technical assistance and opportunities, allowing them more access to technology, as we talked about before, and making that affordable to them.

It is not to say that we do not believe in the notion that regulation should be tailored. What we are saying is that we already acknowledge that regulations have been tailored and that many of the rules that people have pointed to as creating regulatory burden in fact do not apply to community banks in the United States.

Mr. SCOTT. Thank you, Ms. Spotser. I appreciate that.

Mr. HUIZENGA. The gentleman's time has expired.

With that, the gentlewoman from Missouri, Mrs. Wagner, is now recognized for 5 minutes.

Mrs. WAGNER. I thank the vice chair, and I thank the chairman for organizing this inaugural hearing of the 119th Congress on community banks, local institutions that provide absolutely essential banking services for communities across my home State of Missouri and the Nation. Ninety percent of the banks in my district are community banks, and they are often the main source of funding for small businesses and farmers throughout Missouri's Second District.

After the passage of Dodd-Frank, community banks were forced to contend with complex, overly prescriptive, and a burdensome suite of regulations—I do not think there are any junk fees. I think there are junk regulations imposed, if you want my humble opinion, but—that made basic financial services less accessible to small businesses and middle-income Americans.

The bills we are examining today will give local banks much-needed relief from these one-size-fits-all regulations, allowing them to better serve and meet the needs of local businesses, which will lead to investments and economic growth in Missouri and across the country.

Ms. Rainey, the vice chair and others have touched on this. You noted that, after Dodd-Frank passed, de novo charters, which allow for the formation of new banks—I do not know why we just do not say that. De novo. Whatever—dropped from an average of 170 per year to just a handful. This sharp drop in new banking opportunities is depriving communities of access to banking and local credit, especially in rural areas.

Ms. Rainey, what reforms can Congress and/or regulators make to reverse this trend and encourage more de novo formation, new banks, new community banks?

Ms. RAINEY. Thank you for the question and, yes, as the chairman noted earlier, we have only had 82 new banks formed since 2010, and that is just——

Mrs. WAGNER. It is insane.

Ms. RAINEY. That is not enough. There is so much that can be done here.

I really want to draw your attention to the minimum capital requirements, especially as you look at smaller, more rural areas. We need a proportionate connection to how much capital is required to what is the business that we are going to do, and we look at it more, again, from a one-size-fits-all period of time and—so base

minimum capital requirements, and then a period of time for them to grow that capital to, again, allow for that flexibility and take into account the unique needs within that community.

Mrs. WAGNER. Thank you. I think there is that and minimum capital requirements and much more that need to be addressed.

Ms. RAINEY. Yes.

Mrs. WAGNER. In 2020, based on robust data collection and analysis and an extensive public comment period, the FDIC crafted a new rule governing brokered deposits that allowed financial institutions to access diverse funding sources and gave consumers more control over their financial decisions. Yet, late in the previous administration, Chairman Gruenberg attempted to rush through a rule returning brokered deposit governance to the pre-2020 status quo without conducting analyses to justify the change and, in fact, seeking to collect data from banks on the characteristics of their brokered deposits—are you ready for this—after the proposed rule.

After many of my colleagues and I joined Financial Institutions Subcommittee, Chair Barr—Andy Barr—in urging the FDIC to reverse course. I was glad to see FDIC Acting Chairman Travis Hill withdraw this very poorly crafted rule on January 21st.

Ms. Marshall, can you discuss how community banks use brokered deposits to access funding, which allows them to make more loans to small businesses and to families?

Ms. MARSHALL. Yes, ma'am. Thank you for the question.

Deposit competition is greater now for our community banks than ever before. They are being forced to look at all of the tools and resources that are available and have a broad playbook of funding sources to be able to meet those demands and needs for their customers and those loan opportunities.

You need to be able, for a community bank, to use brokered deposits, allow core funding, have access and utilization of wholesale activities, such as the Federal Home Loan Bank System or the Federal Reserve discount window. All of those things in measure with appropriate parameters make for a holistic and appropriate funding structure for community banks to operate under. Community banks have used brokered deposits successfully for a long time, and they need to be able to continue to do so.

Mrs. WAGNER. Yes. My time is expiring here, but, Mr. Kennedy, I do have 2 questions for you, and I am going to submit them for the record.

I yield back to the chair.

Mr. HUIZENGA. Great, that is a good reminder to all the members. If you have questions that you are not able to get to for the panelists, please direct the inquiry through the chair, which we will get to the panelists, and then we would request that you would, in very short order, reply to those. We appreciate that.

Sticking with our Missouri theme, we are going to go now to the gentleman from Missouri, Mr. Cleaver, for 5 minutes.

Mr. CLEAVER. Thank you very much, Mr. Chairman.

Ms. Rainey, thank you for being here. Thank all of you for coming today.

There is a great deal of discussion—maybe even accusations—as it relates to diversity, equity, and inclusion for small banks and community banks, particularly in rural areas.

Is it important to have balloon notes on a mortgage?

Ms. RAINEY. Is it important to have balloon notes? Is that what I heard? I am sorry. Yes.

Balloon notes provide some level of flexibility for those community banks that desire to keep that mortgage loan on their balance sheet but are unable to take the interest rate risk over a 30-year period of time. Yes, in some cases, that is part of their model to do balloon notes.

Mr. CLEAVER. If we, Congress, unconsciously halt balloon notes, would that be like intentionally trying to hurt small banks, community banks?

Ms. RAINEY. Yes. By removing the ability for community banks to offer balloon notes, that would hamper their ability to serve the customers and to provide that level of service in their community.

Mr. CLEAVER. I agree with you 100 percent, but the issue is, if members of this committee approve some legislation that would, in fact, eliminate it, would it mean that the members here are just mean people discriminating against small community banks?

Ms. RAINEY. No, I do not believe that is what it would mean.

Mr. CLEAVER. I agree with you.

Ms. RAINEY. I think it is just a limitation of the services.

Mr. CLEAVER. Yes. I agree with you.

If people make decisions even unconsciously that exclude people, should they not be addressed, or to exclude people or communities?

Ms. RAINEY. Yes. If groups are excluded, that should be addressed. That is one of the things I love about community banks. They are so close to the community, they are able to understand what those unique needs and those relationships allow them to serve. It is why our bank was founded as trying to serve everyone in the community.

Mr. CLEAVER. I do not disagree with you. The point I am making is that sometimes people are exclusionary in their practices, things they do, unconsciously. There is no intentionality, we just do something.

For example, I had a little town in my congressional district, and they wanted to apply for some Community Development Block Grant moneys. They cannot do it because you have to have 50,000 people to get what is called an entitlement grant, and the little, small communities cannot get it. They have to compete with 200 other little towns.

Then this little town I am talking about, the mayor's office was in the grocery store. They have no grant writers. If that is required—and it is right now—are we trying to discriminate against them? Anybody?

Yes. We are discriminating. We are hurting little towns. I am saying that it can be done unconsciously, which is why diversity, equity, and inclusion is important to try to cancel that out. I am not saying people just sit up and say, let us discriminate against people of color and women, but if you design things unconsciously, you can hurt them. What you need to do is try to figure out what we can do to stop that, hurt that may even be unintentional. Diversity, equity, and inclusion are trying to do that, and we are saying, no, let us forget that.

What happened to a little town like Orrick, Missouri, who had a tornado come through, you have to have a special kind of process to go after—to get Federal Emergency Management Agency (FEMA) money in a little town. Do you think people sat up in here and said, let us try to figure out how to hurt little towns after a devastating tornado?

My time is running out. I hope you got my point.

I yield back, Mr. Chairman.

Mr. WILLIAMS of Texas [presiding]. The gentleman yields back.

The gentleman from Kentucky, Mr. Barr, is now recognized for 5 minutes.

Mr. BARR. Thank you, Mr. Chairman.

A major problem that has prevented new bank formation in our country over the last few decades is burdensome initial capital requirements. Often as high as $30 million when all is said and done. These requirements leave the organizers of a new financial institution with a razor-thin margin of error in executing its business strategy and generating a profit. That is why we have seen a dearth of new banks and de novo charters in our country over the last decade or so. That is why I have reintroduced my Promoting New Bank Formation Act, which would establish a 3-year phase-in period for new banks to comply with Federal capital requirements in the community bank leverage ratio.

Ms. Romero Rainey, can you discuss how giving startup banks more time and flexibility to meet these initial regulatory requirements could foster de novo bank formation in rural and urban communities throughout the country? I would ask you to direct your testimony to my colleagues on the other side of the aisle, including Mr. Vargas and Ranking Member Waters, who have expressed interest in working with me on this issue.

Ms. RAINEY. Thank you. I appreciate your long work and engagement in this issue.

When we think about new charter formation, as we have discussed here today, the first step is that capital requirement. As I mentioned in my opening statement, my grandfather started a bank with $300,000. There is no way that would happen today, and that is what I am advocating for.

Those base-level capital requirements need to be reflective of the size of the community and the business model that bank would represent, not only those opening business requirements and capital requirements, but also the business plan over time to allow that flexibility to engage in the business of banking to retain that local community capital so they can be deployed in the form of loans and create that source of economic development that is so lacking in so many of our rural communities.

Mr. BARR. Thank you for that and let me ask a question about 1071 also.

The Kentucky Bankers Association created a simple questionnaire explaining the statutory requirement for financial institutions to collect data pursuant to Section 1071 small business data collection rule. This questionnaire would allow the customer to fully understand why the data is being collected, removing any uncertainty from the client and easing the potential litigation on the bank.

I know there are concerns about another mandate in the final rule that a bank's low response rate may indicate noncompliance, but, generally, Ms. Owen, do you think a questionnaire like this would provide more certainty for your clients and could it ease liability concerns for your institution?

Ms. OWEN. The questionnaire could certainly help explain more, better define the information that is being requested to the customer.

I really cannot respond to the liability concerns because I do not know how the regulators will look at it when they analyze the information and if the customers choose not to disclose and there are few responses. If we will be forced still to go ahead and comply.

Mr. BARR. The data collection requirement under the final rule is pretty burdensome. Would you agree with that?

Ms. OWEN. Very burdensome.

Mr. BARR. Yes. Burdensome, and I worry that it would force many small banks to exit small business lending altogether. That does not help minority-owned small businesses, does it?

Ms. OWEN. Not at all. Most of them have a very difficult time gathering the information that is needed to comply with various regulations.

Mr. BARR. One thing that I will recall from our conversations and debates with the ranking member and other members on the other side of the aisle on 1071 was that they, in addition to Director Chopra, said that this was voluntary. If it is voluntary—if it is truly voluntary for these small businesses to provide this data, we want a questionnaire so that they can actually choose whether or not it would be burdensome for them to supply the information or not.

Mr. Kennedy, let me shift back to brokered deposits, following up from Congresswoman Wagner's good line of questioning. How did the uncertainty generated by Chair Gruenberg's push to overturn the 2020 brokered deposits rule harm your institutions and customers?

Mr. KENNEDY. If you ask me the bigger question, really get to it is that, frankly, I think that the term "brokered deposits" should just go away. It was really instituted in 1989 to address an ill where banks were buying brokered deposits, and we just simply do not have that anymore. We have responsible deposit networks that community banks like ours and many of our clients use to provide better deposit insurance to customers and institutions in those communities.

Mr. BARR. My time is expiring, but bottom line, Mr. Kennedy, did the 2020 rule—the previous rule—did it improve community banks' access to diverse funding streams?

Mr. KENNEDY. Yes, it did.

Mr. BARR. Great.

I yield back. Thank you so much.

Mr. WILLIAMS of Texas. The gentleman yields back.

I now call on the gentleman from the great State of Illinois. Mr. Foster is now recognized for 5 minutes.

Mr. FOSTER. Thank you, Mr. Chair.

I had mentioned my very positive experience with banks of all sizes during the time our business was growing. I would like to

focus the work of this committee on what we can actually do to help, and we have to—the starting point of that has to have a clear-eyed view of what the real situation is.

There is an interesting set of articles in The Wall Street Journal from the last couple of years that looked at the stress of small community banks, and much of it is simply the result of fundamental economic forces that we have to recognize. If we need to subsidize the existence of small banks, we may have to do it explicitly because these are real forces. It is simply the lack of economies of scale, which is very important in the increasing digital economy we have.

The brutal fact is, in dying rural towns there are not many profitable opportunities for loans, that is just the fact. In The Wall Street Journal, they talked about banks whose survival strategy was to keep branches in the tiny towns that they started in, then establish branches simply to get deposits in those small towns, and then do their actual loans in the nearby bigger city. You understand the fundamental forces there, and we just have to understand that as well. However, we have to be careful of this narrative that all we have to do is get government out of the way and everything will be fine.

Mr. Kennedy, you look like you and I have enough gray hair that we remember the savings and loan crisis or at least its aftermath. For those members who are not familiar with it—most of the members of this committee were not in Congress during the Wall Street crisis of 2008, and I think none of us were there during the savings and loan crisis, but it was a much bigger deal.

In the end, during the 2008 crisis when we had to pass Troubled Asset Relief Program (TARP), taxpayers eventually got paid back with interest on that. We made money on the TARP bailout. That was not the case for the savings and loan bailout where Congress had to vote on $150 billion, which corresponds to about three-quarters of a trillion dollars in Gross Domestic Product (GDP) terms today. Much of it, frankly, went into Texas, which caused a certain amount of stress inside Congress and probably was the result the Super Collider was killed, which is a separate discussion. This was a big deal.

If you look at that—as I say, members should just spend a few minutes on the Wikipedia article or the Investopedia article, if you prefer that, on the savings and loan crisis. Understand this was the simultaneous failure of many, many smaller institutions caused by misguided deregulation, the elimination, in some cases, of capital requirements at all, causing these zombie thrifts to go and continue to get deeper in the hole. In the end, the government was—the taxpayer was on the hook for about 2.5 percent of GDP. As I said, just a huge amount of money and this can happen again if we do not maintain knowledge of what happened.

Be careful of that, but what can we actually do to help? One of the things that actually, I guess, Ms. Marshall mentioned was the cost of Know Your Customer (KYC) compliance, and that is something where I think we can do some good.

There is a—the tool at hand for that is the REAL ID-compliant digital driver's license. It is completely feasible to onboard customers today by having them get out their cell phone, do their bio-

metric log-in, present their REAL ID, National Institute of Standards and Technology (NIST)-compliance digital driver's license, and have them prove they are who they say they are. Go hit Financial Crimes Enforcement Networks (FinCEN's) website or whatever to see is this person on the list of bad actors, and if they come back clear, you onboard them.

I have actually discussed with the chair of the full committee the possibility of setting up a pilot program to see if this very lightweight onboarding could be a huge benefit both for lowering the cost of KYC compliance and dealing with the fraud problems, that is another huge cost for small banks. They do not have the same fraud prevention team as J.P. Morgan.

I was just wondering if you have a reaction to that sort of proposal.

Ms. MARSHALL. I appreciate any opportunity for Congress to look at the BSA/AML laws that have been in place for far too long without appropriate review. I think technology and innovation in the financial services sector are going to be able to yield big results for us as both regulators in the industry and in policymakers. I think we need to look at all those types of options that you described as potential enhancements to that burdensome regulation. It is appropriate because no one, again, wants the BSA/AML or the financial services sector to be used by criminals or for illicit activity, but that needs a fresh set of eyes after almost 50 years.

I will make an additional comment on your point of fraud. It is one of the top risks, along with the regulatory burden that I speak to my institutions about, as well as cyber risk, those three areas certainly need our attention.

Mr. FOSTER. Thank you. I yield back.

Mr. WILLIAMS of Texas. The gentleman yields back.

I now recognize myself for 5 minutes from the great State of Texas.

This past November, the American people have made their message very clear. American families, small businesses, community bankers, farmers, and ranchers are all tired of burdensome regulations that hinder the financial service industry.

The previous Biden Administration continuously pushed policies that were out of touch and only led to higher compliance costs, and one policy in particular was the CFPB's famous Section 1071 small business data collection rule. I have been consistently hearing from small community bankers back in my district and across the country about how they are concerned with the complicated reporting requirements in this rule that will tie up loan officers and increase compliance costs and officers. Ultimately, forcing bankers to pass these costs down to their customers.

Furthermore, lenders who worry this rule will push the industry toward a standardized small business loan product can kill relationship banking. This overly burdensome rule will limit the banks' lending abilities and make it harder for small businesses to access the capital they need.

Yesterday, I proudly introduced the 1071 Repeal to Protect Small Business Lending Act, which repeals the 1071 small business loan data collection requirement to help eliminate costly regulatory burdens on financial institutions. Thanks to my colleagues who signed

on to this legislation. I look forward to working with Chairman Hill and the Trump Administration to repeal this deeply flawed regulation.

Ms. Owen, could you elaborate on the CFPB's 1071 rule, how it will negatively impact community banks and lead to a reduction in small business lending? Additionally, how will an increased compliance burden affect the ability of local lenders to provide relationship-based lending?

Ms. OWEN. Yes. Thank you very much for your question.

No doubt, for community banks, it will be a disproportionate expense to them for the implementation and training to be able to implement all 81 of the data point fields that are required with 1071, which is of great concern. A concern that many community banks may not be able to afford that implementation, which then would limit and restrict their ability to loan to small businesses.

I also have great concerns on the privacy issues of 1071 since much of the information is to be released to the public. Although it will be anonymized, in a small community, it will not be difficult to know which small business, grocery store, gas station, factory, either was approved for a loan or declined a loan.

Mr. WILLIAMS of Texas. Thank you, Ms. Owen.

With that, I would like to submit 2 letters for the record from the Leasing and Finance Association and the Defense Credit Union Council supporting my legislation to repeal Section 1071.

[The information referred to can be found in the appendix.]

Another issue with the rulemaking agenda of the previous administration was the lack of regulatory tailoring and the one-size-fits-all approach to regulations. Because of the lack of regulatory tailoring, community banks were forced to comply with the same set of rules as our Nation's largest banks. This leads to hundreds of additional hours spent on compliance, forcing community banks to close their doors or merge to be able to meet the needs of their communities.

Ms. Romero Rainey, could you discuss how one-size-fits-all mandates harm similar institutions and how this regulatory approach impacts the availability of credit for small businesses in rural communities?

Ms. RAINEY. Yes, sir. One of the things I appreciate most about community banking is the fact that their success depends on the success of the local community. When we think about regulatory burden, if it is not proportionate to the risk that a smaller institution represents, then it creates an undue burden that prevents their ability to offer those customized products to meet those needs of the community.

It hampers the ability to create new banks. It also hampers the ability in terms of how they expand, how they compete competitively, and in terms of their technological offerings. We have to look beyond one-size-fits-all and ensure that we are proportionately managing the risks the institution represents.

Mr. WILLIAMS of Texas. Okay. Thank you.

I have a short amount of time, but, Ms. Marshall, can you explain how the decline in community banks and the lack of new bank formations are harming rural communities, and why is a

more competitive banking environment ultimately beneficial not just for consumers but for the banks themselves?

Ms. MARSHALL. Thank you, sir.

Yes, no two banks are alike. No two community banks are alike, and the largest institutions are not focused on operating in rural parts of this country. It is imperative that we have institutions that have an appropriate-sized risk profile and business model to serve those smaller areas, or those individuals will not have access to the funding sources, the lending opportunities, and the deposit opportunities that they need.

It is very important that we all recognize that not everyone lives in a large city. They may not all have access to broadband. They may not, quite frankly, not all use a cell phone. That local community bank with that neighborhood presence where those bankers go to church——

Mr. WILLIAMS of Texas. My time is up. Thank you for that.

Mr. WILLIAMS of Texas. Next, the gentlewoman from the great State of Ohio, Mrs. Beatty, is now recognized for 5 minutes.

Mrs. BEATTY. Thank you to our witnesses.

We are here today to talk about making community banks great again, although I think our community banks have always been great. We all value our community banks. These vital institutions provide our constituents with access to credit and other critical financial services that create local jobs, extend mortgages, give loans to small businesses, and promote economic development in our communities.

It is ridiculous to be having this conversation while the President of the United States is actively taking steps to hurt our community banks and our economy. When his proposed 25 percent tariff on Mexico and Canada go into effect, this will have a disastrous knock-on effect for community banks.

Make no mistakes here today. When you inflict financial harm on bank customers like hardworking families and small businesses, Mr. Chairman, you inflict harm on community banks. When a trade war causes small business supply costs to go up or increase the cost of exporting materials, this financial strain will make it harder for those businesses to repay the loans they receive from community banks. The same will be true for consumers paying more for gas, more for groceries, and more for a lot of other things, making it hard to keep up with their mortgage loan payments, again, to community banks.

His illegal, ludicrous attempts to freeze nearly all government financial assistance programs will impact all kinds of bank customers. It will undermine small businesses' support programs like the State Small Business Credit Initiative. It will hinder CDFIs, including community banks and credit unions, from getting support from CDFI—the CDFI Fund to serve small businesses and underserved communities.

His radical crusade against diversity, equity, and inclusion and now accessibility will do significant damage to our economy because diversity, equity, inclusion, and accessibility is good for business and, yes, it is good for banks. Already his sweeping, senseless executive orders are creating disastrous unintended consequences, causing Federal agencies to eliminate completely diversity, equity,

inclusion, and accessibility-related web pages, materials, resources, and programs.

Mr. Chairman, we now have an unelected, unaccountable billionaire with access to the entire Federal payment system that disburses trillions of dollars in government expenditures from Social Security payments to tax refunds, creating a data privacy violation of an unprecedented altitude. Mr. Chairman, I hope that all of our colleagues on your side of the aisle are as bothered by this as I am bothered.

Finally, so while I appreciate our community banks as our chairman does, and I have prepared questions for our witnesses today, I simply cannot ignore the hypocrisy of having this discussion in the face of absolute chaos and havoc this administration is recklessly inflicting on our economy.

With that said, Ms. Rainey, I would like to direct this question to you. As we all know, financial fraud is on the rise. Bad actors are finding new and more sophisticated ways to steal customers' hard-earned money. I know that community banks are on the front line of this fight through Know Your Customer, identity verification, financial literacy program, and more.

What more can regulators do to help community banks combat fraud and protect our consumer funds?

Ms. RAINEY. Thank you for the question because it is a significant issue that we are seeing a dramatic increase in things as simple as I like to say back-to-the-future check fraud where we are seeing checks being stolen from the mail, washed, and then redeposited.

What we are looking for here is greater coordination amongst the agencies as well as financial institutions. Also, working on things like coordination with the post office to make sure we can communicate and begin to tamper out fraud. I think this is an area where coordination is going to be very helpful.

Mrs. BEATTY. Thank you for that.

Mr. Chairman, I yield back.

Mr. LOUDERMILK [presiding]. The gentlewoman yields.

I now recognize myself for 5 minutes.

Mr. Loudermilk. First of all, I want to thank our chairman for choosing our first hearing to be about the community banks, which is so important to many of our communities, especially those in Georgia. That said, I think a great deal of what we discuss here can also apply to the credit unions as well—especially in the line of questioning that I am going to have—because they face many of the same problems at the national level in terms of regulation.

First, let me start off by taking us a little back into history, back to 1970 when Congress passed the Bank Secrecy Act, which, among other things, required financial institutions to report unusually large transactions to Federal law enforcement. Congress did not specify what constituted unusually large at that time.

Early privacy advocates challenged the law on the grounds that it violated the Fourth Amendment, protected privacy—that the Fourth Amendment protects privacy rights. When it reached the Supreme Court in 1974, the Court took an unprecedented step and considered the Treasury Department's rule impending the law, in their view, of the law itself. They found that the $10,000 threshold

was high enough in that it would not capture everyday transactions. Consequently, the law was upheld. Yet, if adjusted for inflation—which it has not been—that $10,000 back then would be around $80,000 today.

Ms. Owen, I would like to open up with a question for you. Would you say that your bank frequently handles transactions greater than $10,000 in a single day?

Ms. OWEN. Absolutely.

Mr. LOUDERMILK. Probably many times over, I can imagine.

Ms. OWEN. Yes.

Mr. LOUDERMILK. Approximately, if you know this, approximately how much manpower goes into processing currency transaction reports at your bank?

Ms. OWEN. For our small bank, we have four BSA officers, not to mention the tellers that are completing these transactions and the others that are checking behind them before it goes to BSA.

Mr. LOUDERMILK. The bulk portions of the reports, I can imagine, are Anti-Money Laundering and Combating the Financing of Terrorism (CFT) compliance. How much do you think your bank spends on compliance on those each year? If you do not know, just give me a guess or an estimation.

Ms. OWEN. I wish I could give you a guess or estimation. I have not written it down or put a pencil to it. It is kind of scary to think about it. No doubt, those are positions that are working on this but are not generating dollars or income for the bank.

Mr. LOUDERMILK. Okay. Let me share a little something that the Government Accounting Office (GAO) found out. In previous hearings, I mentioned that law enforcement only issues a tiny fraction of the Currency Transaction Report (CTR) data—or uses only a tiny fraction. This time I would like to focus on what we can do about it.

Without objection, I would like to insert a December 2024 report from GAO on this. This 110-page report states that even a small adjustment to the filing threshold from $10,000 to $30,000 would reduce the reporting burden for banks for as much as 60 percent.

[The information referred to can be found in the appendix.]

Let me just quickly read the closing note from the report. It says, "By taking steps to reduce the number of unused CTRs, such as though adjusting the reporting threshold and by eliminating rarely used fields and clarifying aggregation requirements, FinCEN could reduce unnecessary filer burden without affecting CTR's usefulness to law enforcement." That is what I think we want to do, and I actually have a bill to do that, and I think it is something we can bipartisan do.

Ms. Owen, if you had a 60 percent reduction in regulatory burden, would your bank be able to pass those savings on to your customers?

Ms. OWEN. Absolutely. We would love to have that opportunity.

Mr. LOUDERMILK. Last question for you and I am running out of time. As a banker, do you believe that FinCEN provides adequate feedback or follow up once your AML-compliant staff file, the CTR or Suspicious Activity Report (SAR)?

Ms. OWEN. Unfortunately, no, we do not receive any feedback.

Mr. LOUDERMILK. That is what we are hearing from a lot of small—especially small institutions and large is that—especially with suspicious activity reports, it is very generic, very broad in definition.

Since you are not getting that, does that impact your assessment of customer risk?

Ms. OWEN. Absolutely. Even when we have made calls to them and tried to schedule appointments to make sure that we are submitting all the information they need on a particular item, communication would be hugely important, and I think hugely important in trying to resolve what they are trying to do.

Mr. LOUDERMILK. Thank you. My time has expired, and I just want to thank you all for working with us as we try to make changes here.

Mr. LOUDERMILK. I now recognize the gentleman from Connecticut, Mr. Himes, for 5 minutes.

Mr. HIMES. Thank you, Mr. Chairman and thanks to the panel for being here. Very important topic.

I watched very carefully during the pandemic the remarkable work that community banks did with the PPP. They really were lifesaving for a lot of businesses and very conscious of the power of relationship banking, but I have two concerns.

I arrived here in January 2009 as the wreckage of the mortgage crisis smoked around us, and so I am super conscious of efforts that are sort of ongoing and always deregulatory. The Congress obviously has always been amenable to having tailored regulation for community and smaller banks, but I fear that the pressures associated with economies of scale on the community banks are so intense that it will be very hard without creating risk in the system of doing a whole lot more deregulation. That is a whole other conversation because I actually want to take the conversation a slightly different but related direction, which is housing.

We have just shocking housing supply crisis in this country, certainly where I come from. The multifamily business at the Government Sponsored Enterprises (GSEs), has been resilient and helpful to the construction in particular of multifamily housing, but there is only a small number—30, I think—of lenders that are authorized to access the program.

My question—and maybe I can start with Ms. Rainey, but if we have time, we will go to others. Would really emphasizing and incentivizing community banks to be—or other small lenders to get multifamily licenses and to access that program, would that be both an additional source of business for our community banks and maybe actually help with our housing crisis?

Ms. RAINEY. Yes. I think, as we think about solving for the housing crisis, it is about creating as many opportunities and solutions as we can. Multiple points of access and various partners to work with are a tremendous part of the solution.

Mr. HIMES. Why have historically—I was trying to figure this out earlier. Why do these 25 Delegated Underwriting Servicing (DUS) lenders tend to be the big guys? Why is that true? How can we make it easier for community banks to be as involved as the big guys are in multifamily housing?

Ms. RAINEY. I am not specifically experienced with the program, but my experience would tell you that when we look at the size of transactions that we are dealing with multifamily, that may limit when you think about whether it is lending limits or concentration limits that community banks have to manage. Again, this is an area where a solution to this problem is how do we facilitate partnership and ability for community banks to work together to provide that single credit in coordination with the entity.

Mr. HIMES. Any other thoughts on the—again, I come at this thinking that we could just deregulate ourselves into catastrophe in the very noble pursuit of trying to keep the independent community banks alive. My mind does go to what other sources of business are there for the smaller banks.

Any other thoughts on multifamily lending from the panel?

I guess not. Okay. All right. Thank you.

Mr. KENNEDY. I think there is plenty——

Mr. HIMES. Go ahead, sir.

Mr. KENNEDY. I think there is plenty of opportunity. I am, frankly, not familiar with that program, and I made a note I am going to find out about it, but I do think there are plenty of opportunities for multifamily. Housing is a big issue. There are a lot of government guarantee programs that a lot of—frankly, people just do not know about. As a lawyer advising community banks, that is one of the things we like to try to do.

It is important that those kinds of programs and the agencies that are responsible for them to get that word out. It can be done on a local basis and, frankly, a national basis as well.

Mr. HIMES. Thank you. Thank you. I appreciate that, and I yield back.

Chairman HILL [presiding]. The gentleman yields back.

The gentleman from Tennessee, Mr. Rose, is recognized for 5 minutes.

Mr. ROSE. Thank you, Chairman Hill, and I want to thank Ranking Member Waters for holding this hearing. Thank you to our witnesses for your time and commitment to being here today.

I truly do believe that Chairman Hill's "Making Community Banking Great Again" agenda will do incredible things for banks and consumers and, frankly, the greater community financial system. I, like Chairman Hill, have experience with community banks in my State in Tennessee and serving with those banks and working with them, and they are very much in need of attention and relief. I commend the chairman for holding this hearing.

Commissioner Marshall, in Tennessee, we are blessed to have, frankly, a phenomenal Banking Commissioner in Greg Gonzales, who is a dear friend and a fellow alum of Tennessee Tech University. I will put in a plug. This will be his 20th year as Banking Commissioner in our State in Tennessee, serving Governors of both parties, and I think it is just a testament to the work that he does.

One idea that Commissioner Gonzales and I have been discussing is the concept of having State regulators, such as the Tennessee Department of Financial Institutions, conduct bank examinations for smaller community banks in place of the Federal Deposit Insurance Corporation, or FDIC. The idea here would be that for your smaller banks—then say 500 million—the State banking

regulator could conduct the exam and make sure that it is sent to the FDIC.

Commissioner Marshall, would you and do you believe that other State banking regulators would be willing to take part in such a proposal?

Ms. MARSHALL. Thank you for the question, and yes, my dear friend, Commissioner Gonzales, is a great regulatory partner.

I will agree with you that this is an area that we need to explore because if it was enacted and something that we wanted to find—that we found good benefit from, my State—not speaking from my legislature or our governing body, but that is something that I would be interested in engaging in. I think there are other State Commissioners that would be willing to do so as well because the smallest community banks have a very traditional risk profile. Like I said, they are often not engaging in outer-territory or new-market activities, but they have the ability to serve their customers.

Our one-on-one relationship with them is boots on the ground with local representatives and understanding of those markets that they operate in. We have that perspective, and I think we could be able to oversee the smallest of the institutions independently but with good communication, coordination, and collaboration with our Federal partners in whatever fashion that means.

Mr. ROSE. Thank you. That is good to hear. I know that some may have concerns as to the rigor of these State banking regulator examinations. On that point, I have also considered potentially providing that staff can randomly attend certain examinations, FDIC staff that is, could randomly attend examinations conducted by State banking regulations—regulators. Do you have any feedback on that portion of this proposal or idea?

Ms. MARSHALL. If you do not mind, repeat exactly what you are——

Mr. ROSE. The idea that randomly FDIC could monitor or participate in these examinations where the State banking regulator was taking the lead.

Ms. MARSHALL. I certainly think that, as the insurance agency for our institutions and that along with us is the chartering authority, there is a role for the Federal regulators to continue to play in that oversight. We do have some of that right now. On independent examinations, if there is a reason, a basis, or a need for the Federal regulatory partner to be in the room, we certainly work collaboratively with them to make that happen. I think that is a process that could be worked out with plenty of time to review the proposal, work together to ensure that we are on the same page, have good communication, a good framework around it, and explore those opportunities.

Mr. ROSE. Thank you.

Shift gears, Ms. Owen, for smaller community banks like Eagle Bank and Trust, can it be difficult navigating the process of managing both Federal and State level banking examinations?

Ms. OWEN. We are very fortunate that we have a wonderful Federal Reserve region that we operate within as well as a wonderful Bank Commissioner, and they work very closely together. They collaborate together. If there is a need for both of them, it is not unusual that we will sit down and meet with both of them to get their

opinions and thoughts. We are very fortunate. I have heard from other banks that it is not always the case, and it can be very difficult for other banks.

Mr. ROSE. This proposal of streamlining Federal and State banking examination is one that I think could ease the regulatory burden that community banks face. To all the witnesses here today, if you have any additional thoughts on this topic, please do not hesitate to reach to me—reach out to me and my office with feedback.

My time has expired. I yield back.

Chairman HILL. The gentleman yields back.

The gentleman from Illinois is recognized for 5 minutes.

Mr. CASTEN. Thank you, Mr. Hill.

Thank you all for being here. Ms. Owen, Sheila Bair, the former Republican FDIC Chair, recently said that there is strong consumer confidence in the FDIC brand and that customers are "comforted by the 'FDIC insured' sign on their doors." Would your customers agree with that?

Ms. OWEN. I think it is very important to have it on our doors, yes.

Mr. CASTEN. Excellent. She said that because—in direct response to reports that Trump's advisers and members of this so-called DOGE team are talking about ways to reform or completely eliminate the FDIC. Stay vigilant.

Number two, when you get a customer who comes in who asks for a loan from your bank and you are evaluating whether or not you want to issue a loan, what interest rates are you going to charge, do you look at their payment history with their other vendors, dead and otherwise?

Ms. OWEN. Yes. We work up a cash-flow, because we want to know that they can adequately service the loan that they are——

Mr. CASTEN. Okay. Just to be clear, if they have a history of nonpayment or late payment, that is going to be a negative impact on their credit score, right?

Ms. OWEN. Yes.

Mr. CASTEN. Okay. Last week, I spent most of my time with mayors, with contractors, with businesses who had signed contracts with the Federal Government and were asking me whether the Federal Government was going to welch on that deal, whether they should demobilize construction crews that they expected to come through, whether they could count on money that was contractually obligated to them. I am assuming that our vendors are going to be just as diligent as your bank is and say, "If you're defaulting on some of your creditors, why are not you going to default on me?" At some point, that leads to an increase in Treasury rates. Would higher Treasury rates help or hurt the community banking industry?

Ms. OWEN. That is an excellent question. I would have to really think through it because we have short-term loans, and we have long-term loans.

Mr. CASTEN. Sure, we just recently saw the FDIC bail out banks that all of a sudden had a squeeze because they had higher Treasury rates, right?

Ms. OWEN. Correct.

Mr. CASTEN. This administration is not acting slowly to destroy the U.S. economy. They are acting very quickly to destroy the U.S. economy, right? Higher Treasury rates are not good.

Last point, question for you, in response to—in your exchange with Mr. Williams, you mentioned you had some concerns about privacy issues and making sure that information provided to regulators does not leak out into the private. Would you have concerns if a bunch of teenagers who were unvetted by any security apparatus had full access to the Treasury payment system? From a privacy perspective, that is.

Ms. OWEN. I am always concerned about privacy and the protection of all of our customers and clients and all of our personal information. I am not familiar with what you are speaking to.

Mr. CASTEN. Okay. This week, for clarity so that everybody understands, Elon Musk has put teenagers who have not been vetted, that had been recently identified who are controlling trillions of dollars of Treasury payments. This is confidential information, top secret information. They are going to decide who can go through and access this information. I have big privacy concerns about that. I would imagine that your customers might also have those concerns. I cannot believe that this is partisan.

Look, this hearing is called "Making Community Banks Great Again." I appreciate that, out of deference to the majority, you all made nice comments at the start about how you also want to make community banks great again, and I share your commitment to making community banks great. I find myself questioning, when we say "great again," exactly when are we referring to? If I look back in history, and I say, when was there a point when we did not have an independent Fed? When was there a point when we did not have an FDIC protecting loan on the banks? When was there a point when the robber barons were in charge of our government? When was there a point where the Federal Government refused to enforce the 13th, 14th, and 15th Amendments to the Constitution passed under Reconstruction in order to make sure that we actually honor our protection—our constitutional obligation to equal protection? Let me go back to the 1890s. Oh, we also had really dumb tariff policies then. Any Ferris Bueller fans here? Bueller, Bueller? Tariffs, anyone? That was an era where we had a run on the banks, a recession darn near every 4 or 5 years. Of course, that led to the Great Depression afterwards. Is that the era we are going back to?

I put this to all of you. You are all leaders in your own fields. The entire country right now is wondering whether we are going to stand up for the Constitution, for the rule of law, for making America greater than it is right now, or are we going to stand and sit in cowardice and complicity with those who are trying to destroy it? That is a question for all of us here. It is all of our obligation to move forward.

I yield back.

Chairman HILL. The gentleman's time has expired.

The gentleman from Wisconsin, the Chair of the Financial Technology, Digital Assets, Artificial Intelligence Subcommittee, Mr. Steil of Wisconsin, is recognized for 5 minutes.

Mr. STEIL. Thank you very much, Mr. Chairman. Before I dive into the conversation, I just want to respond to my colleague across the aisle. The Federal Reserve's high interest rates is a direct response to the horrific economic policies of the Biden Administration we finally escaped from. The massive spending, the aggressive regulatory state of the Biden Administration drove inflation up. The Federal Reserve responded to that. We are now working to actually bring down inflation through addressing the regulatory burdens of the Biden Administration, addressing spending. In part, I think this is an opportunity to have a conversation about making community banks great again in particular by right-sizing a lot of our regulations.

Let us stage set in particular on fintechs, if I can. I am going to start with you, Ms. Owen, and I will come over to Ms. Marshall on this topic. As we know, a lot of banking is shifting into the palm of our hands. I have my iPhone here. I can jump on and do personal banking as probably almost anybody in this room could do with their smartphone. That is a great thing.

We know some of our Nation's largest banks have the ability to invest millions and millions of dollars in capital expenditures (CapEx), to develop their own proprietary apps or other tools in the fintech space. Our community banks are often relying on partnerships with fintechs. In particular, if I can start with you, Ms. Owen. From the perspective of a community bank, how does that partnership with fintech work, and does that give you the ability to compete with some of our Nation's largest banks for tools that consumers need?

Ms. OWEN. An excellent question. Thank you very much. As a very small community bank, we have yet to partner with any fintechs. We have looked at several of them, but there is considerable amount of expense and work to make them work with our legacy systems, the legacy core banking systems that we have today, which also entails a lot of additional expense.

Mr. STEIL. As we look at this, this is going to be a lot about right-sizing the regulatory environments that you can engage, knowing that there is a real cost for you to do this.

Let me come to you, Ms. Marshall. When you analyze the ability of, in particular, community banks that partner with fintechs, what are the roadblocks that you are seeing in that space?

Ms. MARSHALL. Thank you for the question. Banks need to continue to innovate effectively. They need to be able to adopt technology in other forums to be able to compete and especially those that cannot do it themselves. That third-party relationship is critical and essential to that path going forward. One of the roadblocks is the fact that the guidance that has been put out thus far is not clear.

Mr. STEIL. —finish your sentence.

Ms. MARSHALL. It is not clear. It is not concise, and it can be more appropriately directed with the bank adoption in mind.

Mr. STEIL. Do you think that some of the biggest and most important regulators, the Fed, the FDIC, and the Office of the Comptroller of the Currency (OCC), promulgated really one-size-fits-all rules that were not scaled for community banks to be able to en-

gage and that they were actually dissuading community banks from engaging with fintech providers?

Ms. MARSHALL. I agree that their current proposal, the guidelines and guidance, out there is more of a one-size-fits-all approach. I will take an extraordinary turn that I believe we need to stop using the word "fintech" because that could have such a broad application of areas where there is not high risk for a new technology that simply helps someone analyze a credit report, but if it is a technology that is going to focus in on core banking functions, such as deposit taking, lending, payments, or custody, that has a high-risk profile and needs a very tailored approach from a regulatory perspective.

Mr. STEIL. I agree. We have good debates on the nomenclature of fintech versus other terminology, but I completely agree with you on the importance of right-sizing the risk. I think the human mind is really good at identifying new risks when new technology comes online, actually not as good at identifying and determining what are the long-term benefits and ways that we can safeguard and right-size that risk. I think what you are saying is what I have seen is that we have seen a regulatory environment where it is a one-size-fits-all approach where they are not scaling this for our smaller community banks. As more and more consumers are asking our community banks to be able to have the ability to navigate whether or not it is on your phone or any other technological tool, we really need to be pushing our regulators to be able to right-size that risk so that our smaller community banks or Ms. Owen do not have the burden that she has. She can partner with fintech technology, fintech players in the space to be able to provide a service that her customers are looking for. This is really important in particular in rural America and other areas that do not have easy access to a brick-and-mortar facility.

Appreciate you all for being here.

Mr. Chairman, appreciate it.

Chairman HILL. The gentleman yields back.

The gentlewoman from Texas, Ms. Garcia, is recognized for 5 minutes.

Ms. GARCIA. Thank you, Mr. Chairman, and thank you to all our witnesses here today.

Ms. Spotser, I wanted to start with you. First, let me just say that I grew up in rural South Texas on a farm. When we went into town, whether it was just to go say hello to my uncle or to do business, we always worked with community banks. Obviously, there were only two. Now I represent Houston, where we have 33 and a lot of what you all would call big banks, but my heart is still with community banks, because they always had the little lollipops at the cashier desk for you to get. As a child, I enjoyed that.

Banks have just changed a lot, have they not? Since the pandemic, the big banks are heavily embracing technology to make their service available to more customers. However, the community banks we have relied on for years are facing several cybersecurity risks and technology challenges as they compete with mega banks and big-tech firms. In turn, communities they represent are sometimes left behind.

One of these challenges is providing services in languages other than English. According to data from the U.S. Census Bureau, over 20 percent of U.S. households speak a language other than English. What can we do to ensure that community banks can serve limited English proficiency individuals just as well as any other customer that works in the town?

Ms. SPOTSER. One of the things that we can do as regulators when we have disclosures and those sorts of things, we can make sure that they are provided in languages other than English, so that can actually assist and help facilitate the banking institutions to be able to use those forms.

Another thing that we can do is we can continue to invest in our minority depository institutions that are, in fact, often the institutions that are located in those communities and providing services. I think that in particular is one of the best approaches that we can have to address that concern.

Ms. GARCIA. I want to talk about a recent report from CDFIs, which states that women and employees of color still fall behind White men in being represented in several key jobs, including only 27 percent of economists were people of color, and only 34 percent of their examiners were women. I know we have at least one former examiner here in the room. It is kind of nice to hear that Mr. Hill gets nervous still.

Do you think President Trump's recent actions to fire Director Chopra from the CFPB, impose a governmentwide hiring freeze, and nonsense attacks on diversity, equity, and inclusion and issues will aggravate the challenges at CDFIs as well as other agencies?

Ms. SPOTSER. I think it will. I think we are looking at the reality that 8 out of 10 net new households created in the United States are households of color, and given that is the reality, it is imperative that we make progress in serving communities of color and customers of color. Increasing diversity, recognizing it as an advantage rather than a challenge or something to be looked down upon should be a critical priority.

Ms. GARCIA. Thank you. I want to focus on the outrageous overdraft fees that large banks charge to users. One of the—third of working class people earning less than $65,000 a year pay overdraft fees each year. This is not once or twice. Many of them pay hundreds of dollars in overdraft fees and risk losing their bank accounts so they cannot afford those costs.

The CFPB recently issued a rule that would cap the overdraft fees to $5 to help protect the hard-earned money of working class consumers. My colleagues on the other side of the aisle recently issued a Congressional Review Act, CRA, resolution, that would rescind the CFPB rule. How would you—how would reversing the CFPB overdraft rule harm working class people?

Ms. SPOTSER. For all the reasons that we have talked about during this hearing, now is a time when people are experiencing significant financial challenges. One of the things that we have to talk about when we talk about overdraft is a series of regulations that have taken place. It is not just that consumers are paying $35 right now for an overdraft of $2. It is also that it was ever true that financial institutions had the ability to kind of pick and choose how they would withdraw—hit—allow transactions to hit in order to

amplify the amount of money that was being charged, and that is why it got the reputation of being a junk fee.

If we repeal this regulation, which by the way does not apply to community financial institutions, which is one of the reasons why it is interesting, it is being considered in correlation with this hearing, but if we repeal this, then we are looking at the reality that consumers will continue to pay—

Chairman HILL. The gentlewoman's time has expired.

Ms. GARCIA. It just applies to large institutions.

Chairman HILL. The gentlewoman's time has expired.

The gentleman from South Carolina, Mr. Timmons, is recognized for 5 minutes.

Mr. TIMMONS. Thank you, Mr. Chairman, and I want to thank the witnesses for being here today. Many of us here could easily speak for hours about the CFPB under the Biden Administration and how its policies have expanded government overreach. We have stories from our districts, stories from constituents and small businesses negatively impacted by Mr. Chopra's actions over the last 4 years.

We all believe in the mission of protecting consumers, but the extreme policies put in place by Director Chopra have done more to harm consumers than they have good. After the election, just weeks ago, Chairman Hill and Chairman Scott in the Senate sent letters to all government agencies in the jurisdiction of Senate Banking and House Financial Services encouraging those agencies to halt rulemaking and new enforcement actions until new leadership could be confirmed. Almost unanimously, those requests were well-received and the various government agencies proceeded accordingly.

Not surprisingly, there was an exception. The CFPB. Director Chopra—we are going to get the records, but it seems that they just went on a flurry of enforcement actions, and one of them at the very last minute adversely impacted multiple businesses in my district. He—I guess the news was received Saturday morning, just a few days ago, and Friday—this is kind of crazy. Friday, at 5:55 p.m. and at 6:05 p.m., businesses in my district received Civil Investigative Demands (CIDs). For those of you listening, that is basically a subpoena to civil investigative demand. These, if you are publicly traded, have disclosure requirements. You have to tell the world that you are under investigation by the CFPB, and that has an adverse impact.

How many people think that the CFPB has people working every Friday at 5:55 p.m.? I would bet that is the first time ever and I even think Director Chopra might have sent these CIDs out himself right before he submitted his resignation.

Let me tell you what I spent my weekend doing. I got a call Saturday morning. These businesses are very concerned. They obviously know that there is a new direction because of the election. Again, I just want to clarify, the election results are exactly the response to this type of approach to government. We have been out of balance for the last 4 years, and we are going to find balance.

I worked all weekend to notify committee staff, to notify Chairman Hill and Chairman of Financial Institutions Subcommittee Barr, and worked on a letter. I ended up sending this letter to who

I thought—this is the best part; I thought that she was the Acting Director at the time, because I was unaware of the development that we heard about Monday, but I just asked who I thought was the Acting Director, Martinez, to basically not send the CIDs out.

The email was sent notifying these businesses that they were going to send by certified mail Monday, which would trigger disclosure requirements on Wednesday. I sent this letter out. I emailed to her.

Mr. Chairman, I would like to submit these for the record.

Chairman HILL. Without objection.

[The information referred to can be found in the appendix.]

Mr. TIMMONS. Thank you. Obviously, I worked feverishly all weekend to try to get these businesses in my district relief. I guess, Ms. Rainey, do you believe that it is normal for the CFPB to send out CIDs on Friday after business hours?

Ms. RAINEY. Seems a bit extraordinary to me, but I am not familiar with after-hours practices.

Mr. TIMMONS. Government workers use government hours. I can guarantee you that it is not normal, and we are going to get to the bottom of this. I think that Chairman Hill and Chairman Scott have requested a list of all the enforcement actions that they have engaged in. Obviously, I was very pleased when I found out that I had sent the letter to the wrong Acting Director on Monday morning.

We had dinner with Secretary Bessent Monday night, and I thanked him for giving these businesses relief. This is crazy. Not only did they send out the CIDs late Friday night, but after the news broke on Monday—Bloomberg I think got it first—CFPB staff initially said that action does not apply to the CIDs that they sent. Obviously, they changed course a few hours later after additional questions, but this is not the way that businesses need to expect the government to interact. We have to protect consumers 100 percent. I am all in but when the CFPB goes rogue and starts acting in this manner, it is detrimental to the U.S. economy, and we have to put a stop to it.

Chairman HILL. The gentleman's time has expired.

Mr. TIMMONS. Thank you, Mr. Chair.

Chairman HILL. The gentleman from Texas, Mr. Green, is recognized for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman, and I thank the ranking member as well.

I am very much concerned about small banks. I understand that the definition of a "community bank" per the FDIC is a bank with less than $10 billion in assets. Small banks are important to me because, literally, I am here because of a small bank. I went into a bank in Houston, Texas, small bank, and I needed a loan when I was in law school. The president of the bank interviewed me for the loan. As a Member of Congress, I can walk into a bank today and probably not meet the president.

Small banks get to know people. They put a lot of stock into what people can do based upon sometimes an interview. I hope you can understand why I pursue this line of questioning. Unfortunately, small Black banks suffer. They cannot get capitalized because, first of all, they service an area where you do not have a lot

of billionaires, and they have regulations that require them to help certain people. I support this, but they do not get capitalized as quickly.

Most banks in this country have assets under a billion dollars. There are thousands of banks, more than four—probably, but when it comes to Black banks, less than 25. There is something wrong with this picture. We have to have more Black banks. I get a lot of heat because I support Black people. I would just hope that someone would understand that having grown up Black, having lived Black, having suffered Black, having benefited sometimes from being Black, that I am going to support Black people and Black banks. Please understand, what can we do to enhance the opportunity for us to have more Black banks?

Ms. Owen, you have been banking for a long time. What is your bank capitalized at, assets?

Ms. OWEN. Our assets are $490 million.

Mr. GREEN. 490 million, so you appreciate the smallness of banking.

Ms. OWEN. Yes.

Mr. GREEN. I have a bank in my district that is small, less than a billion dollars. I have many banks, by the way, in my district, but you have a problem with technology. What can we do that can benefit you, which will probably benefit some of these Black banks that are trying to hold on? What can we do?

Ms. OWEN. First, I would like to say that both the American Bankers Association and I strongly support funding for MDIs as well as CDFIs. They fulfill a hugely needed niche for banking, and I believe in them strongly. Lessening regulations would be huge in helping us be able to expand our technology.

Mr. GREEN. I will just comment on that. We tried this in the past. I have been here for a number of years now. The big banks always swoop in and say, "We would like to have that too." Can the small banks stand up to the big banks such that we can do something for the small banks and not have to fight the big banks all the way and, in the end, not get it done because the big banks will not allow it? Can you stand up?

Ms. OWEN. I believe we do stand up and share and speak our minds when we come to D.C. with Congress and our senators. We do advocate for ourselves, but I also have to say that I believe big banks fill an entirely different niche than what community banks fill. There is a need for all of us, and we can work together.

Mr. GREEN. Thank you, Mr. Chairman. I will yield back the balance of my time.

Chairman HILL. The gentleman from Texas yields back.

The gentleman from South Carolina, Mr. Norman, is recognized for 5 minutes.

Mr. NORMAN. Thank you for being here. By hearing the conversation and the questions that are being asked, it shows you the dichotomy that we have.

I like my good friend Al, but I do not know what a Black bank is, nor do I know what a White bank is. I know what an American bank is.

Mr. GREEN. Will the gentleman yield? I can tell you what a Black bank is.

Mr. NORMAN. Let me finish. I will get after with you. I do not know what a Black bank, a White bank. I know an American bank. You are all in a competitive business.

Ms. Owen, I mentioned to you what we are battling up here, is just what my good friend Ms. Garcia said. Their answer is government regulations to everything you do, junk fees and taking credit reports that omit bad debt. I am sorry; you have to—you rank credit as it is, and all you have to go on is history, and so it is—that is why the American people chose—77 million chose not to continue the last disastrous 4 years of government regulations that each one of you have talked about, and this diversity, equity and inclusion (DEI), thank God, President Trump has eliminated that. It is merit. Merit-based. Some of the most successful bankers I know have been of all races.

When you get a bank loan, you do not look at—and I am sure my good friend realized that, if he goes to get a bank loan for a property, if one with I guess what he describes as a Black officer has a 5 percent higher rate on interest rates versus someone that is a different color, he is going to pick the lower rate because it is better for him.

Anyway, my point is, and you, Ms. Owen, you all need to stay involved to fight this kind of thing because, as has been mentioned, the CFPB has been overregulating and an agency that should be abolished, which hopefully we will try to do. You have more power than you realize as far as your customer base, and you serve—you are in a competitive business with other banks. You get big because of good service, because of being competitive, not for making bad loans where you do not know what the credit score is and where you do not—where you are forced to hire somebody because anything other than merit, which I am glad this President is doing.

Mr. Kennedy, in your testimony, you mentioned that serving as a bank board member or control investor should be rethought. You also said that appropriate pricing of examination application fees may be adjusted. I agree with both of those. Would you give me some, I guess, guardrails that you would recommend?

Mr. KENNEDY. It is difficult to do that. I do think the initial point is that we really—the industry should be self-funding. We have the regulatory structures, but they need to be efficient as well. They need to be educated. We need to provide the funding for the regulatory agencies to understand what is going on and better understand what is going on in technology, artificial intelligence (AI), and what the future will bring; that is the key point in my view there.

Director liability is an issue that has been in the law for a long, long time and it has gotten worse, and if you just step back and say, "Why do not we have as many community banks," that is one of the key reasons. We have to rethink that. I do not have any immediate—I can provide some more detail about it, but it is a topic that keeps people from going into that business.

Mr. NORMAN. I agree with you, and community banks, we all have been on bank boards. Pretty much everybody up here. It is regulations that keep bank boards back from showing profit on the bottom line. It is the reluctance of board members to get involved because most States need tort reform. South Carolina is one of

them that indirectly and directly affect your banks. What can we do more to incentivize and help with what you are doing? Ms.—right now, I will start with you and go down the line.

Ms. RAINEY. These conversations are a great start, but I think as we have talked here today, de novo, and as Mr. Kennedy alluded to how we create new charters, how we ensure in regulation whether it is our ability to work with fintechs and create a community bank-fintech partnership is—and some clear rules of the road would be incredibly helpful. How we ensure that the examination environment is, again, proportionate to the risks that we represent—so, for well-capitalized, well-managed institutions to extend the timeline between those examinations. As we reviewed here today, I think there are many pieces where again, let us think about it not as a one-size-fits-all solution.

Mr. NORMAN. Thank you all so much.

Chairman HILL. The gentleman's time has expired.

The Ranking Member for our Small Business Committee in the House, Ms. Velázquez of New York, is recognized for 5 minutes.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman.

Ms. Spotser, I was not prepared to ask the question that I am going to make—be making now. I have another set of questions, but listening to the attacks to 1071 and [inaudible], I feel compelled to set the record straight. The ranking member and I have been long-time champions of section 1071. We wrote it. Can you explain how section 1071 will increase lending to small businesses?

Ms. SPOTSER. Section 1071 is a sunshine provision. It lets the light in on what is actually happening in small business lending across the country. The way in which it does that—it differs than just call report data. It requires reporting of the race of the applicants. It also requires reporting around denials. In doing that, it will help us make informed decisions about why people are not getting access to business loans in the United States.

Ms. VELÁZQUEZ. Can you explain how the majority of community banks are exempted from section 1071?

Ms. SPOTSER. Yes. Actually, when the Consumer Financial Protection Bureau issued the regulation, they were very careful as part of that process to exclude a number of financial institutions making over—so that the actual regulation establishes a threshold of loans that have to be accomplished before the reporting requirement kicks in.

Ms. VELÁZQUEZ. Can you explain the other steps the CFPB took to make the reporting requirements less burdensome by giving them more time to comply?

Ms. SPOTSER. Yes. One of the really interesting things here is that the provision, which has actually been on the books for 15 years, was not actually, after the regulation was finalized, implemented immediately. It has a phase-in period, and it actually allows smaller financial institutions an extended period of time of compliance. Currently, the regulation's effective date has been suspended altogether.

Ms. VELÁZQUEZ. Is it not true that most banks are already collecting most of this information?

Ms. SPOTSER. I would think that a financial institution would want to collect financial information relating to its business clients.

It may not be true that they are collecting information directly about their race and those dynamics, but it is certainly true that they are collecting information about their business profile.

Ms. VELÁZQUEZ. Through Home Mortgage Disclosure Act (HMDA), can you explain how the CFPB was required by law and then a court order to write this rule, and this was not something that CFPB chose to do?

Ms. SPOTSER. Yes. This—the small business lending provision was, as you acknowledged, a requirement of the Dodd-Frank Act. It has been on the books for the past 15 years, and unfortunately, there was a lag in implementing it. During that time period, we have still had a lack of access to capital for minority small businesses in the United States.

Ms. VELÁZQUEZ. Thank you for setting the record straight.

To everyone on this panel, I support community banks. I have already publicly said I want to work on FDIC insurance and deposit insurance reform in order to make them more competitive. Yet, President Trump and his Republican allies want to eliminate the FDIC altogether. Does anyone think eliminating the FDIC is a good idea? Does anyone think this will make them more competitive? Yes or no? Do you think it would make them more competitive?

Ms. RAINEY. We do not know enough to know that. We need deposit insurance in this country. The FDIC plays a very vital role.

Ms. VELÁZQUEZ. That is a good start. Ma'am?

Ms. MARSHALL. The Federal banking agencies, the FDIC, the Federal Reserve, and the OCC, are our partners in supervision for the institutions. Just like the foundation of the dual banking system where banks have a charter of choice, whether they choose the State charter or the national charter. They should be able to choose whether they want a Federal charter, Federal supervision of the Fed or the FDIC, and the protection of the FDIC insurance fund is very important to the stabilization of our—

Ms. VELÁZQUEZ. Is that a yes or no, if you agree? Yes?

Ms. SPOTSER. Yes. The FDIC plays a critically important role, and in its absence, it would be highly problematic for all financial institutions.

Ms. VELÁZQUEZ. Thank you. I yield back.

Chairman HILL. The gentlewoman yields back.

Mr. Meuser from Pennsylvania is recognized for 5 minutes.

Mr. MEUSER. Thank you very much, Mr. Chairman.

Thank you all to our witnesses very much.

Over the past 4 years, community banks have been a little bit under the gun from 1071 to CRAs to overdraft fees being eliminated. Credit card late fees and such have been reduced, I think, from $35 to $8, something of that nature. My guess is, if we reduced speeding tickets from $100 to $5 there would be a lot more people speeding, so my guess is you have a lot more community banks overdrafts taking place.

I am hearing a lot from my community banks as well about the increased cost of compliance and regulatory burdens. In fact, I just heard a story not too long ago where CFPB came into a bank, community bank, and said, "Hey, how we doing?" They said, "Well, not well, I have had to hire three new compliance officers to help," and

the CFPB manager-representative-stated, "Well, that is wonderful; we are adding—we are creating three jobs." They really do not get it.

The Pennsylvania Bankers Association obviously pays a lot of attention to community banks as they are essential throughout Pennsylvania, and they informed me that recently a de novo bank was told by the FDIC to slow its deposit growth because it was meeting a new yet underserved population that happened to be Amish. Again, brought to my attention by the Pennsylvania Bankers Association.

Ms. Marshall, is this something that you found FDIC meddling in?

Ms. MARSHALL. I do not have an example specifically of what you are describing, but I will tell you that the concentration of power at the Federal banking agencies here in D.C. needs to be reversed and that delegation of authority needs to go back down to the regional offices of the FDIC or the districts of the Federal Reserve because they, like State regulators, are local. They know the communities. They know the institutions. They have a better gauge, and so, we do not need a one-size-fits-all approach to the Federal oversight of our industry. We need that appropriate balance between centralization of direction, but we need that execution and that independence of those individual districts and regions to make the best—make the choice structure for our institutions.

Mr. MEUSER. Have you found that to be the case? Has the FDIC been engaged in such drive-bys and stop-bys? Are they basing it upon the reserves? Are they basing it upon a business equation, or are they just basing it upon a de novo bank that happens to be growing faster than they predicted?

Ms. MARSHALL. Again, I have not heard anything specifically, but I hope that all regulators, like I do, focus on safety, soundness, and consumer protection. In a de novo situation, you are looking closely at the business model and the business plan but work with that institution. You do not want to stifle the growth or the opportunity for those banks to serve those communities, especially when we have a new de novo in place. That can be balanced with true risk-management practices and to ensure that the bank and the regulators are working together for the best outcome, and I believe banks do an excellent job overall of managing risks. That is what they do every day, and so that collaboration and discussion between the bank and their regulators are very important.

Mr. MEUSER. Okay. I would like to ask you about the importance of raising the FDIC insurance from $250,000 particularly, perhaps for small business payables, but I would rather just—I would like that answered. Mr. Kennedy, we are going to start with you and just go down the line. Community banks are not happy. There is not one that I meet with that says, "Hey, we do not feel under duress. We feel great. We are flexing our muscles. We are gaining new customers. We are rolling."

They are feeling as if they are being somewhat suffocated. What can we do in this community and in this Congress to improve that situation?

Mr. KENNEDY. Thanks for the question. It is the question of the day. Frankly, what the chairman has put out is a masterful list,

and others who have talked about the legislation, they have planned or have already engaged in, provided, but I think that, based on my 45 years of watching this industry and participating in it, something really dramatic to remove community banks from the heavy regulation that Congress has put on them. You can—you cannot blame all of the agencies because really the law is here. That is what started—and all of it has been in reaction, but it has been an overreaction, and it starts out, well, it is only the big banks, but then it is trickled down. You can ask any community banker that the trickle-down effect is always there.

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

Chairman HILL. The gentleman's time has expired.

the gentleman from California, Mr. Liccardo, is recognized for 5 minutes.

Mr. LICCARDO. Thank you, Chairman Hill, and thank you, Ranking Member Waters, for holding this hearing.

Thank you to all the witnesses for coming forward to speak.

I very much appreciate the testimony. I have learned quite a bit.

I guess I had a question primarily for Ms. Romero Rainey about, as you look across community banking in this country, is it fair to say that commercial real estate (CRE) lending is a significant share of the portfolio for many banks?

Ms. RAINEY. Yes, it is.

Mr. LICCARDO. What steps do you believe are necessary from the standpoint of the banks to protect against volatility in that market that we are seeing today?

Ms. RAINEY. This is something that community banks are experienced in doing and have over time in terms of knowing that the markets change, and we have to prepare for that volatility. The other thing that I would really point out, when you look at a traditional community bank's portfolio, the majority of their CRE is owner occupied, and so that creates a very different dynamic as we think about the cash-flows and the impact in terms of how that business is able to manage. They are typically in those investments for the long term.

Mr. LICCARDO. Some significant share, and I think I saw an FDIC report suggested it could be more than 30 percent, is non-owner-occupied, nonresidential. This could be an office retail, et cetera. I guess what I am concerned about is, as a recovering mayor of a city, is I have had those conversations almost 2 years ago listening to developers, owners of these properties telling me a lot of keys are going back to the banks. When they do, the valuations are going to be severely reduced, and the banks are going to be inheriting a lot of very poorly performing assets that are very far under water. I am wondering at this point, knowing what we think we know about the state of commercial real estate right now, is this the time when we need less regulation over, for example, issues around portfolio safety?

Ms. RAINEY. A couple thoughts there. First is, as I look at concentrations of commercial real estate, a lot of this is going to vary regionally. I am candidly not hearing a lot from our members that they are—their portfolios are struggling. There will be pockets, and that will have to be dealt with. Again, that is a perfect example of why one-size- fits-all is not the approach that we need to take here.

Again, as I started with my comments, that is the beauty of a community bank is these are portfolios that they have built expertise in years of mastery in terms of knowing how to weather those storms. Again, let us look into those areas of challenge and think about how we support those communities as opposed to painting with a wide brush in terms of how we support the industry as a whole.

Mr. LICCARDO. Forgive me for staying at the wide brush for a moment. Nationally, I think, in the fourth quarter of last year, they can see rises of 19.8 percent in office. A lot of folks believe that is a significant understatement given what we know about the fact that an awful lot of space is being subleased, and those leases are coming up, and essentially there are going to be a lot of nonrenewals.

I am thinking about that, thinking about I know, in the hotel industry, we are seeing a significant number of foreclosures on the West Coast. I cannot help but wonder if, at some point, the other shoe is going to drop and to what extent these banks are going to be as aware, small community banks, of the severe difficulties that are really underneath the surface.

That vacancy rate, by the way, is about twice as high as it was right after the Great Recession, 2009. This is a monumental moment for failure of commercial real estate. How can we be assured sitting here that, 2 years from now, we are not going to be having hearings about the string of bank failures resulting from all these failed investments or all these failed loans, I should say?

Ms. RAINEY. What I know today is, when you think about a community bank operator, they are the ones right there on the ground watching what is happening in those markets and in those buildings so that we suggest a surprise in terms of a sudden shift that they are not prepared for, that is not the community bank business model. They have proactively—they are monitoring—again, they are in those markets watching that happen. How we prepare, give the flexibility, and take into account the fact that they are there within those markets——

Chairman HILL. The gentleman's time has expired.

Mr. LICCARDO. Thank you. I yield back.

Chairman HILL. The gentlewoman from California, the Chairwoman of the Asia Pacific Subcommittee on House Foreign Relations, Ms. Kim is recognized for 5 minutes.

Mrs. KIM. Thank you, Mr. Chairman. I want to congratulate you on holding this very first full committee hearing on a great topic, and I look forward to working with you as chairman of the committee.

I also want to thank all of our witnesses for joining us to examine how we can make community banking great.

Today I am concerned about the decline of our community banking. In our country since the 1980s, the number of banks in America has declined from 18,000 banks to less than 5,000 banks operating today. What that means is that less banks in our communities means less competition, less access to capital for small businesses, and less essential banking services for communities that need it.

Let me ask the first question to Ms. Romero. Can you give us your view on how we got to this point of having 13,000 less banks today than what we had in the 1980s?

Ms. RAINEY. I think it is accumulation of looking at this industry from a one-size-fits-all approach. When you look at the compliance costs and the regulatory burden that have just been added on and added on in the last 2 years, over 4,000 pages of new regulation, that comes at a cost.

Mrs. KIM. Can you tell me, how much does it cost for a community bank to comply with State and Federal regulations?

Ms. RAINEY. It is significant. The stories that we have heard today of banks adding more and more compliance officers. Those are not folks on the ground helping small businesses get to the next level, figuring out how to finance and transition that business to the next generation, and that is the shift that I think we really need to focus on.

Mrs. KIM. I share with you, and my sense is also that the small banks are more worried about complying with regulations and focusing on how to comply with those regulations than focusing on what they need to do best, and that is making capital available for businesses and for worthy projects that they want to fund.

Ms. Romero, I do have concerns about the supervisory appeals process as well. That it has not been very transparent and has very little oversight. Can you give us your perspectives on how we could improve the supervisory appeals process and make it more transparent?

Ms. RAINEY. I appreciate the question, because that is all we are looking for is transparency, and very much appreciate Chairman Hill's bill that would create this appeal process and examination transparency by looking to the FDIC to have an independent approach in which bankers can raise their questions and challenge the findings.

Mrs. KIM. Sure. Ms. Marshall, in your testimony, you speak about the need to facilitate community bank innovation through third-party partnerships. Can you speak on how greater regulatory certainty and clarity with third-party partnerships can help small community banks, and how can you help consumers have greater access to many banking services?

Ms. MARSHALL. Yes, ma'am, thank you. I think the consumer is a large part of this conversation, because they are demanding that you—they utilize new products and tools and services to meet their banking needs. They want that. They expect that. Community banks need to keep up because, quite frankly, they may not be able to innovate themselves, but that partnership gives them that opportunity to continue to serve their customers and attract future customers. The ability to do so is going to be very—the successful ability to do so is going to be very important. As we look at improving and enhancing current third-party risk-management guidance, we need a regulatory framework that is clear cut, a roadmap that gives the rules of the road for banks to be able to follow, and not just them but the third parties themselves as well as the consumer. You need clear guidance. We need clear definitions. We need it to be a transparent process in how regulators and bankers, and, quite frankly, the third parties can facilitate those conversations about

what that looks like for the next generation because it is here to stay. I think it is very important for the vitality of our industry and meeting consumer needs.

Mrs. KIM. Thank you.

Ms. Owen, let me ask you a question. In my home district in southern California, I regularly meet and hear from small businesses—the banks—of the need to enact the Safe Banking Legislation, so can you talk about that, how enacting safe banking legislation can help local community banks?

Ms. OWEN. Banks do need good legislation, but it needs to be clear. It needs to be tailored. It needs to be very thoughtful in its implementation and timelines.

Chairman HILL. The gentlewoman's time has expired.

Mrs. KIM. Thank you, Chairman. I yield back.

Chairman HILL. The gentlewoman from Michigan, Ms. Tlaib, is recognized for 5 minutes.

Ms. TLAIB. Thank you so much, Mr. Chair.

Can everyone on the panel agree that our government should be promoting residents' economic security, not the—serving the whims of billionaires? Does everyone here agree with that? If you disagree, raise your hand.

Mr. KENNEDY. I did not understand your question. Sorry.

Ms. TLAIB. Is our government's role and responsibility to promote our residents' economic security, not serving billionaires? Okay. You are uncomfortable, Mr. Kennedy?

Mr. KENNEDY. No.

Ms. TLAIB. Oh, Okay. I just want to be clear. We are community banks, right?

Mr. KENNEDY. I was thinking about my answer.

Ms. TLAIB. For real people. No, we are community banks. I do not know. Maybe you do have a lot of billionaires you serve. I do not know. This is important because the topic of today's hearing is community banking, but we just cannot act like there is not a crisis going on.

Do you know the people calling my office, it is hundreds of people calling my office right now saying, "What is going on?" With access to the Treasury payment system, Elon Musk can simply stop funding any Federal Government programs like Medicare or Social Security. My residents know that he does not care about them. They are not experiments.

Our people in our communities and our families are not experiments for Elon Musk. It is really hard to be in this space to talk about something that I think a lot of people do care about, but at this moment, we are acting like there is not a crisis going on in our government right now.

One thing I do want to talk to you all about, and I think it is really important, is—and this is for any of the witnesses here. Do you know which State right now specifically, and to get to community banking, but which State has the most community lenders per capita? Does anybody here know? No?

It is North Dakota, which has around 64 banks and credit unions per hundred thousand residents. That is pretty great, right? North Dakota has six times as many locally owned financial institutions as the national average. Does anybody on the panel know that?

For any of the witnesses, again, what makes North Dakota so special in its support of community lenders? Can anybody guess? Do you know what makes them special? A large part of the answer is the Bank of North Dakota. The Bank of North Dakota has operated successfully as a public bank for over 100 years. Today it provides business loans, student loans, home loans, and agricultural loans. I do not know if the chairman and others know this. Public banking is incredibly important to support in our country, especially during this time where we see a lot of folks in a stronghold of, again, the economic security and the future of our families. Did you know that North Dakota—the Bank of North Dakota—invested $1 billion in legislative directed programs that build schools, water infrastructure, and medical facilities? A public bank did that.

In 2023, it returned $140 million to the State general fund, and over time it has returned more than $1 billion in funds to the State, money back to the State, to the communities. I do not even know if my own Ranking Member, Congresswoman Waters, knows this, but importantly the Bank of North Dakota does not compete with community banks. They do not compete with you all. It partners with you. About half of its $5 billion loan portfolio is lent in partnership with community financial institutions. Participation loans increase the capital available for community development, provide community lenders with greater access to capital.

This is important as somebody that authors the public banking bill. Thanks to the Bank of North Dakota, no banks in the State failed during the 2008 financial crisis. I am going to repeat this, no bank in North Dakota failed during the 2008 financial crisis. In fact, the bank continued lending while others pulled back, helping the State achieve the lowest foreclosure. As somebody that literally lives in the county with one of the worst foreclosures in the country in Wayne County, Michigan, but it helped achieve the lowest foreclosure and credit card default rates. Again, the lowest.

My Public Banking Act would actually help States establish similar robust community banking sectors, which will be partners to all of you. If we are serious about assisting community banks, we should look to the longstanding and proven track record of The Bank of North Dakota. This is so important for many of my colleagues. Many are not here right now. I hope they are dealing with the crisis that is happening.

However, it is important to understand the role of public banking. It is actually a great way to, again, protect the economic security and future of our families that, again, feel like we do not have our—have their back.

With that, Mr. Chair, I yield.

Chairman HILL. The gentlewoman yields back.

The gentleman from Florida, Mr. Donalds, is recognized for 5 minutes.

Mr. DONALDS. Thank you, Mr. Chairman. I am not even going to get into it. Thank you so much.

Mr. Kennedy, how has the regulatory structure imposed by Dodd-Frank negatively impacted community banking in the United States?

Mr. KENNEDY. I think it was about a thousand pages of legislation by Congress and probably 10 times that of regulations that were issued under that act.

Mr. DONALDS. Okay. Specifically, in your view, has community banking in the country, frankly, been devastated by Dodd-Frank?

Mr. KENNEDY. Yes. It was done to react to a problem or series of problems, clearly, but it was an overreaction, and it applied to every bank in the country and beyond. It is—stepping back, it is a serious problem. It is overregulation.

Mr. DONALDS. Okay. Thank you.

Ms. Rainey, can you discuss how increasing the asset threshold for small bank holding companies could help with capital formation?

Ms. RAINEY. Yes. I appreciate the question.

As we increase that threshold, what we allow these smaller bank holding companies to do is to grow to lend more and potentially partner with other smaller community institutions to keep that presence in the local community.

Mr. DONALDS. Okay. Awesome. Do you believe that a proliferation of small banks and small bank holding companies will be better—would be better in terms of addressing the needs of capital for individuals, microbusinesses, and small businesses?

Ms. RAINEY. It is the answer, and that historically—when we look at the footprint of small businesses in this country, which is unlike anywhere else in the world, we can attribute it directly to the presence of small banks and those that are on the ground that are taking that local capital and redeploying it to small businesses so that they can grow and create additional capital for that community.

Mr. DONALDS. All right. Thank you.

Ms. Owen, can you describe the role community banks can play in revitalizing local economies and uplifting American communities?

Ms. OWEN. Absolutely. I am a proponent of the Access to Credit for Rural Communities (ACRE) which will provide lower interest rate loans as well as additional credit to our rural communities and our farmers and our ranchers, the agriculture that is so vital to not only my State but our country.

Mr. DONALDS. Okay. Thank you.

Ms. Marshall, what immediate action can Congress take to address the regulatory cliffs you mentioned in your testimony?

Ms. MARSHALL. I think starting with the static thresholds that have existed. We need to review those. They need to be indexed for the current environment, the current economy so that banks can continue to grow and expand alongside that economy and not fear that they—as they approach this arbitrary asset threshold, that they either need to pull back from their operations or, quite frankly, seek another alternative.

We need to let them continue to grow alongside in the natural pace that they will be able to keep up from a risk management standpoint, and we need to take that stigma away that there is something magical or something horrible that happens when you cross over to be a $10-billion bank. As I said earlier, $10 billion is not the threshold that should define a community bank.

Mr. DONALDS. Let me ask you, Ms. Marshall, to follow up. What do you think the threshold is that should be defining community banks in the United States?

Ms. MARSHALL. Something north—I have never been asked that, Mr. Donalds. Thank you very much. Certainly something north of 10, maybe something less than a hundred.

Mr. DONALDS. Fair enough. I understand why you do not want to—as a former community banker, I understand that a $10-billion bank, although it is big, quote/unquote, you are not talking about the national banks, which are massively larger than $10 billion.

Ms. MARSHALL. Right.

Mr. DONALDS. I do acknowledge that.

Before I yield, Mr. Chairman, it was raised about the Bank of North Dakota. As a former banker or I would say a recovering banker, the State of North Dakota, the reason why they had to create a State bank is because there was no ability for any lending to occur because there were no banks in the State of North Dakota.

I am quite sure every American understands, especially people from North Dakota, that it is a very rural State. It can be a very tough State, and there were not a lot of banks that could survive in that climate. The State of North Dakota decided, I believe around 1910, 1920, to create a State bank in North Dakota. It still remains to this day.

I know that there are people in other States who brought up the idea of creating a State bank, but the reality is that commercial banking has been able to supply the needs in everybody's cities and economies, and there are now obviously community banks and other banks that operate in the State of North Dakota.

I do not think that the topic of raising a State bank is the panacea to whatever the ills might be coming from the other side of the aisle. The real cure is unwinding the regulatory behemoth that is Dodd-Frank.

I yield, Mr. Chairman.

Mr. FITZGERALD [presiding]. The gentleman yields back.

The gentleman from New York, Mr. Torres, is recognized for 5 minutes.

Mr. TORRES. Thank you.

There are 45 million Americans who have no credit score, who have been deemed credit-invisible or unscoreable. According to an analysis by VantageScore, expanding the scope of credit scoring to include alternative data like rent payments would generate a first-time credit score for about 33 million Americans. Of the 33 million, 13 million would have a credit score high enough to qualify for a mortgage.

Ms. Spotser, do you believe as I do that banks should originate mortgages based on credit scores that take into account alternative data like rent payments?

Ms. SPOTSER. Yes. I think it is a very important concept, and I think we are very pleased and supportive of the Federal Housing Finance Agency's efforts to make sure that the GSEs pursue it.

Mr. TORRES. Ms. Rainey, do you have any thoughts?

Ms. RAINEY. I think this is something that community banks do today. It is something that I love about relationship lending, it is not just credit-score-driven. We are able to take into account many

of those factors, and so I am appreciative of anything that brings that information to the table.

Mr. TORRES. There are 5.6 million households, 4.2 percent of the population, that are unbanked. Nineteen million households, 14.2 percent of the population, are underbanked. There is a national initiative known as BankOn that offers free or affordable bank accounts.

In your experience, how effective has the initiative been at reducing the unbanked and under-banked population in the United States?

Ms. RAINEY. I do not have the information specific to BankOn, but I think so much of this is about education and creating pathways for folks to understand, to create connections to banks, and anything we can do to help with that is good.

Mr. TORRES. Ms. Spotser, do you have——

Ms. SPOTSER. I think education is important, but I do not think that is the reason why we do not have—people are not getting access to bank accounts. I think it is the absence of service in communities that are traditionally underserved.

One of the things that we have talked about is the absence or the consolidation of banks, but what we have not talked about is the disappearance of bank branches by existing financial institutions in communities of color, and that has consequences that lead to an increase in lack of access in banking account opportunities for people of color.

Mr. TORRES. In places like the Bronx?

Ms. SPOTSER. In those places.

Ms. OWEN. Mr. Torres, I would like to add.

Mr. TORRES. Yes. Sure.

Ms. OWEN. We do offer BankOn accounts and are very proud to do so. It has certainly allowed us to bank some of our unbanked population and help them so that they can get direct deposits at the bank and protect those—protect them from the risk of their checks going through the mail, payroll checks and other things. We are very proud to be able to offer that.

Mr. TORRES. In spring of 2023, the fear of contagion risk led the Federal Government to insure the uninsured depositors of SVB, Signature, and First Republic. If the Federal Government feels compelled by contagion risks to insure the uninsured at the back end why not provide unlimited deposit insurance at the front end? In finance, as in healthcare, it would seem to me preventative medicine may be more cost-effective than emergency medicine. What do you make of that argument?

Ms. RAINEY. I think there is a lot we need to talk about here, and I think that there are two pieces to this. One is the contagion effect. The agencies should have had the ability to implement a transaction account guarantee immediately so that we were not talking about a contagion effect. Then as we think about, ultimately, reforms to the deposit insurance system, how are we ensuring that moneys are safe regardless of the size of the institution and that——

Mr. TORRES. Indulge my hypothetical for a moment. In a world of unlimited deposit insurance, what incentive is left for a depositor to withdraw all their deposits from a bank?

Ms. RAINEY. There is none, but there is also a cost that comes with that unlimited insurance. How that then creates a disproportionate burden on the smaller banks is the piece that we need to solve for.

Mr. TORRES. How can we—how would you solve for that?

Ms. RAINEY. I would solve for it by thinking about a system of assessments that puts more of that burden on the largest institutions.

Mr. TORRES. A tiered system of assessments?

Ms. RAINEY. Yes. Yes.

Mr. TORRES. What do you make of the role of the Federal Home Loan Banks as emergency liquidity providers? It has been said that emergency liquidity from the Federal Home Loan Banks is much more accessible than the Fed discount window. What do you make of that role?

Ms. RAINEY. I think the Federal Home Loan Banks play a very critical role in terms of providing, not just immediate liquidity, but liquidity over time that allow community banks to manage their balance sheets and have—like I said, given seasonal aspects, whatever it may be, they are very critical to banks' liquidity.

Mr. TORRES. I see my time has expired. Thank you.

Mr. FITZGERALD. The gentleman yields back.

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

Mr. FLOOD. Thank you, Mr. Chairman of Wisconsin.

The State of our banking system is not what it used to be post-Dodd-Frank. I represent a district, and I live in a State full of outstanding community banks.

In the 1980s, there were more than 18,000 banks in the United States. Today, there are fewer than 5,000 commercial banks. When I started on the Nebraska Unicameral Legislature's Banking Committee, we had over 300 banks, and today, we have 137 and dropping. One is consolidation, and the other is a lack of de novo charters when it comes down to the big issues, and I both believe—I believe both have the same root cause, regulatory burdens.

Ms. Romero Rainey, in your testimony earlier today, you spoke to how inefficient and prescriptive regulations led to further bank consolidation. Can you expand on that point for our benefit?

Ms. RAINEY. Absolutely. I think the core theme for me here is, as we look at the community bank business model that is tied directly to relationship lending, we need to look at it through a lens of how do we proportionally manage that risk. Unfortunately, regulation that has been written over the years—4,000 new pages in the last 2 years—has not been proportionate to the community bank business model, and that comes at a higher cost to community banks, which absolutely contributes to consolidation.

Mr. FLOOD. One of the things I love about our banking system in America is that it is diverse. You have the Global-systemically Important Banks (G-SIBs). You have the regionals. You have the community banks and then you look at Europe. How many banks are calling the shots over in Europe? A couple? A handful? Here we have this diverse system that is the envy of the Nation, and we seem to be killing off one of the three legs of the stool.

Let us talk about these de novo bank charters. We have seen a staggering drop in the number of these over the years. Congressman Barr's legislation would seek to address that problem, and I am a proud cosponsor of the bill.

Another question to you, Ms. Romero Rainey. You made a really interesting comment in your testimony that your family's community bank, Centinel, would not have been chartered today given the regulatory environment. Which specific barriers do you feel would have been most challenging to chartering a new bank de novo with the circumstances you had when your family bank started?

Ms. RAINEY. First and foremost, the minimum amount of capital. As we think about what is required, again, it is a one-size-fits-all approach. That has to be solved for immediately, especially as we look at access to capital in rural areas.

Mr. FLOOD. Very good.

Mr. Kennedy, in your testimony, you touched on the importance of allowing community banks to innovate and use technology to confront some of the barriers posed by the regulatory burdens. I totally agree. I would be fearful, if I were running a community bank, of getting into bed with a third-party vendor that could take me to a place where my license could be suspended.

How can technology help smaller institutions face the challenges posed by the regulatory burdens? What do you think of that?

Mr. KENNEDY. I think technology can level the playing field and has for the last 20 years and will continue to do that. There are just—there are a lot of different meanings to the word "fintech." I think the Commissioner talked about it earlier. We have to be innovative, and the regulatory agencies have to understand that and give the banking community space to do that.

Mr. FLOOD. Do you think the regulators of community banks are as maybe open-minded to some of the fintech possibilities as maybe the large G-SIBs with their regulations?

Mr. KENNEDY. I think they are. I am not sure that the leadership in Washington of late, particularly in the last 4 years, has allowed them to be.

Mr. FLOOD. Very fair.

Mr. KENNEDY. I urge in my remarks and also in my written testimony that we give the regulatory folks an opportunity, fund them better, give them the opportunity to understand and work side by side with banks as we innovate.

Mr. FLOOD. Ms. Marshall, I appreciate seeing you again this week. A lot of banks in my home State have gone from an OCC charter to a State charter. Are you seeing that in Arkansas as well?

Ms. MARSHALL. Absolutely. Yes, sir. There are only seven State charter banks—seven national banks chartered in Arkansas, and so almost 90 percent of our banks are State-chartered. That has happened fairly recently over the last few years.

Mr. FLOOD. Why is that?

Ms. MARSHALL. I will say it is our relationship with those institutions, our knowledge of the local communities, our accessibility, our willingness to partner with them in a way that is not inappropriate but best suited for both organizations to maintain that healthy, vibrant community banking sector.

Mr. FLOOD. Do you think the OCC wants a larger bank to regulate? Do they want to be in the space of community banks?

Ms. MARSHALL. I would not be able to speak to what the OCC would or would not want. I can just assure you that our banks are pleased with the relationship they have with the State.

Mr. FLOOD. Thank you very much. I yield back.

Mr. FITZGERALD. The gentleman yields back.

The ranking member is now recognized for a unanimous consent request.

Ms. WATERS. Mr. Chair, I have a statement. I have a unanimous consent request to enter a few statements in the record.

I have a statement from the Americans for Financial Reform, representing more than 200 groups, supporting CFPB and its rules.

I have two other letters from more than 200 consumers, civil rights, labor, and other groups supporting CFPB's overdraft rule.

I have seven other letters from various groups, including the Leadership Conference on Civil and Human Rights, Rise Economy, and the Responsible Business Lending Coalition, strongly supporting CFPB's small business lending transparency rule, the National Bankers Association, and inclusive each submitted statement urging us to build on our bipartisan work to support CDFIs and MDIs.

Last, the Free Speech Coalition submitted a statement highlighting how debanking hurts marginalized communities.

Mr. FITZGERALD. Without objection.

[The information referred to can be found in the appendix.]

Mr. FITZGERALD. We now go to the gentleman from Indiana, Mr. Stutzman. You are now recognized for 5 minutes.

Mr. STUTZMAN. Thank you, Mr. Chairman.

Thank you for being here. This is such an important issue for our communities. I come from a district in Northeast Indiana that is very diverse, a lot of rural areas, a lot of agriculture, a lot of manufacturing. We have, of course, the city of Fort Wayne, so we have an urban area and some suburban areas.

I have been absent from Congress for the last 8 years, and so I have been very active in our community, in the business space and have worked with a lot of our banks—small, medium, large, all of them—and working to create jobs and to make—create better opportunities for our communities.

One of the things that I find interesting—and Mr. Flood touched on just a little bit of it—is the diversity in our banking system, which I find to be very beneficial as a business owner and working with banks from whether it is startups or whether it is existing companies, agriculture, which is tricky. Not just any bank is involved in agriculture.

What I continually heard from friends in the industry is the—and I do not think that they even wanted to complain because they wanted to be sensitive and careful to the circumstances that we were in, but it just seemed like their hands were tied continually in a variety of ways.

I know one of the key things for this hearing is just fairness, transparency, right-sizing the government. President Trump signed an executive order, which launched massive deregulation initiatives, including a provision to eliminate 10 regulations for each

new regulation issued. I guess I am just kind of curious. Would that be possible? How easy would that be for the industry?

I guess, maybe especially for smaller community banks, that do not have the large group of attorneys that are readily available to help, but I know that there has been a lot of hardships on the banks, which creates the hardships for small businesses and folks in the community that are really building up our small communities.

I will tell you, rural communities are struggling. It is tough out there. That is why I believe this hearing is so important. How can we help? Is that the right direction? I support President Trump's end goal and initiatives, but is that something that will be a useful tool?

Ms. RAINEY. I think it is. As we think about our theme here today, again, how are we thinking proportionally to the risks that we are trying to mitigate and manage because that really is what is at the core of a successful community bank, is risk management.

How do we provide, to your words, the flexibility for these banks to do the good work that they are not just in the easy times but more importantly, in the challenging times. There is a reason that community banks make over 70 percent of the agriculture loans in this country. It is because they are experts, and they have proven their ability to stand the test of time.

To think about—to pull back, to repeal 1071 that would make that less effective or efficient, to think about the examination process in a different way for these smaller institutions, to think about their access to capital and ability to grow through the Small Bank Holding Company Act. I think there are a lot of ways that we can just think differently in a way that acknowledges the very different business model that is community banking.

Mr. STUTZMAN. Yes. I have only a minute left, but I would be curious, how is the next generation responding? Is there an interest in banking? Is there an interest in being a loan officer? I know we have one particular bank that has a really nice program with the local high school with high school students, but is there an interest? Are you seeing that across the country because it is important for our rural communities to be viable going forward for generations to come?

Ms. RAINEY. I take a personal interest in that as a third-generation community banker, making sure this goes on to the next generation, and I think exactly what you are talking about. Community banks grow their own, and they do it through internships. They do it through engaging with local schools. This is where, again, we need more of that and really creating that understanding that a career in community banking is about giving back and engaging in community is such a wonderful story.

Mr. STUTZMAN. Yes. My fear is that too much regulation drives people apart in the relationship business. We are constantly critiquing—the banks critiquing customers. It is important, but at the same time, there has to be a win-win for everybody involved.

Thank you for being here. Thank you for your testimony today.

Mr. FITZGERALD. The gentleman yields back.

I am now going to recognize myself for 5 minutes.

Thanks to the witnesses for being patient. I know it has been a long morning, afternoon.

I just want to dig a little bit deeper into the CFPB, and the question is for Ms. Owen. I know other members have kind of talked a little bit about this, this morning.

Section 1071 rule requires lenders that make a certain number of small business loans to collect and report to the CFPB a total of—there is 80-plus—81 separate fields—data fields—and it all applies, obviously, to the loan. It is a gathering of information, right. Seems excessive, which is why I am bringing it up. As I understand it, a lender is required to comply with this rule if they make at least 100 small business loans, arbitrary number.

Ms. Owen, can you please kind of explain or can you tell us any more information about the enormous data collection that is happening and what impact that has on small businesses, community banks, and the credit unions that serve them?

Ms. OWEN. Absolutely. Thank you very much for your question.

No doubt, trying to collect those 81 data points from a customer is going to be very difficult. Often, they come in with basic information. We use financial education to help educate our small businesses and end up giving them a list of items that we need for them to bring back. Now we are going to have to add an additional amount of data that they will need to collect.

Often, these customers are very private, so they really do not want to disclose some of the information. We have had them often tell us, "It is none of your business." When we tell them, "We have to ask these questions," they often do not like it.

Mr. FITZGERALD. Yes. Let me interrupt you there because it is kind of the next follow up question that I had.

Because 1071 requires CFPB to publish the data it gets from lenders every year, that is kind of what you are referring to as kind of this otherwise undisclosed information that small business people are uncomfortable with. If you include that information, whether the lender denied a small business loan or whether or not they are granted it, right, what steps do you think the CFPB could be doing to protect that information and the privacy that otherwise—small businesses are not really offered any guarantee that is going to happen. Is that correct?

Ms. OWEN. Yes. We are very concerned about the release of private information into the marketplace and what it can mean for those individuals. As I said before, "it is not going to be difficult to determine whether or not someone was approved or denied a loan, especially in a small community where there are only so many businesses especially of a particular industry." There are great concerns there.

Mr. FITZGERALD. Thank you very much.

To Ms. Rainey, kind of switching topics a little bit. Currently, credit unions, whether they are farm credits or fintechs, are not considered competitors for the purpose of the concentration analysis done under the bank mergers. Congressman Barr and I have been working on a number of pieces of legislation on that front to make that more streamlined and easier.

Can you discuss how this makes the bank mergers, especially in rural markets—kind of creates this artificially concentrated area and it is misleading, I think? Would you agree?

Ms. RAINEY. It is absolutely misleading because it is not painting a picture of the full market. When you look at the other financial services providers and if you exclude credit unions and farm credit, especially in rural communities, that does not tell the picture and it, I think, hampers some of the opportunity for some of the smaller banks to merge and work together.

Mr. FITZGERALD. Thank you.

The last thing I just wanted to touch on, I guess, is, again, going back to Ms. Owen. Community bank lending to farmers and ranchers is critical. We hear it especially from, obviously, a number of members that either have been or have some type of history on that issue, whether they are on the Financial Services Committee or they may be on other locally serving community boards that are focused on farms and ranchers.

Can you tell us again, that Access to Credit for Rural Economy Act—it is a bill that we have been working on—how this could be implemented and how this could be very important to those communities that are kind of watching what Congress is doing right now?

Ms. OWEN. Yes. It will lower the cost of financing for our farmers and ranchers and agriculture industry, rural communities, as well as allow additional access to credit for them, which is vitally important. They are in need of this.

Mr. FITZGERALD. Thank you very much. I yield back.

I will now recognize the gentleman from Ohio, Mr. Davidson, for 5 minutes.

Mr. DAVIDSON. Thank you and thank you for our witnesses for taking time out of your businesses to come share with us and hopefully make the market a better, more functional place.

Ohio is home to many strong community banks and some bigger regional banks, and we have a diverse financial services sector in our own State. It reflects the potential strength of our country's economy. Maybe one of the themes that we will do is making America great by making our community banks great again, but may be by reprivatizing our economy, because for a while it has felt like the Federal regulators have decided that they need to weigh in on almost everything.

I really just, Ms. Marshall, wanted to ask you about State-regulated banks that choose to do that for a reason, but, of course, there always seems to be a Federal nexus. Could you kind of highlight for us what that tension has been like historically and maybe lately between State regulators and Federal regulators?

Ms. MARSHALL. Thank you for the question.

Yes, as a State bank, you are going to have two regulators, the State regulator and the Federal regulator of their choice. We work very hard at the local level to make that as seamless and efficient and effective as possible, but it is that direction that is coming from D.C. that is directing perhaps—or challenging their local offices to manage situations in a specific way and overriding what the examiners on the ground may feel or think is the appropriate outcome.

One of the things that I think that could really make a difference here is, quite frankly, Congress' support of the existing law, which is to ensure that there is a State bank regulator that sits on the FDIC board. That is in law and—someone with State bank regulatory experience. Pardon me. That is something that has been absent for quite some time, and I think that would help temper this overarching direction that we have seen for quite some time. I think that would help ensure that there was an equal voice for State and community banks to provide this commonsense approach and balance out some of that direction.

Mr. DAVIDSON. Yes. I think we are hopeful that we will get somebody with that kind of regulatory experience even at the Fed when we look at the Fed's desire to reach into virtually everything as well.

Ms. Owen, when you look at your experience in the market, one of the things that you see maybe across sectors is that consolidation and concentration generally reduces innovation and it almost always reduces competition. How have you seen that play out in the market as a community banker?

Ms. OWEN. Yes. We have certainly seen consolidation within the State of Arkansas and, frankly, across the country, as you have seen with the shrinkage of the number of banks. It hurts all of our communities when they lose a financial institution that—a successful financial institution is so vital to each and every community.

We are very much in favor of de novo banking and making the requirements on capital not so rigorous as well as allowing more time for compliance with regulation for these de novo banks.

Mr. DAVIDSON. Yes. I appreciate it. You guys have highlighted some great legislation, some of my colleagues have, with Congressman Donalds on the Small Bank Holding Company Act, Congressman Williams on the 1071 fix, Congressman Barr and others on some of the community bank regulations that deal with capital leverage ratios.

I was speaking with a small community banker today. They are holding 17 percent. The whole concept of tailoring is out the window because they are being pressured. They do not really own their own balance sheet. They cannot decide what is on their books in their own way, and that is a factor.

Ms. Rainey, could you talk about that? Have you had some observations in the market where it feels like regulators are steering lending decisions instead of the banks?

Ms. RAINEY. Yes. Again, I think that is core to all of this. Community banks have proven their ability to manage risks, to understand their local markets, and let us give them the freedom and flexibility to do that.

Mr. DAVIDSON. Yes. Thank you for that.

Maybe the last question for you, Mr. Kennedy. Structure makes a lot of difference, and one of the, I think, really important innovations is the way that you get a return is not just leverage. It is also how you can retain some of the equity, and a lot of the equity in a lot of business deals goes to the IRS. You have the small—the S-corp election for a lot of smaller banks. Can you talk about how that is important and how that shapes the market?

Mr. KENNEDY. Thank you for the question. It is extremely important. As I alluded to earlier, the Federal Reserve study—excuse me. Yes. The New York Fed studied that legislation that allowed banks to have some S elections. It is the reason—the principal reason we have as many that we still do, but it is extremely important that we give that—extend that——

Mr. DAVIDSON. I will be fighting to keep that.

Thank you all for your time, and I yield back.

Mr. DOWNING [presiding]. The gentleman yields.

The gentleman from Iowa, Mr. Nunn, is now recognized for 5 minutes.

Mr. NUNN. Thank you, Mr. Chair. I appreciate that.

As most Iowans know, their local lender allows their institution to offer pretty customized services, particularly where they live and operate. This could be a farmer, a small business owner, just a fellow dad trying to help out.

Iowa has approached our financial regulatory framework, I think, pretty thoughtfully, which is why we still have over 250 small lenders across our community. Many States five or six times our size do not even have that type of diversity in the lending system.

I look forward to reversing some of the damages, Mr. Chair, that were done under the Biden-Harris Administration that have hindered lenders, restricted our economic growth, and disproportionately affected rural communities across our country.

Mr. Chair, I would like to submit for the record the list of priorities coming from my Iowa Bankers Association, from the Iowa credit unions, and our Iowa community bankers. This lays out a very good framework of what is working in a place like Iowa and maybe a recommendation on things we should be doing at the Federal level.

Mr. DOWNING. Without objection.

[The information referred to can be found in the appendix.]

Mr. NUNN. Thank you.

Let us get to work. First and foremost, Section 1071 rule. I remain concerned that 1071 forces our small banks to level additional burdens on our businesses. In fact, they are requiring 81 different data fields. Now, that is a 30 percent increase over what is Federally mandated. This is already something when we talk about efficiency we can start looking at.

An Iowa bank with just 17 full-time employees wrote to me recently and said, we do not have enough manpower on staff to address the compliance requirements coming out of 1071. It is going to force us to hire another employee. Now, in a small community, when you are spending another six-figure investment to meet a compliance requirement, that is money that is not being spent in that community or helping a local borrower.

Ms. Owen, I would like to talk with you. How does the impact on community institutions to report 133 different data fields between 1071 and the beneficial ownership reporting requirement impact a local lender?

Ms. OWEN. It would require us—or it will require us to invest more in the compliance side of complying with this regulation, which absolutely directly affects what we are able to invest in the communities not only making loans in the community and staffing

loan officers to be able to do that, but also supporting the local food pantries and financial education and many things that we do.

Mr. NUNN. You hit the nail on the head and thank you for highlighting the ripple effect this has across communities.

It is one of the reasons I am proud, Mr. Chair, to cosponsor Chairman Williams' bill to repeal 1071.

I would like to also speak to tailoring. Now, institutions of different sizes and business models are purposefully different inherent on where they are. In fact, most Iowa lenders have under $7 billion in assets. The Biden Administration chose to treat every lending institution the same as a multinational bank in New York with $3.9 trillion in assets.

Now, with respect to my friends from New York, across the rest of the country, we are talking multibillions of dollars. For comparison, 7 billion inches is roughly 110 miles. That is enough for me in Des Moines to drive to the birthplace of John Wayne in Madison County. It would take that same amount of inches—if we were trying to talk about 39 trillion inches from my house—the same distance would be to the sun. Put that into perspective. This is how we are treating vastly different sums of money and regulations on a small bank that is here in Madison County versus a big bank which would be the equivalent from Des Moines to the center of the universe.

Ms. Marshall, I would like to ask you, do you think that tailoring regulatory caps to account for inflation will alleviate some of the immense regulatory burden that is crippling banks and lenders right in Iowa?

Ms. MARSHALL. I absolutely do.

Mr. NUNN. I am glad to hear that.

Ms. MARSHALL. Mr. Nunn, if I may.

Mr. NUNN. Yes, ma'am.

Ms. MARSHALL. Your previous question about the compliance impact on our institutions and our community banks, in addition to the cost, what I also find when I talk to bankers is that they are having a hard time finding the talent. Quite frankly, not so much the willingness but the expertise and sometimes it is the willingness of staff that they are going to bring in.

To an earlier member's question about the next generation of bankers, who is going to come into those institutions in those rural communities and take on this massive burden? Where is that resource going to come from? That is another reason our community banks are looking at how we can continue to survive when we do not have the resources both financially and personnel.

Mr. NUNN. Ms. Marshall, I could not agree more because what I want my local lender to do is to help Main Street buy that first combine for a farmer, help a kid get an F–150, not spend most of their time trying to understand regulatory compliance out of D.C. that is outdated, overbloated, and can be rescinded.

Thank you.

Ms. MARSHALL. It is all about economic development.

Mr. NUNN. Yes, ma'am.

Mr. DOWNING. The gentleman's time is up.

The gentleman from North Carolina, Mr. Moore, is now recognized for 5 minutes.

Mr. MOORE. Thank you, Mr. Chairman.

Today's hearing is about restoring certainty and common sense to the way we regulate community banks. In my home State of North Carolina, of course, Charlotte is—part of Charlotte is in my district. We have a good number of banks and financial institutions there. We rely on our local banks to provide small business loans, mortgages, and financial services that keep our families and our communities thriving. Many of these banks are locally owned, deeply invested in their communities, and essential to our economy.

Yet instead of supporting community banks, the Consumer Financial Protection Bureau, the CFPB, has been driving up costs, increasing red tape, and making it harder for them to serve their customers. You all have answered a number of questions. I noticed this is a common theme of coming back to this same agency.

By the way, thank you for sitting here for almost 3.5 hours. That has been a tough assignment, Mr. Chairman, for these witnesses. Thank you for doing this.

I think we are getting a sense that Section 1071 is a leading rule that is an example of a big government agenda at CFPB. It seems that this rule, from the testimony you provided so far to the other questions, is forcing small banks to collect, I believe, as referenced, already over 80 different data points on every small business loan application, including intrusive personal financial information on business owners.

It is not just a paperwork burden, as you have all already spoken to, but it is a mandate that discourages lending to small businesses and ultimately reduces access to capital for small businesses, particularly in rural communities, as my good friend from Iowa was just commenting about.

The other thing that is very frightening to me in this agency is that the CFPB is operating with no accountability. I do not know how many Americans are aware of this disastrous policy that was passed and the way it was implemented under the previous administration, under President Biden. It seems that we have a choice that we can either continue down this path of bureaucratic red tape that will ultimately lead to economic stagnation, or we can institute commonsense reforms that allow community banks to lend, to grow, and to support their local economies.

I look forward to working with you all. I look forward to working with your peers and my colleagues here on this committee and in the House so that we can get this right.

I do have a couple questions, but I do not want to be repetitive of other questions that have been asked. The first question would be to Ms. Romero Rainey.

In the final days—and this has been mentioned earlier—but in the very final days of the Biden Administration, Director Chopra used his final days to issue a flurry of harmful regulations. What I would say is, one, if you had to narrow it down to one, two, or three, which would you say are the most concerning that you have seen? Two, if not rolled back, how would these policies affect small businesses and put American banks and businesses at a disadvantage internationally?

Ms. RAINEY. I am not as familiar with what happened in the last 24 hours. What I think I would like to speak about is to pick up

one more piece. As I think about most harmful, I go straight to 1071. There is one more piece that we have not talked about as much, and it is the ripple effect back to the small businesses, as you were alluding to.

The last thing small businesses need in this country is the commoditized approach to small business lending, which is what this rule would require. Again, as we have demonstrated in multiple aspects, small businesses do not need one-sized approach. No two small community banks look alike, no two small businesses look alike, nor should their lenders treat them as if they were alike.

Mr. MOORE. Yes, ma'am. Thank you.

Mr. Kennedy, a question for you, sir. The CFPB's scrutiny of nontraditional banking services such as the fintech partnerships has made it harder, I would argue—and I believe there is testimony to this—for banks to innovate and to offer modern financial products. Given that, how would you suggest that Congress set clear limits on the CFPB's role in regulating financial technology? Secondly, how would you define that the current uncertainty is affecting the industry?

Mr. KENNEDY. The CFPB has a trickle-down effect on banks under $10 billion, of course, and so I think having clear guidelines from the agencies that really regulate banks and understand banks and the relationship of fintechs is extremely important.

I think we have all got to recognize in the regulatory and in the business world, we have to work together. Things move very rapidly, and we have to work cooperatively. That is my thought.

Mr. MOORE. Thank you, sir.

I yield back the balance. I give you back the 25 seconds of your day today.

Mr. DOWNING. The gentleman yields back.

The gentleman from New York, Mr. Lawler, is now recognized for 5 minutes.

Mr. LAWLER. Thank you.

Like many of my colleagues, I have been alarmed during the last administration by a steady stream of partisan rules from regulators that failed to be accompanied by substantive cost-benefit analysis, that lacked in understanding of the cumulative effects they would cause, and whose adverse effects would be borne by American families and businesses of all sizes, including by increased costs and reduced availability of credit.

We should be doing everything we can to ensure businesses and entrepreneurs have access to the resources they need to thrive and drive an innovative and competitive economy, and we need our community banks to be thriving as part of that effort. I know the chairman's "Making Community Banking Great Again" principles include ensuring access to diverse sources of funding and capital. With that in mind, I would like to touch on brokered deposits.

Ms. Romero Rainey and Mr. Kennedy, following up on the question from my colleague, Mrs. Wagner, to Commissioner Marshall, can you discuss some of the ways that community banks use brokered deposits to access funding which allows them to make more loans to small businesses and families?

Ms. RAINEY. Yes. Brokered deposits have been a significant tool for community banks in a few different ways. One is just as you think about seasonality in a bank's balance sheet. Maybe I am an agricultural (AG) lender and so deposits are going to be high in one part of the year and maybe not as much in another. In my community bank, we are tourism-driven. Very much varies the peaks and valleys in terms of the deposit flow.

Brokered deposits are a critical source of helping to maintain stability in that balance sheet regardless of what those local deposits are doing, and so that provides—they are contractual, they are safe, they are secure. It is a great tool for community banks to use.

Mr. LAWLER. Mr. Kennedy.

Mr. KENNEDY. Thank you. Most of our clients in our own community bank do not use brokered deposits, but we importantly use deposit networks that allow us to provide Federal deposit insurance through reciprocal arrangements. This has been around for the last 27 years, and it is an extremely important way for us and these community banks to maintain their deposits locally for institutions and individuals that have more deposits than $250,000, particularly a lot of public entities.

It is a very valuable tool. Not many people are aware of it, but it is a way that—there is no big cost to it. It is not the theoretical—and the FDIC has defined that as brokered deposits only once you get to a certain limit. There is not a lot of logic to that, but it is an important element of this whole notion of Federal deposit insurance.

Ms. MARSHALL. Mr. Lawler, may I have a moment on brokered deposits that have not been addressed today?

Mr. LAWLER. Sure.

Ms. MARSHALL. Speaking with my community banks that have used them quite successfully for many years, another very important part is that they are often the most cost-effective source for funding. When net interest margins are squeezed and there is an extreme amount of increase on interest expenses that are going on to banks' balance sheets. That is another reason why they are looking to find all the opportunities to have low-cost funding sources to then turn around and lend money to the consumers that need it most.

Mr. LAWLER. Thank you for that.

The 2020 final rule on brokered deposits was preceded by significant study and public rulemaking with an advanced notice of proposed rulemaking, a notice of proposed rulemaking in consideration of 220 comments before finalization. Last year, the FDIC issued a proposed rule modifying brokered deposits. However, last year's proposal featured incomplete data that did not indicate what problem the FDIC saw based on data and analysis that would justify a wholesale rescission of its 2020 rule.

It was alarming to me and many of my colleagues that this proposal appears it would have had a unique and negative impact on community banks. By widening the scope of deposits classified as brokered, last year's proposed rule would have increased the deposit insurance fund assessments banks must pay to the FDIC. Such costs would have been borne out by customers in the form of

higher fees, higher interest charged on loans, and lower interest paid on deposits.

Can any of you speak to that in the brief time that I have left?

Ms. RAINEY. I would just say to your point, the rule was made with incomplete and very dated data in terms of the basis for it, so flawed.

Mr. LAWLER. I appreciate it. Thank you.

I yield back.

Mr. DOWNING. The gentleman yields.

The gentleman from New York, Mr. Garbarino, is now recognized for 5 minutes.

Mr. GARBARINO. Thank you, Chairman.

Thank you to the witnesses, for all being here today.

Originally set up to be an objective assessment of financial institution safety, soundness, and overall health, CAMELS has turned into an opaque process marred with inconsistency and subjectivity. The management rating is uniquely subjective as it is not based on any empirical standard.

Initially, the management rating flowed from other ratings since it was a logical train of thought that if your bank has satisfactory capital assets and earnings, then it was safe to presume the bank was well managed. However, today, it appears examiners have delinked the management rating causing banks to potentially receive an unsatisfactory rating simply because they did not manage their operations or conduct their businesses how the examiner mandated.

As a result of a poor rating, a bank could face limits on acquisitions of potentially higher deposit insurance premiums for multiple years with no way to appeal the examiner's decision.

Mr. Kennedy, can you describe how the management rating has been misused over the years?

Mr. KENNEDY. It is a difficult question because there is a lot of confidential information involved in that, but I think it is just a subjective—that is the unfortunate thing about CAMELS. Each one of those ratings in CAMELS are very subjective, and I have seen them in my 45 years of practicing law and representing banks all over the country, widely divergent in terms of those decisions.

Mr. GARBARINO. Does the examiner—when a bank gets a low rating, does the examiner provide a detailed reason for the rating, or is there a mechanism for a bank to challenge that rating?

Mr. KENNEDY. There is, but it is not effective.

Mr. GARBARINO. How would you make it effective?

Mr. KENNEDY. I think I would make it more open, and have an independent agency as suggested, I think, by the chairman.

Mr. GARBARINO. You can challenge the rating, but it should be more open and you would use an independent——

Mr. KENNEDY. Yes, sir.

Mr. GARBARINO [continuing]. takes you using an independent agency?

Mr. KENNEDY. Yes, sir.

Mr. GARBARINO. Thank you very much.

Mergers present banks of varying sizes, from community to regional banks, with the opportunity to grow and benefit from econo-

mies of scale. They also promote competition and generate cost savings that can be then passed on to customers and consumers.

As the number of de novo bank formations decreases; bank mergers have effectively become the only avenue for increasing competition. Unfortunately, under the Biden-Harris Administration, bank merger evaluations became more stringent, making mergers more difficult to complete. Rather than making the bank merger evaluation more subjective, costly, or time-consuming, regulators should seek to provide clarity through objective metrics to evaluate potential mergers. Further, clear expectations and timelessness for merger approvals allow banks to make informed decisions on how to grow and meet the needs of their customers.

Ms. Owen, can you explain how inconsistent timelines can impact decisions to merge?

Ms. OWEN. Absolutely. It impacts so much more than people initially think of. It is not only a matter of putting the two banks together; it affects people's lives. There are jobs involved with mergers. There are the communities and decisions made of whether or not branches are going to remain open or whether or not they need to be closed, where operation centers are going to be located. It goes on and on and on.

There is a multitude of decisions and things that come out of or are part of a merger, not just what people initially think of the combining of two financial institutions.

Mr. GARBARINO. Do you have any recommendations on how we could fix what the Biden-Harris Administration did over the last 4 years when it comes to mergers?

Ms. OWEN. I am very much in favor of what Chairman Hill has proposed with a timeframe for completing the mergers unless there is reason not to do so.

Mr. GARBARINO. Thank you very much for that answer.

S. 2155 directed potential regulators to create a simplified capital framework for community banks known as a Community Bank Leverage Ratio (CBLR). As a result, a final rule was approved to allow community banks with a leverage capital ratio of at least 9 percent to be considered in compliance with Basel III capital requirements and exempt from the complex Basel calculation. The intent behind this section was to simplify the capital regime for community banks, ensure they maintain enough capital to weather a downturn.

Ms. Romero Rainey, at the time of this rulemaking and even today, would you say that the majority of qualifying community banks that have at least 8 percent CBLR already meet the well-capitalized, risk-based capital ratios?

Ms. RAINEY. Yes.

Mr. GARBARINO. Can you please describe the benefits that community banks saw from lowering the CBLR to 8 percent?

Ms. RAINEY. Again, part of this was to allow for additional flexibility and whether it is the definition of well-capitalized or they are looking to pursue other opportunities.

Mr. GARBARINO. That is a great answer, and I appreciate it.

I am running out of time, so I will yield back. Thank you.

Mr. DOWNING. The gentleman yields.

I now recognize myself for 5 minutes.

Thank you all again for being here. I know it has been a long day.

In 2008, there were 64 State-chartered banks in Montana. Now, today, there are only 36, almost half. The situation nationwide is not much better. The vast majority of these banks that left the business were small community banks with crushing regulations being the primary factor.

Now, as we have covered throughout this hearing, there are many challenges that prevent new banks from forming or lead to mergers or closures of existing banks. That is particularly devastating for rural communities like Montana's Second District, which I proudly represent.

Montana is a heavy producer of cattle, of wheat. It is the number 1 producer of lentils in the United States. Montana banks support over 24,000 small farm loans across the State. Now, these are the family farms that put food on our tables and clothes on our backs. The biggest obstacle community banks face from examiners is not safety and soundness but the Bank Secrecy Act and the Anti-Money Laundering laws.

These laws have a role in preventing fraud but are now far past the point of common sense. One bank in Montana with about $800 million in assets has six full-time employees doing compliance, roughly half of which is just spent on the BSA and the AML.

My first question, Ms. Owen or Mr. Kennedy, can you—either one of you—talk about the difficulties community banks face with our outdated BSA and AML laws?

Ms. OWEN. I will start. We have four BSA officers, and I am just under $500 million in size. We do a lot of reporting, as was mentioned earlier, on transactions of $10,000 or more. We never get any feedback back from FinCEN.

Mr. DOWNING. Do these regulations make opening new accounts for customers difficult as well?

Ms. OWEN. Absolutely. It takes a lot more time. You cannot come in and quickly open an account. You might as well plan to be there for a while.

Mr. DOWNING. Thank you.

Ms. Romero Rainey, what should Congress do to fix this?

Ms. RAINEY. First, we need to start with the thresholds. As we have discussed here today, the CTR thresholds that Ms. Owen just referenced were created in the '70s and have not been revisited or indexed since then. I think there is a really easy and simple fix, if there is such a thing, but that is a great place to start.

Mr. DOWNING. Right. Thank you for these responses. It is clear that lawmakers and regulators need to do much more to ease the burden on our small banks. No one is hurt more by bank closures than the communities they serve.

I yield back. Thank you.

Now I will—the gentleman from Florida, Mr. Haridopolos, is recognized for 5 minutes.

Mr. HARIDOPOLOS. Thank you, Mr. Chairman.

First, I want to applaud you for your endurance. Great job today. I am your last person. I guess they are saving the best for last.

With that in mind, I first have to say this, when I was running for Congress, I had some concerns about the CFPB. Now that I

have actually been under the hood for the last few weeks, I have even larger concerns. We are so grateful for your willingness to testify today and give an honest appraisal of how it hits the real world, and we are so grateful for this testimony. I will try to be brief.

The first question will be for Mr. Kennedy, if you do not mind. Can you discuss putting a kind of shot clock on bank mergers and how that could provide clarity for institutions and help prevent long and drawn-out mergers that drain resources?

Mr. KENNEDY. Absolutely. There is no such shot clock, as you say. They can continue to ask questions and more questions, and I have seen it go on for years. The cost on the uncertainty is just not workable.

That same shot clock ought to be applied to really every application, including de novos, because a de novo—that is one of the big burdens with de novos. It is not only capital, but the process of those applications needs to be accelerated.

Mr. HARIDOPOLOS. Thank you.

Ms. Romero Rainey, if I could, the CFPB recently finalized an overdraft rule that I am concerned about because, again, it is overly complex and can really limit or eliminate consumer access to funds that can help cover emergency expenses. Would you discuss some of the problems that you faced or potentially face with that rule?

Ms. RAINEY. Yes. To your point, it is about limiting options. While in the rule, in all fairness, community banks under $10 billion were exempt from the rule, there are two pieces that were—we have talked about today, trickle down and what that means in terms of how this will be applied to community banks, as well as specifics within the rule that say that could be revisited over time.

At the end of the day, this is about ensuring that consumers have access to products and services and, in these cases, very well-disclosed services that they have chosen to pay a fee for.

Mr. HARIDOPOLOS. Mr. Chairman, with that, it has been a long day. I want to yield back my time so these folks can get on to the day but thank you very much for making the time for us. It has been very helpful, especially as a new Member of the Congress. Thank you.

Chairman HILL [presiding]. The gentleman is modeling good behavior. He yields back. That is appreciated by our witnesses.

I want to thank all of our witnesses for your outstanding testimony today. Thanks for presenting your views to the committee. It will help us in our work.

Without objection, all members will have 5 legislative days to submit additional written questions to the witnesses to the chair, and we will forward those to you for your response. I ask our witnesses to respond no later than March 31, 2025, to those written questions.

[The information referred to can be found in the appendix.]

This hearing is adjourned. Thanks.

[Whereupon, at 2:01 p.m., the committee was adjourned.]

# APPENDIX

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## MATERIALS SUBMITTED FOR THE RECORD

ELFA

February 4, 2025

The Honorable French Hill
Chair
House Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Roger Williams
Chair
House Committee on Small Business
United States House of Representatives
Washington, DC 20515

Dear Chairman Hill and Chairman Williams,

On behalf of the Equipment Leasing and Finance Association (ELFA), I appreciate the opportunity to submit this letter for the record regarding the ongoing discussion surrounding Section 1071 of the Dodd-Frank Act. ELFA strongly supports the repeal of Section 1071 due to its burdensome impact on small business financing, particularly within the equipment leasing and finance sector. Accordingly, we support the legislation you are considering today that accomplishes that goal.

You have both been leaders in the efforts to rationalize the regulatory approach in this area for many years. Last Congress, the approach of legislative amendments to existing law was the best available option, and you led in these efforts. Today, we believe that with new leadership at the CFPB, the time has come to step away from the long history of Section 1071 and repeal the provision all together. This provision was unworkable when it was passed in 2010, the CFPB rule made it even worse in their rulemaking process by dramatically going beyond the statute, and we believe that the time has come for Congress to repeal the provision.

ELFA represents a broad array of financial services companies that facilitate equipment acquisition for businesses nationwide. Our industry plays a crucial role in supporting economic growth, job creation, and innovation by providing businesses with essential tools and resources to operate and expand. We are at the center of efforts to build the American Manufacturing base here at home. However, the implementation of Section 1071 threatens our ability to accomplish that goal by presenting significant regulatory challenges and driving up the cost of equipment financing for small businesses.

The primary concerns regarding Section 1071 include:

1. **Increased Compliance Costs and Operational Burdens** – The data collection and reporting requirements imposed by Section 1071 are complex and costly, disproportionately affecting small and mid-sized lenders. Compliance expenses divert

resources away from core leasing and financing functions, limiting access to capital for small businesses that rely on these tools to acquire essential equipment.

2. **Privacy and Data Security Risks** – The mandated collection of sensitive business and demographic data raises significant concerns regarding borrower privacy and data security. The risk of unintended disclosure or misuse of collected data could deter small business owners from seeking financing, ultimately harming the very businesses Section 1071 intends to support.
3. **Reduced Competition and Credit Availability** – The increased regulatory burden may lead to market consolidation, discouraging smaller lenders from participating in the equipment finance sector. Reduced competition translates into higher costs and fewer financing options for small businesses, stifling growth and economic activity.
4. **Lack of Clear Benefit to Small Businesses** – The broad data collection requirements fail to account for the unique nature of equipment financing, which differs significantly from traditional small business lending. Unlike conventional credit transactions, equipment finance transactions are often structured based on asset-backed considerations rather than traditional creditworthiness factors. The one-size-fits-all approach of Section 1071 does not align with the realities of the equipment finance industry and the poor quality and inconsistency of the data generated under rule is unlikely to produce meaningful insights that justify the regulatory burden.
5. **Rule Is No Longer Voluntary** – When Congress passed this statute, as unworkable as that may have been, it clearly meant for the provisions to be voluntary, the financial institution must inquire, but the customer is under no obligation to participate. There are many reasons why customers may not want their private information reported to the government, none of them are relevant under this misguided rule. The CFPB in their rule making process turned the voluntary nature of the provision on its head, and even if the customer declined to provide their demographic information, the financial institution still reports the transaction. This means that customers have no option to opt out of having their business's credit application reported to the Government.

Given these concerns, ELFA urges Congress to repeal Section 1071 to prevent unnecessary harm to small business financing. We encourage policymakers to explore alternative approaches that promote responsible lending practices while avoiding unintended consequences that restrict credit access for America's entrepreneurs.

Thank you for considering ELFA's perspective on this critical issue. We appreciate the Committee's commitment to ensuring a regulatory framework that fosters economic growth and supports small businesses. ELFA stands ready to work with Congress to develop policies that promote a fair, efficient, and competitive lending environment.

Sincerely,

Leigh Lytle

Leigh Lytle
President and CEO

DCUC
DEFENSE CREDIT UNION COUNCIL

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**Jason Stverak**
*Chief Advocacy Officer*

February 4, 2025

The Honorable Roger Williams
Chairman
Small Business Committee
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Williams,

On behalf of the Defense Credit Union Council (DCUC), representing credit unions dedicated to serving our nation' s military personnel and their families, I am writing to express our strong support for your recently introduced bill aimed at repealing Section 1071 of the Dodd-Frank Act.

DCUC represents credit unions stateside and overseas serving military and veteran communities as well as their families, encompassing over 40 million members and having over $525 billion in assets.

Section 1071 mandates the collection and reporting of extensive small business lending data to the Consumer Financial Protection Bureau (CFPB). While the intent to ensure fair lending practices is commendable, the implementation of this rule presents several significant challenges:

Regulatory Burden: The rule imposes complex data collection requirements on financial institutions, including the gathering of up to 81 data fields per loan application. This extensive data collection surpasses the 13 data points originally mandated by Congress, leading to increased operational complexities and costs.

Increased Costs: Compliance with these requirements necessitates substantial investments in technology, staff training, and data management systems. These costs are particularly burdensome for smaller institutions and may ultimately be passed on to small business borrowers, potentially reducing their access to affordable credit.

Privacy Concerns: The rule requires the collection of sensitive personal and demographic information, raising concerns about the privacy and security of small business owners' data. The potential for data breaches or misuse could undermine trust between lenders and borrowers.

Deterrence of Lending Activities: The increased regulatory burden and associated costs may discourage financial institutions from engaging in small business lending, particularly in underserved communities. This outcome would be counterproductive to the goal of promoting economic growth and supporting small businesses.

By repealing Section 1071, your bill seeks to alleviate these challenges, enabling financial institutions to better serve small businesses without the encumbrance of onerous regulatory requirements. This legislative action aligns with the DCUC's commitment to supporting the financial well-being of our military communities and the small businesses that contribute to their vitality.

We commend your leadership on this critical issue and stand ready to assist in advancing this important legislation.

Should you or your team have any questions or desire additional information, please do not hesitate to contact me at 202.557.8528 or by email at jstverak@dcuc.org.

Sincerely,

Jason Stverak
Chief Advocacy Officer
DCUC

United States Government Accountability Office

Report to Congressional Committees

December 2024

# CURRENCY TRANSACTION REPORTS

## Improvements Could Reduce Filer Burden While Still Providing Useful Information to Law Enforcement

GAO-25-106500

GAO Highlights

Highlights of GAO-25-106500, a report to congressional committees

December 2024

# CURRENCY TRANSACTION REPORTS

## Improvements Could Reduce Filer Burden While Still Providing Useful Information to Law Enforcement

### Why GAO Did This Study

Financial institutions filed roughly 167 million CTRs in fiscal years 2014–2023. The Anti-Money Laundering Act of 2020 includes a provision for GAO to review CTR requirements and issue a report by December 2025. GAO has issued four prior reports in response to the act, including one on law enforcement's use of reports about suspicious financial transactions.

This report examines (1) the potential effects of changing the CTR threshold, (2) the extent that CTR requirements align with statutory objectives, and (3) the extent that CTR requirements provide useful information to law enforcement.

GAO analyzed data from FinCEN on CTRs filed in fiscal years 2014–2023 and conducted a survey of all 327 federal, state, and local law enforcement agencies that can directly access CTRs (60 percent response rate). GAO also interviewed officials of tribal, federal, state, and local agencies; industry groups representing CTR filers; and 13 financial institutions (selected to represent different asset sizes and types of institutions), as well as privacy and compliance experts. GAO also reviewed relevant laws and regulations.

### What GAO Recommends

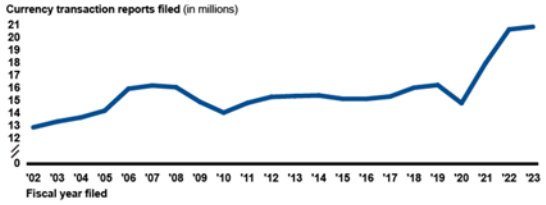
GAO is making four recommendations, including that FinCEN take steps to reduce the number of unused CTRs, eliminate infrequently used fields, and simplify and clarify aggregation requirements. FinCEN agreed with GAO's recommendations.

View GAO-25-106500. For more information, contact Michael Clements at (202) 512-8678 or clementsm@gao.gov

### What GAO Found

Currency transaction reports (CTR) must be filed by financial institutions for cash transactions exceeding $10,000 in a day and are intended to provide law enforcement with highly useful information. The $10,000 threshold, set in regulation by the Department of the Treasury in 1972, has not been adjusted for inflation. Inflation may have contributed to the increase in volume of CTRs filed, which has increased by about 62 percent since fiscal year 2002 (see figure). The inflation-adjusted threshold in 2023 would have been about $72,880. Using an inflation-adjusted threshold would have reduced the number of CTRs filed by at least 90 percent annually since 2014.

**Currency Transaction Reports Filed, Fiscal Years 2002–2023**




Source: Financial Crimes Enforcement Network. | GAO-25-106500

GAO identified key challenges and potential inefficiencies in the CTR system:

- **Unused reports.** Law enforcement agencies accessed a small percentage of CTRs through either the Financial Crimes Enforcement Network's (FinCEN) BSA Portal or agencies' internal systems, leaving most unused. From 2014 through 2023, law enforcement agencies accessed about 5.4 percent of CTRs filed in FinCEN's BSA Portal during that period. For CTRs accessed in either FinCEN's BSA Portal or agencies' internal systems in 2023 (the most recent full year), law enforcement agencies accessed less than 3 percent of CTRs filed from 2014 through 2023.
- **Difficult and infrequently used fields.** Filers GAO interviewed reported difficulty completing certain fields, some of which law enforcement agencies reported infrequently using.
- **Unclear or unhelpful aggregation requirements**. FinCEN's requirements for aggregating related transactions exceeding $10,000 in 1 day was sometimes unclear to filers GAO interviewed. Further, some law enforcement agencies noted that large aggregated CTRs of unrelated parties do not provide useful information.

By taking steps to reduce the number of unused CTRs—such as through adjusting the reporting threshold—and by eliminating rarely used fields and clarifying aggregation requirements, FinCEN could reduce unnecessary filer burden without affecting CTRs' usefulness to law enforcement.

# Contents


| | | |
|---|---|---|
| Letter | | 1 |
| | Background | 5 |
| | CTR Requirements Have Expanded and Do Not Fully Align with the Statutory Objective of Providing Highly Useful Information | 12 |
| | Law Enforcement Agencies Find CTRs Useful, but Did Not Access Most CTRs | 29 |
| | Changing the CTR Threshold Involves Balancing Law Enforcement Needs Against Filers' Compliance Burden | 46 |
| | Conclusions | 57 |
| | Recommendations for Executive Action | 58 |
| | Agency Comments and Our Evaluation | 58 |
| Appendix I: | Objectives, Scope, and Methodology | 61 |
| Appendix II: | GAO Survey of Law Enforcement Use of Currency Transaction Reports | 72 |
| Appendix III: | Law Enforcement Agencies Most Frequently Accessing Currency Transaction Reports | 86 |
| Appendix IV: | Currency Transaction Reports Accessed by Law Enforcement in BSA Portal, Fiscal Years 2014–2023 | 93 |
| Appendix V: | Comments from the Financial Crimes Enforcement Network | 98 |
| Appendix VI: | Comments from the National Credit Union Administration | 100 |
| Appendix VII: | GAO Contact and Staff Acknowledgments | 101 |

Tables

Table 1: Percentage of Noncritical Currency Transaction Report (CTR) Fields Populated by Filers, Fiscal Years 2019–2023 18
Table 2: Currency Transaction Report Exemption Requirements by Customer Type 21
Table 3: Estimated Percentage of Law Enforcement Agencies That Were Able to Use Other Sources Instead of Currency Transaction Reports, January 2021–January 2024 33
Table 4: Proportion of Currency Transaction Reports (CTRs) Accessed by Law Enforcement Agencies in BSA Portal Within 3, 5, and 9 Years of Filing, Fiscal Years 2014–2023 38
Table 5: Currency Transaction Report (CTR) Filings, Fiscal Years 2014–2023, and Proportion Accessed in Fiscal Year 2023, by Number of Parties 43
Table 6: Currency Transaction Report (CTR) Filings, Fiscal Years 2019–2023, and Proportion Accessed in Fiscal Year 2023, by Filer Type 44
Table 7: Currency Transaction Report (CTR) Filings, Fiscal Years 2014–2023, and Proportion Accessed in Fiscal Year 2023, by Selected Industry 45
Table 8: Agency Internal Systems Providing Currency Transaction Report (CTR) Access Data 65
Table 9: Key Sample Weighting Criteria for Depository Institution Interviews 69
Table 10: Valid Survey Responses by Government Level and Primary Function 72
Table 11: Since January 1, 2021, did your agency use currency transaction reports in connection with investigations or prosecutions? 73
Table 12: How often does your agency use each of the following methods to access currency transaction reports? 73
Table 13: Does your agency have a standard practice to search currency transaction reports (either specifically or as part of a broader search of Bank Secrecy Act reports) for each investigation or prosecution? 74
Table 14: Since January 1, 2021, how often did your agency identify currency transaction reports that were relevant for each of the following crimes? 75

Table 15: Since January 1, 2021, how often did your agency identify currency transaction reports (CTRs) that were relevant for each of the following purposes? 76
Table 16: Since January 1, 2021, how useful were relevant currency transaction reports (CTRs) for each of the following purposes? 77
Table 17: Since January 1, 2023, how important have currency transaction reports been to investigations or prosecutions in general? 78
Table 18: Since January 1, 2023, how important have each of the following aspects of currency transaction report (CTR) requirements been to the overall usefulness of CTRs? 78
Table 19: Since January 1, 2021, would your agency have been able to use the following sources instead of currency transaction reports in investigations or prosecutions 79
Table 20: Thinking about currency transaction reports that your agency accessed since January 1, 2021, how often has your agency used information about each of the following categories? 79
Table 21: Thinking about currency transaction reports that your agency accessed since January 1, 2021, how often has your agency used information from each of the following fields related to person(s) involved in the transactions? 80
Table 22: How would each of the following proposed alternatives to the current currency transaction report (CTR) requirements affect your agency? 81
Table 23: How would each of the following proposals affect your agency? 82
Table 24: In your agency's experience, has your agency found higher dollar value currency transaction reports (those over $50,000) to be more or less useful than lower dollar value currency transaction reports (those $50,000 or under)? 83
Table 25: In your agency's opinion, should the currency transaction reporting requirement be changed from the current $10,000 threshold? 84
Table 26: If the threshold were to change, in your agency's opinion, what would be the ideal new threshold? Please enter a numeric value. 84
Table 27: Does your agency track any information on its use of currency transaction reports? 84

Table 28: In the past 5 years (since January 1, 2019), has FinCEN ever contacted your agency (other than through the annual audit process) about how your agency accesses currency transaction reports? 85
Table 29: Law Enforcement Agencies' Average Number of Currency Transaction Report (CTR) Accesses per Year through BSA Portal, Fiscal Years 2019–2023 87
Table 30: Currency Transaction Report (CTR) Accesses in Fiscal Year 2023 at Selected Federal Agencies 90
Table 31: Currency Transaction Reports (CTRs) Accessed by Law Enforcement Agencies in BSA Portal, Fiscal Years 2014–2023, by Law Enforcement Level 93
Table 32: Currency Transaction Reports (CTRs) Accessed by Law Enforcement Agencies in BSA Portal, Fiscal Years 2014–2023, by Number of Times Accessed 93
Table 33: Currency Transaction Reports (CTRs) Accessed by Law Enforcement Agencies in BSA Portal, Fiscal Years 2014–2023, by Number of Agencies Accessing 94
Table 34: Transaction Value of Currency Transaction Reports (CTRs) Filed and Accessed by Law Enforcement Agencies in BSA Portal, Fiscal Years 2014–2023 94
Table 35: Transaction Value of Currency Transaction Reports (CTRs) Accessed by Law Enforcement Agencies in BSA Portal, Fiscal Years 2014–2023, by Proportion of CTRs Accessed 94
Table 36: Filer Type of Currency Transaction Reports (CTRs) Filed and Accessed by Law Enforcement Agencies in BSA Portal, Fiscal Years 2019–2023 95
Table 37: Party Count of Currency Transaction Reports (CTRs) Filed and Accessed by Law Enforcement Agencies in BSA Portal, Fiscal Years 2014–2023 95
Table 38: Top 10 Industries by Two-Digit NAICS Code, Currency Transaction Reports (CTRs) Filed and Accessed by Law Enforcement Agencies in BSA Portal, Fiscal Years 2014–2023 96
Table 39: Top 10 Industries by Three-Digit NAICS Code, Currency Transaction Reports (CTRs) Filed 96
Table 40: Presence of Business Parties on Currency Transaction Reports (CTRs) Filed and Accessed by Law Enforcement Agencies in BSA Portal, Fiscal Years 2014–2023 97

Figures

Figure 1: Example of Process for Filing Currency Transaction Reports 10
Figure 2: Timeline of Key Statutes and Regulations Affecting Currency Transaction Reports (CTR) 13
Figure 3: Visual Representation of the Currency Transaction Report Form and Fields 15
Figure 4: Estimated Percentage of Law Enforcement Agencies That Used Selected Currency Transaction Report (CTR) Fields At Least Occasionally 19
Figure 5: Number of Currency Transaction Reports (CTR) Filed, by Selected Industry Type, Fiscal Years 2014–2023 24
Figure 6: Proportion of Currency Transaction Reports (CTR) Filed in Fiscal Years 2014–2023 That Were Accessed by Law Enforcement in Fiscal Year 2023, by Selected Industry Type 25
Figure 7: Estimated Percentage of Law Enforcement Agencies That at Least Occasionally Identified Currency Transaction Reports Relevant to Selected Crimes, January 2021–January 2024 31
Figure 8: Number of CTRs Accessed by Law Enforcement on BSA Portal or Agency Internal Systems in Fiscal Year 2023 (FY23), for CTRs Filed in Fiscal Years 2014–2023 40
Figure 9: Number of CTRs Accessed by Law Enforcement on BSA Portal or Agency Internal Systems in Fiscal Year 2023, by Fiscal Year Filed 42
Figure 10: Effect on Filing Volume If Currency Transaction Report (CTR) Threshold Had Been Adjusted for Inflation 47
Figure 11: The Number of CTRs Filed in Fiscal Year 2023 Would Have Been Significantly Lower If the Reporting Threshold Had Been Raised 49
Figure 12: Currency Transaction Reports (CTR) Filed, by Filer Type, Fiscal Years 2019–2023 52
Figure 13: Effect a Hypothetical Increase in CTR Threshold Would Have Had on Different Filer Types in Fiscal Year 2023 53
Figure 14: Proportion of CTRs Filed in Fiscal Years 2014–2023 That Were Accessed by Law Enforcement in Fiscal Year 2023, by CTR Dollar Range 55
Figure 15: Law Enforcement Currency Transaction Report Accesses through FinCEN's BSA Portal, Fiscal Years 2019–2023 87

Figure 16: Law Enforcement Currency Transaction Report Accesses through BSA Portal, by Type of Agency, Fiscal Years 2019–2023 88
Figure 17: Number of Law Enforcement Personnel with Access to CTRs through BSA Portal and Internal Systems, Selected Agencies 89

**Abbreviations**

| | |
|---|---|
| AMLA | Anti-Money Laundering Act of 2020 |
| BSA | Bank Secrecy Act |
| CTR | currency transaction report |
| CFTC | Commodity Futures Trading Commission |
| CBP | U.S. Customs and Border Protection |
| DEA | Drug Enforcement Administration |
| DOJ | Department of Justice |
| FBI | Federal Bureau of Investigation |
| FDIC | Federal Deposit Insurance Corporation |
| Federal Reserve | Board of Governors of the Federal Reserve System |
| FinCEN | Financial Crimes Enforcement Network |
| ICE | U.S. Immigration and Customs Enforcement |
| IRS | Internal Revenue Service |
| IRS-CI | Internal Revenue Service Criminal Investigation |
| NAICS | North American Industry Classification System |
| OCDETF | Organized Crime and Drug Enforcement Task Forces |
| SAR | suspicious activity report |
| SEC | Securities and Exchange Commission |

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GAO U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548

December 11, 2024

The Honorable Sherrod Brown
Chairman
The Honorable Tim Scott
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Patrick McHenry
Chairman
The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives

To safeguard national security and combat money laundering, terrorism financing, and other financial crimes, federal law requires financial institutions to provide information on individuals that engage in large cash transactions.[1] Specifically, the Bank Secrecy Act (BSA) requires that financial institutions such as banks, casinos, and money services businesses file currency transaction reports (CTR) on cash transactions that exceed $10,000 in a single day.[2] CTRs contain information on the

[1]See 31 U.S.C. §§ 5311 and 5313. Reports should have a high degree of usefulness to support criminal, tax, or regulatory investigations, risk assessments, or proceedings; or intelligence or counterintelligence activities, including analysis, to protect against terrorism. See 31 U.S.C. § 5311(1). We use the term "cash" throughout this report to refer to currency as defined in the regulations implementing the Bank Secrecy Act at 31 C.F.R. § 1010.100(m). That definition of currency is coin and paper money that is designated as legal tender and that circulates and is customarily used and accepted as a medium of exchange in the country of issuance. Currency includes U.S. silver certificates, U.S. notes and Federal Reserve notes. Currency also includes official foreign bank notes that are customarily used and accepted as a medium of exchange in a foreign country.

[2]The Bank Secrecy Act defines "financial institution" to include commercial banks, insurance companies, dealers in precious metals, and persons involved in real estate closings and settlements, 31 U.S.C. § 5312(a)(2). Financial institutions must report cash transactions over $10,000 conducted by or on behalf of one person, as well as multiple currency transactions that aggregate to be over $10,000 in a single day. 31 U.S.C. § 5313; 31 C.F.R. § 1010.310-314. Under 31 C.F.R. § 1010.100(d), the term bank includes, but is not limited to, a commercial bank or trust company, a credit union, and any other organization (except a money services business) chartered under the banking laws of any state and subject to the supervision of the bank supervisory authorities of a state. See 31 C.F.R. § 1010.100(t) for regulatory definitions of financial institutions, including banks and money services businesses, subject to BSA requirements.

person conducting the transaction, such as name, address, and taxpayer identification number, as well as information about the transactions involved in the filing. The Department of the Treasury's Financial Crimes Enforcement Network (FinCEN)—which administers the BSA—collects and maintains CTR information. Authorized law enforcement and other agencies can use CTRs when investigating and prosecuting illicit finance activities.[3]

In a 2020 report, we found that many law enforcement agencies regard CTRs as an important source of information.[4] However, some Members of Congress and financial industry representatives have raised questions about the usefulness and level of burden associated with CTRs. For example, they note the $10,000 CTR threshold has not been adjusted for inflation since Treasury introduced it in 1972.

The Anti-Money Laundering Act of 2020 (AMLA) includes provisions for Treasury to review CTR requirements for potential streamlining and to evaluate potential adjustments to the CTR threshold.[5] AMLA also includes a provision for GAO to review the effectiveness and importance of CTRs to law enforcement and the effects of raising the CTR threshold.[6] The provision called for GAO to issue a report by December 2025. This report examines (1) how CTR requirements have changed since they were established, and the extent to which these requirements align with

[3]Federal, state, and local law enforcement agencies, federal and state regulatory agencies, and intelligence agencies with authorized access to BSA data can use it to retrieve identifying information and generate leads for investigations, prosecutions, oversight of financial institutions operating in the U.S., enforcement actions, and counterterrorism and national security measures.

[4]GAO, *Anti-Money Laundering: Opportunities Exist to Increase Law Enforcement Use of Bank Secrecy Act Reports, and Banks' Costs to Comply with the Act Varied*, GAO-20-574 (Washington, D.C.: Sept. 22, 2020).

[5]Anti-Money Laundering Act of 2020, Pub. L. No. 116-283, §§ 6204 and 6205, 134 Stat. 3388, 4569-4571 (2021). AMLA was enacted as part of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021.

[6]Pub. L. No. 116-283, § 6504, 134 Stat. at 4629 (2021). We have issued four prior reports in response to AMLA: GAO, *Bank Secrecy Act: Action Needed to Improve DOJ Statistics on Use of Reports on Suspicious Financial Transactions*, GAO-22-105242 (Washington, D.C.: Aug. 25, 2022); *Trafficking: Use of Online Marketplaces and Virtual Currencies in Drug and Human Trafficking*, GAO-22-105101 (Washington, D.C.: Feb. 14, 2022); *Trafficking and Money Laundering: Strategies Used by Criminal Groups and Terrorists and Federal Efforts to Combat Them*, GAO-22-104807 (Washington, D.C.: Dec. 23, 2021); and *Bank Secrecy Act: Views on Proposals to Improve Banking Access for Entities Transferring Funds to High-Risk Countries*, GAO-22-104792 (Washington D.C.: Dec. 16, 2021).

statutory objectives; (2) the extent to which CTRs provide useful information to law enforcement; and (3) the potential effects of changing the CTR threshold.

The scope of our review was the use of CTRs by law enforcement agencies and not other entities, such as intelligence agencies.

For our first objective, we reviewed relevant laws and regulations and documentation from FinCEN on its implementation of CTR reporting requirements. We compared FinCEN's CTR requirements and related actions against statutory requirements and best practices for performance management identified in our prior work.[7]

For our second objective, we analyzed FinCEN data on the number and characteristics of CTRs filed and accessed by law enforcement through FinCEN's BSA Portal for fiscal years 2014–2023. We also obtained and analyzed available data on user access of CTRs in the internal systems of five law enforcement agencies.[8] We also conducted a generalizable survey of 327 federal, state, and local law enforcement agencies that have direct access to BSA reports.[9] For purposes of these analyses, an

[7]See, for example, GAO, *Executive Guide: Effectively Implementing the Government Performance and Results Act*, GAO/GGD-96-118 (Washington, D.C.: June 1, 1996); *The Results Act: An Evaluator's Guide to Assessing Agency Annual Performance Plans*, GAO/GGD-10.1.20 (Washington, D.C.: Apr. 1, 1998); and *Evidence-Based Policymaking: Practices to Help Manage and Assess the Results of Federal Efforts*, GAO-23-105460 (Washington, D.C.: July 12, 2023).

[8]We obtained and analyzed data from five of the six agencies that have permission to access CTRs in their internal systems: Federal Bureau of Investigation, Organized Crime Drug Enforcement Task Forces, U.S. Customs and Border Protection, Internal Revenue Service Criminal Investigation, and U.S. Immigration and Customs Enforcement. The sixth agency, U.S. Secret Service, is in the process of configuring its systems and investigative personnel do not yet have access to CTRs on internal systems, according to officials. To assess the reliability of the data, we reviewed related documentation, interviewed knowledgeable agency officials, and conducted electronic and manual data testing. We found these data sufficiently reliable for purposes of reporting on access and characteristics of CTRs.

[9]We surveyed all law enforcement agencies that had an active memorandum of understanding with FinCEN to access BSA reports—a population of 327 agencies, as of June 30, 2023. We received responses from 197 of those agencies, a 60 percent response rate. The survey took place from November 1, 2023, to January 31, 2024. Survey responses are weighted to ensure that estimates are generalizable to the population of law enforcement agencies with direct access to BSA reports. Margins of error for survey items in this report are 8 percentage points or less at the 95 percent confidence level. See app. I for additional information about our survey methodology and app. II for information on survey results.

"agency" is any law enforcement entity that has a memorandum of understanding with FinCEN for access to BSA reports.

We also reviewed prior GAO reports, Inspector General reports, and other studies on use of CTRs. In addition, we assessed FinCEN's use of its data to inform decisions on CTR policy against statutory requirements.

For our third objective, we used the FinCEN data described above to identify how changes to the CTR threshold might affect the number and characteristics of CTRs filed and accessed by law enforcement. We also reviewed documentation on CTR reporting requirements, including comment letters, and international standards.

For all three objectives, we interviewed officials from several federal agencies, including Treasury agencies, law enforcement agencies, and financial regulators. We also interviewed one tribal and nine state and local law enforcement agencies. We selected state and local law enforcement agencies to represent a range of types, locations, and number of CTRs accessed. Additionally, we interviewed four umbrella organizations representing tribal, state, and local law enforcement agencies. We also interviewed representatives of 13 depository institutions (selected to represent a range of institution types and asset sizes) and 11 industry groups (selected to reflect different types of CTR filers).[10] We also interviewed three BSA compliance consultants and representatives of four think tank and privacy groups and four automation technology companies, all selected for their expertise or public comments on relevant issues.[11]

More detailed information on our objectives, scope, and methodology is presented in appendix I.

We conducted this performance audit from January 2023 to December 2024 in accordance with generally accepted government auditing

[10]The 11 industry group interviews included staff from (1) industry associations and (2) financial institutions that were members of the association. We collectively refer to these staff and depository institution staff as "financial institution representatives" throughout this report, unless otherwise noted. When we refer to interviews with individual depository institutions only (excluding industry group interviews), we collectively refer to these staff as "bank and credit union representatives."

[11]We refer to consultants with expertise in overall anti-money laundering topics and compliance technology as "BSA compliance consultants." We refer to think tank and policy groups that address privacy, civil liberty, and other related concerns as "think tank and privacy groups."

standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Background

### Bank Secrecy Act Roles and Responsibilities

The BSA and its implementing regulations provide the legal and regulatory framework for preventing, detecting, and deterring money laundering and terrorist financing.[12] The framework is designed to prevent criminals from using private individuals and financial institutions to launder the proceeds of their crimes and to detect criminals who successfully use the system to launder those proceeds. The main entities involved in implementing the framework include the following:

**FinCEN.** FinCEN oversees the administration of the BSA and related anti-money laundering regulations.[13] It implements the BSA through the issuance of regulations and guidance. FinCEN also has authority to enforce compliance with BSA requirements, and it serves as the repository of BSA reporting from financial institutions.[14] In addition, FinCEN analyzes information in CTRs and other BSA reports and shares such analyses with appropriate federal, state, local, and foreign law enforcement agencies.

**Financial regulators and the Internal Revenue Service (IRS).** FinCEN has delegated its examination authority to certain federal agencies, including the financial regulators who supervise institutions for BSA

[12]Certain parts of the Currency and Foreign Transactions Reporting Act, its amendments, and the other statutes relating to the subject matter of that act, have come to be referred to as the Bank Secrecy Act. These statutes are codified at 12 U.S.C. § 1829b, 12 U.S.C. §§ 1951-1960, 18 U.S.C. §§ 1956, 1957, and 1960, and 31 U.S.C. §§ 5311-5314 and 5316-5336, and notes thereto. BSA implementing regulations are found at 31 C.F.R. Chapter X.

[13]See 31 U.S.C. § 310.

[14]31 C.F.R. § 1010.810(a). FinCEN has responsibility for operating a government-wide data access service for CTRs and other BSA reports. 31 U.S.C. § 310(b)(2)(B).

compliance and IRS.[15] Financial regulators typically review CTRs during examinations of regulated entities, but they can also use them for investigations, according to agency officials. For example, the Securities and Exchange Commission (SEC) and Commodity Futures Trading Commission (CFTC) have their own BSA review teams that analyze BSA reports to identify potential violations of federal laws.

**Financial institutions.** The BSA authorizes FinCEN to impose reporting, recordkeeping, and other anti-money laundering requirements on financial institutions, including banks, casinos, and money services businesses.[16] By complying with BSA and anti-money laundering requirements—including CTR requirements—the institutions assist government agencies with detecting and preventing money laundering, terrorist financing, and other crimes. In turn, law enforcement agencies can use the information compiled by financial institutions to detect and deter criminal activity by investigating and prosecuting criminal actors.

**Law enforcement agencies.** Federal law enforcement agencies work to detect illicit activity and conduct criminal investigations, including those related to money laundering and criminal violations of BSA. These include multiple components within the Department of Justice (DOJ) and the Department of Homeland Security. Federal, state, and local law enforcement agencies also can use CTRs and other BSA reports to investigate and prosecute drug trafficking, terrorist acts, fraud, and other criminal activities.

- DOJ prosecutes violations of federal law, including criminal money laundering statutes and criminal violations of the BSA. Within DOJ, law enforcement agencies, including the Drug Enforcement Administration (DEA) and Federal Bureau of Investigation (FBI), play

[15]Under FinCEN regulation, a "federal functional regulator" is defined as the Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the National Credit Union Administration, Securities and Exchange Commission, or Commodity Futures Trading Commission. 31 C.F.R. § 1010.100(r). Apart from their delegated examination authority under the BSA, the federal functional regulators have their own regulatory authority to examine institutions they supervise for compliance with BSA. IRS has been delegated authority to examine certain financial institutions (such as money services businesses) for BSA compliance. 31 C.F.R. § 1010.810(b)(8).

[16]A financial institution is defined to include banks (except bank credit card systems), brokers or dealers in securities, money services businesses, telegraph companies, casinos, card clubs, a person subject to supervision by any state or federal bank supervisory authority, a futures commission merchant, an introducing broker in commodities, or a mutual fund. 31 U.S.C. § 5312(a)(2); 31 C.F.R. § 1010.100(t).

a role in conducting BSA-related criminal investigations. Additionally, law enforcement task forces, such as the Organized Crime and Drug Enforcement Task Forces (OCDETF) (an independent component of DOJ), conduct illicit finance investigations.

- In the Department of Homeland Security, U.S. Customs and Border Protection (CBP) officers and agents enforce applicable laws, including against illegal immigration, narcotics smuggling, and illegal importation. Agents of U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations and the U.S. Secret Service investigate money laundering, illicit finance, and other financial crimes.
- In Treasury, IRS Criminal Investigation (IRS-CI) investigates potential criminal violations of tax laws and related financial crimes, including complex and significant money laundering activity.[17]
- The Bureau of Indian Affairs' Office of Justice Services supports tribal law enforcement agencies and provides direct law enforcement services to Tribes. Bureau of Indian Affairs special agents are responsible for investigating crimes that involve violations of federal and tribal law that are committed in Indian country, including drug trafficking and cases of missing and murdered persons. The Bureau of Indian Affairs also partners with FBI on certain cases, including those related to financial crimes.

## Bank Secrecy Act and Anti-Money Laundering Requirements

Among other anti-money laundering requirements, the BSA and its implementing regulations require financial institutions to file CTRs for cash transactions that exceed $10,000 (or aggregate to exceed $10,000) in a single day.[18] While the BSA did not identify a reporting threshold for CTRs, it required reports to be highly useful for law enforcement purposes. BSA directed Treasury to implement regulations to achieve that goal. Treasury introduced CTR requirements, including the $10,000 reporting threshold, through a regulation finalized in 1972.[19]

[17]IRS-CI investigative jurisdiction includes potential criminal violations of the Internal Revenue Code (federal tax law), money laundering, and the BSA.

[18]Each financial institution other than a casino must file a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution which involves a transaction in currency of more than $10,000. This includes multiple currency transactions that aggregate to over $10,000 in a single day. 31 U.S.C. § 5313; 31 C.F.R. §§ 1010.310-314. Casinos have additional CTR requirements specific to their business. 31 C.F.R. pt. 1021, subpart C.

[19]See 37 Fed. Reg. 6818, 6912, April 5, 1972.

In addition to CTRs, financial institutions must file suspicious activity reports (SAR) for certain transactions that might be indicative of money laundering, tax evasion, or other criminal activities.[20] This includes filing SARs on suspicious transactions that appear designed to evade CTR requirements by structuring transactions in a deliberate manner.

Most financial institutions must also develop, administer, and maintain effective BSA and anti-money laundering and countering the financing of terrorism programs.[21] Generally, these institutions must

- establish a system of internal controls to ensure ongoing compliance with the BSA and its implementing regulations;
- provide anti-money laundering compliance training for appropriate personnel;
- provide for independent auditing to test program compliance;
- designate a person or persons responsible for coordinating and monitoring compliance; and
- for financial institutions, such as banks and broker-dealers, establish risk-based procedures for verifying customer identity as part of the

[20]Under FinCEN regulations, most financial institutions must file a SAR if a transaction involves or aggregates at least $5,000 in funds or assets and the financial institution knows, suspects, or has reason to suspect that the transaction (1) involves or is intended or conducted to hide or disguise funds or assets derived from illegal activities; (2) is designed to evade the BSA or its implementing regulations; (3) has no business or apparent lawful purpose or is not the type of transaction in which the customer would normally be expected to engage in and the financial institution knows of no reasonable explanation after examining the available facts; or (4) involves use of the financial institution to facilitate criminal activity. The aggregate threshold applicable to money services businesses is set at $2,000, lower than for other financial institutions. 31 C.F.R. § 1022.320(a)(2). Various parts of FinCEN's reporting and recordkeeping regulations apply depending on the type of entity. SAR requirements can be found in subpart C of a financial institution's part in 31 C.F.R. chapter X. SAR requirements applicable to banks are also found at 12 C.F.R. § 208.62 (Federal Reserve); 12 C.F.R. § 21.11 (Office of the Comptroller of the Currency); and 12 C.F.R. § 353.3 (Federal Deposit Insurance Corporation).

[21]31 U.S.C. § 5318(h). See 31 C.F.R. §§ 1010.100(t) for a list of financial institutions with regulatory program requirements. Program rules by institution type include banks (31 C.F.R. § 1020.210), casinos and card clubs (31 C.F.R. § 1021.210), money services businesses (31 C.F.R. § 1022.210), brokers or dealers in securities (31 C.F.R. § 1023.210), mutual funds (31 C.F.R. § 1024.210), insurance companies (31 C.F.R. § 1025.210), futures commission merchants and introducing brokers in commodities (31 C.F.R. § 1026.210), dealers in precious metals, precious stones, or jewels (31 C.F.R. § 1027.210), operators of credit card systems (31 C.F.R. § 1028.210), loan or finance companies (31 C.F.R. § 1029.210), and housing government sponsored enterprises (31 C.F.R. § 1030.210).

customer identification program and conduct ongoing customer due diligence.[22]

## Anti-Money Laundering Act of 2020

Congress enacted AMLA into law on January 1, 2021. The act updated aspects of the policy framework for anti-money laundering and combatting the financing of terrorism. Several aspects of AMLA are relevant to CTRs.

- AMLA Section 6216 requires Treasury to conduct a formal review of BSA regulations and guidance and submit a report to Congress on the review findings by January 2022.
- AMLA Section 6204 requires Treasury, in consultation with other federal agencies, state regulators, and other relevant stakeholders, to conduct a formal review of CTR reporting requirements and submit a report to Congress by January 2022 that includes proposed rules (as appropriate) to reduce any unnecessarily burdensome regulatory requirements.
- AMLA Section 6205 requires Treasury, in consultation with other federal agencies, state regulators, and other relevant stakeholders, to review whether the CTR dollar thresholds, including aggregate thresholds, should be adjusted, and submit a report to Congress by January 2022.

AMLA updated the purpose of BSA to include, among other things:

- providing for certain reports (including CTRs) or records that are highly useful in criminal, tax, or regulatory investigations;
- preventing money laundering and terrorism financing;
- facilitating the tracking of money that has been sourced through criminal activity;
- assessing the money laundering, terrorism finance, tax evasion, and fraud risks to financial institutions; and

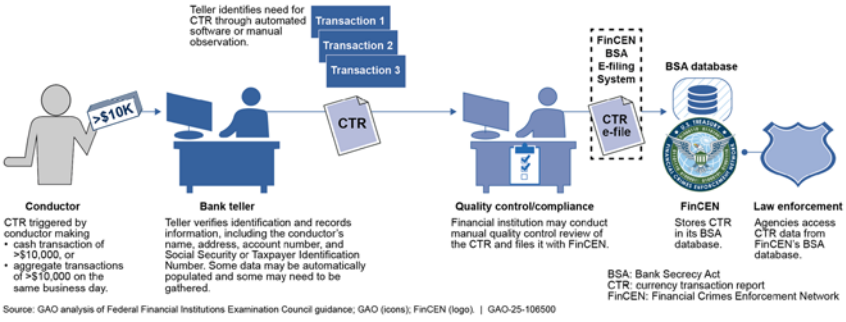
[22]Financial institutions with customer identification program requirements include banks (31 C.F.R. § 1020.220), brokers or dealers in securities (31 C.F.R. § 1023.220), mutual funds (31 C.F.R. § 1024.220), and futures commission merchants and introducing brokers in commodities (31 C.F.R. § 1026.220). Financial institutions with customer due diligence program requirements, including beneficial ownership requirements for legal entity customers, include banks (31 C.F.R. §§ 1020.210(a)(2)(v) and (b)(2)(v)), broker-dealers (31 C.F.R. § 1023.210(b)(5)), mutual funds (31 C.F.R. § 1024.210(b)(5)), and futures commission merchants and introducing brokers in commodities (31 C.F.R. § 1026.210(b)(5)).

- establishing appropriate frameworks for information sharing among financial institutions, regulatory authorities, Treasury, and law enforcement authorities to combat money laundering and terrorist financing.

## CTR Filing Process

The key steps for financial institutions filing CTRs include: (1) determining when to file a CTR (such as through automated alerts); (2) verifying the identity of the conductor (the person conducting the transaction); (3) collecting identifying information on the conductor and, if necessary, on the beneficiary (the person on whose behalf the transaction is being conducted); and (4) filing the CTR electronically with FinCEN (see fig. 1).

**Figure 1: Example of Process for Filing Currency Transaction Reports**




Source: GAO analysis of Federal Financial Institutions Examination Council guidance; GAO (icons); FinCEN (logo). | GAO-25-106500

After filing, CTRs are stored in a BSA system of record (or database) managed by FinCEN. Access is available through BSA Portal—FinCEN's user access interface—to authorized agencies at the federal, state, and local level of government that have entered agreements with FinCEN.[23] Law enforcement agencies, financial regulators, intelligence agencies, and others can use the system to retrieve identifying information, generate leads in investigations or prosecutions, begin new investigations or prosecutions, or analyze of illicit finance activities.

[23]In addition, selected federal agencies have Agency Integrated Access agreements with FinCEN, enabling them to download BSA data into their internal computer systems.

## Law Enforcement Agencies' Access to CTRs

Agencies can access CTRs directly through BSA Portal or indirectly by working through a coordinating entity. To obtain direct access to FinCEN's BSA database, law enforcement agencies must enter a memorandum of understanding with FinCEN that specifies the terms and conditions under which they can use the reports. Agencies with a memorandum of understanding can use BSA Portal to access FinCEN's BSA database through BSA Search, a secure web application that allows them to search the complete BSA database and allows FinCEN to capture access data.[24]

In addition, selected federal agencies have Agency Integrated Access agreements with FinCEN, enabling them to download BSA data into their internal computer systems. This allows agencies to combine FinCEN BSA data with their own databases to perform more complex analyses than available through BSA Portal.[25] As of March 2023, nine federal agencies had agreements to download BSA data.[26] FinCEN does not track agencies' internal use of downloaded data. However, agencies are required to maintain access logs to track usage within their internal system as required by their agreements with FinCEN.

[24]According to FinCEN officials, FinCEN Portal became BSA Portal and FinCEN Query became BSA Search on June 2, 2024. Additionally, in August 2024, Treasury's Office of Inspector General issued a report on user access to BSA data. The Office of Inspector General found that FinCEN did not properly manage some aspects of BSA data access, such as having appropriate controls to ensure that external agencies provided proper notification to FinCEN when disabling accounts. See Department of the Treasury, Office of Inspector General, Anti-Money Laundering/Terrorist Financing, *Audit of FinCEN's Management of BSA Data – User Access Report*, OIG-24-030 (Washington, D.C.: Aug. 1, 2024).

[25]In August 2023, Treasury's Office of Inspector General issued a report on its audit of FinCEN's management of BSA data. The Office of Inspector General found that FinCEN did not ensure that all agencies with Agency Integrated Access removed suppressed records – records determined to be inaccurate, duplicative, or sensitive – from their databases. See Department of the Treasury, Office of Inspector General, Anti-Money Laundering/Terrorist Financing, *Audit of FinCEN's Management of BSA Data – Suppression Report*, OIG-23-030 (Aug. 31, 2023). The Office of Inspector General said it plans to release additional reports addressing other areas.

[26]Six of the nine agencies with Agency Integrated Access were within the scope of our audit: ICE, IRS-CI, FBI, OCDETF, CBP, and Secret Service. The remaining three agencies either had a classified agreement or were intelligence agencies. Secret Service officials told us that, as of December 2023, the agency was still in the process of implementing access to BSA reports on its internal systems despite having an Agency Integrated Access agreement.

Agencies without direct access to BSA reports may request searches of the BSA database through FinCEN or through the agency designated as their state coordinator.

## CTR Requirements Have Expanded and Do Not Fully Align with the Statutory Objective of Providing Highly Useful Information

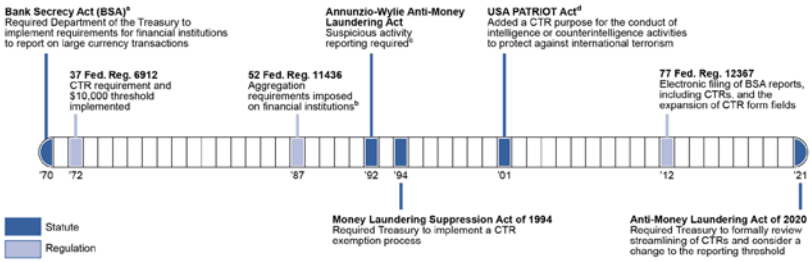
Expansions to CTR requirements in statute and regulation have broadened the scope of institutions required to file and increased the amount of information collected. However, some of this information is reported by CTR filers to be burdensome and is infrequently used by law enforcement, inconsistent with the statutory objective of requiring reports that provide highly useful information to law enforcement. Financial institution representatives told us they faced challenges in collecting certain data, implementing exemptions, and complying with aggregation requirements. Further, FinCEN does not have performance goals or related measures specific to CTRs.

### Laws and Regulations Have Expanded CTR Scope Despite Alternative Tools for Identifying Suspicious Transactions

Although the CTR threshold has remained the same for over 50 years, the scope of CTR requirements has expanded significantly. Statutes and requirements implemented through FinCEN's regulations have increased the number and types of institutions required to file CTRs, as well as the amount of information collected in CTRs.[27] Figure 2 provides a timeline of the key statutes and regulations affecting CTRs.

[27]The BSA authorized Treasury to implement a reporting requirement and prescribe regulations the Secretary of the Treasury may deem appropriate to provide information that is "highly useful" in criminal, tax, or regulatory investigations or proceedings. Pub. L. No. 91-508, §§ 202 and 204, 84 Stat. 1114, 1118 (1970). Treasury, through its implementing regulations, set the $10,000 reporting threshold in 1972. The regulations included limited information on the rationale for the threshold amount, and FinCEN officials we interviewed could not provide us with documentation of the rationale for the original threshold amount. 37 Fed. Reg. 6818, 6912 (Apr. 5, 1972). However, Treasury regulations in 1945, issued under a pre-BSA authority, included a $10,000 threshold for financial institution reporting of currency transactions (unless the financial institution judged the transaction to be commensurate with legitimate and customary conduct). See 10 Fed. Reg. 6556 (June 5, 1945).

**Figure 2: Timeline of Key Statutes and Regulations Affecting Currency Transaction Reports (CTR)**




Source: GAO analysis of statutes and regulations. | GAO-25-106500

[a]The formal name of the act is the Currency and Foreign Transactions Reporting Act.

[b]Aggregation involves treating multiple currency transactions as a single transaction if the financial institution has knowledge that they are by or on behalf of any person and result in either cash in or cash out totaling more than $10,000 during any one business day.

[c]Suspicious activity reports must be filed for certain suspicious transactions involving possible violation of law or regulation, including transactions that are broken up for the purpose of evading the BSA reporting and recordkeeping requirements.

[d]The formal name of the act is Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism.

In 1987, Treasury added regulatory requirements for financial institutions to aggregate transactions for the purpose of filing CTRs.[28] The requirements intended to address transactions that were structured to evade CTR reporting.[29] These aggregation requirements increased CTR complexity by requiring financial institutions to aggregate multiple currency transactions associated with either the conductor (person making the transaction) or beneficiary (person for whom the transaction is made) in one business day. The requirements also include aggregating

[28]52 Fed. Reg. 11436 (Apr. 8, 1987), currently located at 31 C.F.R. § 1010.313.

[29]The regulation requires each financial institution other than a casino to file a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution which involves a transaction in currency of more than $10,000. 31 C.F.R. § 1010.311. Multiple currency transactions must be treated as a single transaction if the financial institution has knowledge that they are by or on behalf of any person and they total more than $10,000 during any one business day. Deposits made at night or over a weekend or holiday shall be treated as if they were received on the next business day following deposit. 31 C.F.R. § 1010.313.

related transactions from multiple branches and sources of cash transactions (e.g., ATMs and certain transactions conducted by armored car services).[30]

FinCEN further expanded the types of information collected in CTRs when it designed the BSA database for electronic CTR filings, which became mandatory for filers in April 2013. FinCEN added fields to the CTR form and designated all data fields as critical (required to file) or noncritical (not required to file). Newly added noncritical fields included gender and North American Industry Classification System (NAICS) code.[31] According to FinCEN's 2012 guidance, fields were added in response to law enforcement feedback that the fields would be useful for their queries.[32] FinCEN officials told us the agency consulted its Data Management Council, comprising federal law enforcement and regulatory stakeholders, before making these form changes. The council reviews any changes to BSA reports, FinCEN officials said.

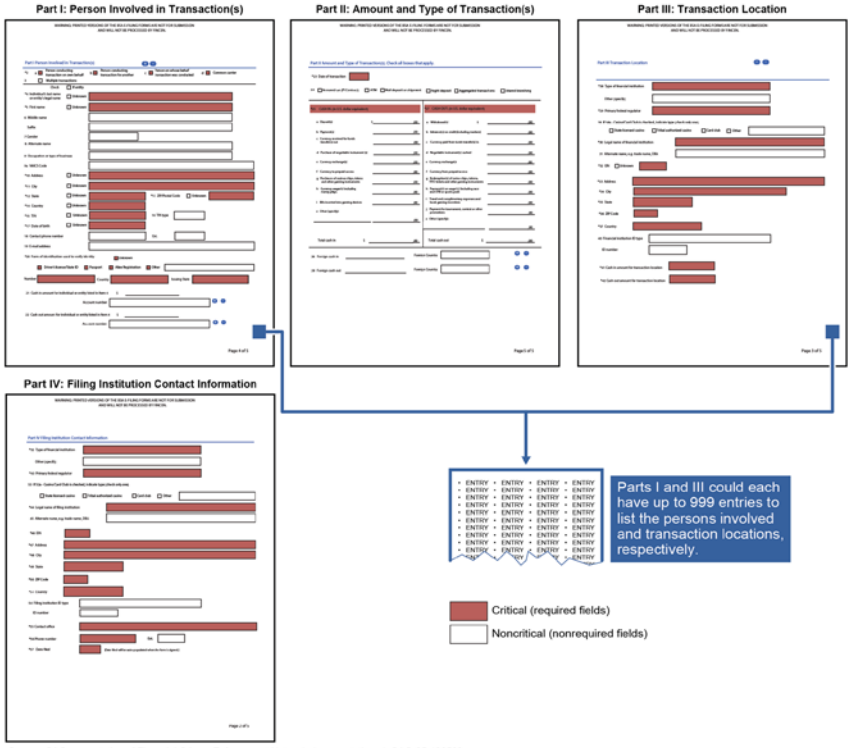
The CTR form consists of 57 fields, with some fields allowing for multiple records. For example, "person involved in transaction(s)" and "transaction location" fields may include up to 999 records (see fig. 3).

[30]Current regulations state that a financial institution must include "all of its domestic branch offices" for the purposes of reporting requirements. 31 C.F.R. § 1010.313(a). For additional information on filing CTRs related to armored cars, see, Department of the Treasury, Financial Crimes Enforcement Network, *Treatment of Armored Car Service Transactions Conducted on Behalf of Financial Institution Customers or Third Parties for Currency Transaction Report Purposes,* FIN-2013-R001 (July 12, 2013).

[31]The Census Bureau assigns business classification codes, including Standard Industrial Classification and NAICS codes, to each company to classify its main industry and line of business.

[32]Department of the Treasury, Financial Crimes Enforcement Network, *Filing FinCEN's new Currency Transaction Report and Suspicious Activity Report,* FIN-2012-G002 (Mar. 29, 2012).

**Figure 3: Visual Representation of the Currency Transaction Report Form and Fields**




Source: GAO presentation of Financial Crimes Enforcement Network documentation. | GAO-25-106500

In 1992, Congress authorized Treasury to require financial institutions to file a suspicious activity report with FinCEN whenever they suspected illicit activity, providing law enforcement an additional tool for identifying suspicious transactions.[33] SAR requirements include reporting on cash transactions structured to avoid reporting requirements, such as those just below the CTR threshold.

However, Treasury made minimal changes to reduce or remove CTR reporting and aggregation requirements after SAR and structuring SAR requirements were added. The Money Laundering Suppression Act of 1994 required Treasury to implement exemptions to reduce the number and size of CTRs consistent with effective law enforcement.[34] Treasury implemented the exemptions in 1997 and 1998.[35] FinCEN made further changes to address recommendations we had made in 2008.[36] However, exemptions are limited to depository institutions and to certain transactions and customers meeting specific criteria.

AMLA required Treasury to consider streamlining CTR and SAR requirements and consider updating the CTR reporting threshold and other BSA reporting thresholds and issue reports with its findings by January 2022.[37] Treasury was past the statutory deadline and had not issued its report as of July 2024. In February 2024, we recommended that

[33]Annunzio-Wylie Anti-Money Laundering Act, Pub. L. No. 102-550, tit. XV, § 1517, 106 Stat. 3672, 4059-4060 (1992) (codified as amended at 31 U.S.C. § 5318(g)). Prior to SARs, financial institutions used a "suspicious" checkbox on the CTR, as well as Criminal Referral Forms issued by their regulator, to report suspicious transactions. The implementation of SARs eliminated the previously used checkbox and Criminal Referral Forms.

[34]Pub. L. No. 103-325, title IV, § 402, 108 Stat. 2160, 2243 (codified at 31 U.S.C. § 5313(d)-(g)).

[35]62 Fed. Reg. 47141 (Sept. 8, 1997); 63 Fed. Reg. 50147 (Sept. 21, 1998).

[36]73 Fed. Reg. 74010 (Dec. 5, 2008); 77 Fed. Reg. 33638 (June 7, 2012). GAO, *Bank Secrecy Act: Increased Use of Exemption Provisions Could Reduce Currency Transaction Reporting While Maintaining Usefulness to Law Enforcement Efforts*, GAO-08-355 (Washington, D.C.: Feb. 21, 2008).

[37]Pub. L. No. 116-283, §§ 6204(a), 6205,134 Stat. 3388, 4569 (2021). Treasury is required to complete reviews mandated by sections 6204 and 6205 of AMLA not later than 1 year after enactment of the legislation, which was January 1, 2021. As of July 2024, Treasury had not completed such reviews.

FinCEN develop and implement a communication plan to regularly inform Congress and the public about its progress implementing AMLA.[38]

## Some Noncritical Information That CTR Filers Reported as Burdensome Is Infrequently Used by Law Enforcement

In public comments to FinCEN and in most of our interviews with financial institutions, representatives expressed that collecting information for certain noncritical CTR data fields can be burdensome. As discussed previously, FinCEN designates CTR data fields as critical or noncritical for electronic filing purposes. Critical fields include the name, address, and ID number of the persons involved in the transaction.[39] Noncritical fields include gender, NAICS code, and occupation. According to public comments and bank representatives we spoke with, examples of burdensome information collection included performing extra work to collect out-of-date information (such as occupation) and responding to customers' reluctance to provide information on their gender or former occupation.[40]

Some noncritical fields cited as burdensome to complete, such as occupation and gender, are populated in most CTRs (see table 1). Although noncritical fields are not mandatory to file CTRs, FinCEN and BSA examiner guidance state that filers are expected to complete these fields if they have direct knowledge of the information.[41] This expectation may indirectly obligate filers to collect and report noncritical information. According to summary data FinCEN provided us, most CTR forms filed in fiscal years 2019–2023 included information in the noncritical fields of

[38]GAO, *Anti-Money Laundering: Better Information Needed on Effectiveness of Federal Efforts*, GAO-24-106301 (Washington, D.C.: Feb. 8, 2024). In September 2024, FinCEN agreed with the recommendation but had not yet implemented it.

[39]A filer can select "unknown" for an ID number if the individual or entity is known and all identification information is unknown.

[40]BSA CTR Data Elements Public Comments Disposition Sheet, March 28 2011, in response to 76 Fed. Reg. 4747 (Jan. 26, 2011) and 76 Fed. Reg. 30427 (May 25, 2011), available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201105-1506-001.

[41]FinCEN guidance states that noncritical fields are not mandatory and do not create new obligations or change existing statutory or regulatory requirements. However, the guidance also states that filers are expected to complete noncritical fields if they have direct knowledge of the information. Department of the Treasury, Financial Crimes Enforcement Network, *Filing FinCEN's new Currency Transaction Report and Suspicious Activity Report,* FIN-2012-G002 (Mar. 29, 2012). Federal Financial Institutions Examination Council, *Bank Secrecy Act/Anti-Money Laundering Examination Manual* (Feb. 2021).

phone number, occupation or business type, gender, and email address.[42]

**Table 1: Percentage of Noncritical Currency Transaction Report (CTR) Fields Populated by Filers, Fiscal Years 2019–2023**

| CTR field | Percentage populated |
|---|---|
| Phone number | 86% |
| Occupation or business type | 85% |
| Gender | 77% |
| Email address | 62% |
| Industry code[a] | 41% |

Source: Summary data provided by the Financial Crimes Enforcement Network (FinCEN). | GAO 25-106500

[a]These are standard industry codes from the North American Industry Classification System. Filers must link the codes to an occupation or business type.

FinCEN has stated it added noncritical fields because feedback from law enforcement officials indicated such information was important for query purposes.[43] However, our survey results indicated law enforcement agencies infrequently use some of these noncritical fields.[44] We estimated that about 60 percent of law enforcement agencies rarely or never used gender information and about 75 percent rarely or never used NAICS code information.

In contrast, our survey indicated law enforcement agencies frequently used critical fields, such as those related to account and identification numbers and location. For example, an estimated 94 percent of law

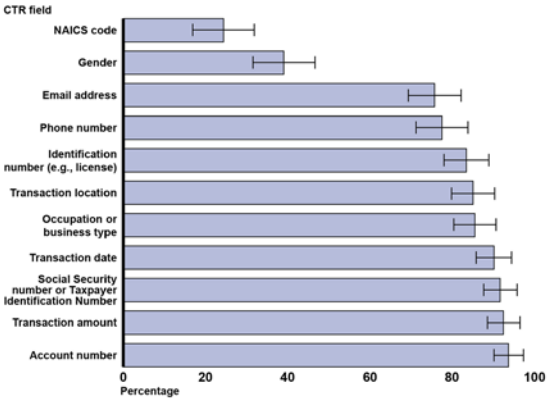
[42]We considered a field to be populated if it contained any information for at least one party in a CTR. We considered a field not populated if it contained no information (i.e., a blank field or an "Unknown" value for gender) for any party.

[43]See response to question 1 to Frequently Asked Questions Regarding the FinCEN Currency Transaction Report (CTR), effective October 3, 2019, available at https://www.fincen.gov/frequently-asked-questions-regarding-fincen-currency-transaction-report-ctr.

[44]We surveyed all law enforcement agencies that had an active memorandum of understanding with FinCEN to access BSA reports as of June 30, 2023. See app. I for additional discussion of our survey methodology and app. II for detailed survey results.

enforcement agencies at least occasionally used account number, and about 85 percent at least occasionally used location (see fig. 4).[45]

**Figure 4: Estimated Percentage of Law Enforcement Agencies That Used Selected Currency Transaction Report (CTR) Fields At Least Occasionally**




Source: GAO survey of law enforcement agencies. | GAO-25-106500

Note: We use the term "at least occasionally" to cover survey responses that reported using CTR fields "occasionally" or "frequently." The response options to this survey question were: frequently; occasionally; not often; never; and don't know.

Section 6204 of AMLA directs Treasury to review CTR processes and requirements and propose changes to reduce unnecessary filer burden while still ensuring that the information in CTRs is highly useful in criminal, tax, or regulatory investigations. The section also calls for Treasury to determine whether the number and nature of CTR fields need to be adjusted. According to FinCEN officials, this review has not been

[45]We use the term "at least occasionally" to cover survey responses that reported using CTR fields "occasionally" or "frequently". The response options to survey questions that asked about frequency were: frequently; occasionally; not often; never; and don't know.

completed due to competing priorities. These priorities include addressing new authorities and mandates imposed by AMLA, according to officials.[46]

As of May 2024, officials told us FinCEN was in the process of consulting with law enforcement, regulatory, and other stakeholders to review CTR requirements and consider potential revisions. They noted a commitment to making changes as needed to ensure law enforcement continues to have access to highly useful information while eliminating unnecessary regulatory burdens.[47] However, FinCEN has not yet determined what actions, if any, it will take in response to its review, including whether it will make changes to CTR fields. By eliminating optional, noncritical fields that are not frequently used by law enforcement, FinCEN could reduce unnecessary burden on financial institutions while maintaining information highly useful to law enforcement.

## Institutions Face Constraints Using Exemptions

As discussed previously, depository institutions can exempt certain customers from CTR filing requirements.[48] However, these exemptions are limited to exempting customers that are other banks, government agencies, or business customers meeting specific criteria. FinCEN implemented two types of exemptions—Phase I and Phase II—for different customer types (see table 2). The exemptions vary, based on customer type and business activities, in whether they require the

[46]FinCEN issued a request for information in December 2021 that it stated was intended to support its ongoing formal review of BSA regulations and guidance required pursuant to Section 6216 of AMLA. FinCEN received comments on a variety of topics, including CTR exemption requirements. See 86 Fed. Reg. 71201 (Dec. 15, 2021).

[47]FinCEN officials said FinCEN is undertaking a stakeholder consultation process similar to what it used when implementing changes to the CTR form in 2012. This process involved multiple meetings with federal law enforcement, regulatory, and other stakeholders that were members of FinCEN's Data Management Council to review required and nonrequired data fields and design the consolidated CTR, according to FinCEN officials.

[48]See 31 C.F.R. § 1020.315 for requirements related to banks and transactions of exempt persons. See FinCEN, *Guidance on Determining Eligibility for Exemption from Currency Transaction Reporting Requirements*, FIN-2012-G003 (June 11, 2012), available at https://www.fincen.gov/sites/default/files/shared/FIN-2012-G003.pdf. See also 31 C.F.R. § 1010.315 for requirements related to certain nonbank financial institutions (e.g., casinos, money services businesses, broker-dealers, mutual funds, and futures commission merchants and introducing brokers in commodities) and exemptions from obligation to file reports of transactions in currency.

institution to file an exemption report, or whether they require an annual review of the exemption.[49]

**Table 2: Currency Transaction Report Exemption Requirements by Customer Type**

| Type of customer | File a Designation of Exempt Person report[a] | Ineligible business activity[b] | Annual review[c] |
|---|---|---|---|
| Phase I | | | |
| Banks operating in the U.S. | No | n/a | No |
| Federal, state, local, or inter-state governmental departments, agencies, or authorities | No | n/a | No |
| Entities listed on the major national stock exchanges | Yes | n/a | Yes |
| Certain subsidiaries of entities listed on the major national stock exchanges | Yes | n/a | Yes |
| Phase II | | | |
| Non-listed businesses | Yes | No more than 50% of gross revenues derived from ineligible activity | Yes |
| Payroll customers[d] | Yes | n/a | Yes |

Legend: n/a = Not applicable

Source: GAO analysis of FinCEN guidance. | GAO-25-106500.

[a]When a depository institution chooses to exempt certain customers under Phase I or Phase II, it must electronically file a one-time Designation of Exempt Person report (FinCEN Form 110).

[b]FinCEN has identified a list of ineligible activities that apply to non-listed businesses. Ineligible activities include money transmission, lottery, gaming, and sales of motor vehicles, of which a business can derive no more than 50 percent of its gross revenues to be exempt.

[c]At least once each year, banks must review the eligibility of an exempt person that is a listed public company, a listed public company subsidiary, a non-listed business, or a payroll customer to determine whether such person remains eligible for an exemption.

[d]Payroll customers operate a firm that frequently (five or more transactions within a year) withdraws more than $10,000 to pay its U.S. employees in currency.

Our analysis of CTR data found that over a 10-year period, about 60 percent of CTRs that were filed included businesses.[50] Although not all of these businesses may be eligible for exemption, there is potential to identify and expand exemptions to capture some portion of cash intensive businesses that have routine cash transactions that are considered low-risk for money laundering.

[49]Entities commonly known as "Phase I" are listed in 31 C.F.R. § 1020.315(b)(1)-(b)(5). Entities commonly known as "Phase II" are listed in 31 C.F.R. § 1020.315(b)(6) and (b)(7).

[50]To determine the percentage of CTRs filed on a business, we counted CTRs where at least one party on a CTR was a business. FinCEN defines the term party as the person(s) involved in the transactions. A party can be an individual or a business.

Representatives for large and regional banks generally said their institutions used minimal exemptions because they are more time-consuming, costlier, and pose greater compliance risk than filing CTRs. Representatives for many smaller depository institutions (credit unions, community banks, or mid-sized banks) said they did not file many exemptions because many of their business customers did not qualify for exemptions based on the restrictive eligibility criteria.

Phase I exemptions for businesses are generally limited to companies listed on major national stock exchanges (listed companies), restricting their use to a small share of business customers.[51] There were about 6,000 companies listed on the New York Stock Exchange and the Nasdaq Stock Market, compared to nearly 11 million business customers identified in CTR filings in fiscal year 2023. Listed companies make up a small portion of the roughly 321,000 large operating companies that FinCEN estimated would be exempt in supplementary information included with its beneficial ownership reporting rule.[52]

Bank representatives we interviewed identified challenges with Phase II exemptions, including the following:

**Documenting exemption decisions.** The supplementary information included with FinCEN's 2008 final rule amending exemptions stated that banks do not need to maintain separate documentation for exemption determinations based on activities performed for other BSA obligations, such as the requirement to maintain a customer identification program.[53] Instead, the bank may make notations within its other BSA documentation. However, some bank representatives we interviewed

[51]FinCEN determined that CTRs filed on entities listed on major national stock exchanges would have little or no value for law enforcement purposes, and that it is unlikely that any money laundering or tax evasion would be detected by a simple examination of currency transaction reports due to the scale of these enterprises and the variety of internal and external controls they are subject to. See 62 Fed. Reg. 47141, 47144-45 (Sept. 8, 1997). Phase I exemptions also include any subsidiary of a listed entity (other than a bank) that is organized under the laws of the United States or of any state and at least 51 percent of whose common stock or analogous equity interest is owned by the listed entity.

[52]87 Fed. Reg. 59498, 59567 (Sept. 30, 2022). The Corporate Transparency Act includes a number of statutory exemptions from the beneficial ownership reporting requirements. These include entities that have more than 20 employees on a full-time basis in the United States and annual gross receipts over $5 million. The entity must also have an operating presence at a physical office in the United States. 31 U.S.C. § 5336(a)(11)(B)(xxi). See also 31 C.F.R. § 1010.380(c)(2)(xxi).

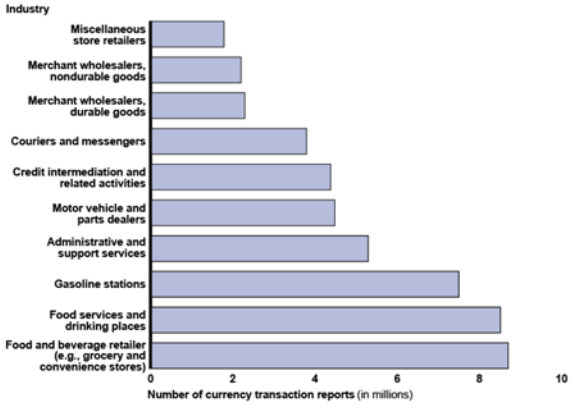
[53]See 73 Fed. Reg. 74010, 74012 (Dec. 5, 2008).

believed additional steps were necessary to support Phase II exemptions. FinCEN officials told us that banks may obtain exemption-related information through other BSA obligations but must comply with all applicable exemption documentation requirements.[54]

**Determining extent of ineligible activities.** According to some bank representatives we interviewed, banks are reluctant to exempt non-listed businesses that engage in some ineligible business activities because it is difficult or time-consuming to determine and monitor the scope of these activities. Specifically, banks need to identify what portion of a Phase II business's services constitute ineligible activities and whether these activities account for more than 50 percent of the business's gross revenues, which would render the business ineligible for exemption. CTR data by industry indicate that CTRs are commonly filed on business categories, such as grocery stores or gas stations, that may conduct some ineligible activities, such as money transmission, in addition to their primary services (see fig. 5).

[54]FinCEN officials also noted that BSA regulations describe the requirements banks can use to determine a customer's eligibility for CTR exemptions.

**Figure 5: Number of Currency Transaction Reports (CTR) Filed, by Selected Industry Type, Fiscal Years 2014–2023**



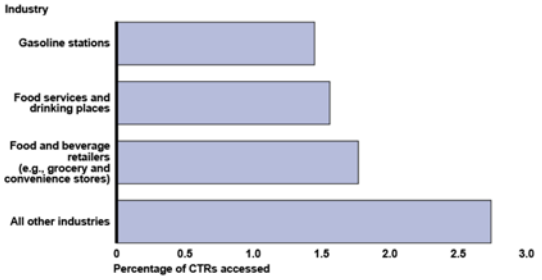

Source: GAO analysis of Financial Crimes Enforcement Network (FinCEN) data. | GAO-25-106500

Notes: Industry types are based on the North American Industry Classification System (NAICS) code, which is a noncritical (nonrequired) field. CTRs may be filed without reporting a NAICS code for any party. The figures represent CTRs with at least one industry type reported for a party. FinCEN defines the term party as the person(s) involved in the transactions. A party can be an individual or a business. A single CTR may include multiple parties with different industry types and are counted for each industry reported. A CTR that reported more than one party in the same industry would be counted only once for that industry.

Further, our analysis shows that law enforcement accessed CTRs filed on grocery stores, gas stations, and convenience stores, which may conduct some portion of ineligible activities, proportionally less than other industries (see fig. 6). This indicates that these CTRs may be relatively less useful than CTRs of other industries.[55]

[55]To determine which CTRs were not accessed, we reviewed data from FinCEN's BSA Portal and the internal systems of ICE, IRS-CI, CBP, and OCDETF.

**Figure 6: Proportion of Currency Transaction Reports (CTR) Filed in Fiscal Years 2014–2023 That Were Accessed by Law Enforcement in Fiscal Year 2023, by Selected Industry Type**




Source: GAO analysis of data from the Financial Crimes Enforcement Network's (FinCEN) Bank Secrecy Act (BSA) Portal and agencies' internal systems. | GAO-25-106500

Notes: Percentages represent Currency Transaction Reports (CTRs) accessed through FinCEN's BSA Portal or the internal systems of U.S. Immigration and Customs Enforcement, Internal Revenue Service Criminal Investigation, U.S. Customs and Border Protection, and Organized Crime and Drug Enforcement Task Forces. Definitions of access vary depending on the system. Industry types are based on the North American Industry Classification System (NAICS) code, which is a noncritical (nonrequired) field. CTRs may be filed without reporting a NAICS code for any party. The figures represent CTRs with at least one industry type reported for a party.

Additionally, officials from IRS-CI, Secret Service, and Homeland Security Investigations supported expanding CTR exemptions to include more cash businesses that banks determine to be low-risk for money laundering, such as well-established restaurants or gas stations. IRS-CI officials said this could reduce the number of CTRs filed on legitimate cash businesses that pose minimal risk of money laundering. As discussed earlier, as of July 2024, Treasury was past the deadline to complete its AMLA-mandated review on streamlining CTR requirements, including the use of exemptions.

## Regulators and Financial Institutions Identified Challenges to Complying with Aggregation Requirements

Many financial institution representatives and some financial regulators we spoke with cited aggregation requirements as a key challenge in banks' implementation of CTR requirements, with some banking representatives noting the requirements can be unclear.

Many financial institution representatives we spoke with told us that aggregating transactions by conductor was a key challenge.[56] For example, some of these representatives highlighted challenges in collecting information on conductors that are not the institution's customer.[57] In such cases, financial institutions must either collect information at the time of the transaction or conduct research or follow up after the transaction. Representatives from two banks suggested simplifying the process by removing the requirement to aggregate transactions based on conductors and applying it solely to the beneficiary (typically a customer of the depository institution). FinCEN officials told us they are soliciting and evaluating stakeholder input on the usefulness of both conductor and beneficiary aggregation as part of FinCEN's consultation efforts under Section 6204 of AMLA.

Some bank representatives said their institutions had difficulty determining whether or when to start collecting information on conductors of transactions. For example, representatives from one bank cited challenges anticipating whether a conductor will conduct multiple transactions totaling over $10,000 in a business day, triggering the need to file a CTR.

Banks whose representatives we interviewed differed in their policies regarding the collection of conductor information. For example, some collected information on all transactions regardless of amount, some started at low dollar values (such as $500), and some collected information only when the transaction exceeded $10,000. Representatives from one large bank said it collected conductor information starting at $500 to comply with its interpretation of aggregation requirements, which they said often results in collecting unnecessary information (because it does not result in a CTR). However, another representative said many banks collect conductor information for every transaction, regardless of amount, as a best practice. In contrast, three large banks we interviewed had a different interpretation of the aggregation rules and guidance, opting not to collect conductor information for transactions below the $10,000 threshold.

[56]Aggregation requires tracking information on both the conductor (person transacting) and the beneficiary (person on whose behalf the transaction was conducted) of a transaction.

[57]Conductors are individuals making a cash transaction. An example of a noncustomer conductor is an employee depositing cash on behalf of a business.

According to FinCEN's frequently asked questions, filers are not required to collect conductor information in certain circumstances. A CTR filer can instead select an "aggregate transactions" checkbox if the following conditions are met: (1) the financial institution did not identify any of the individuals conducting the related transactions, (2) all the transactions were below the $10,000 threshold, and (3) at least one of the aggregated transactions was a teller transaction.

Many financial institution representatives we spoke with said aggregation requirements resulted in increased CTR compliance costs, including staff resources and IT investments. For example, aggregation can require tracking multiple cash sources, as discussed earlier. Some bank representatives also cited difficulty aggregating and reporting cash transactions by individual business names under sole proprietorships. They also cited challenges tracking transactions by location for legal entities with multiple locations.[58]

Officials from some federal law enforcement agencies and over half of the state and local law enforcement agencies we interviewed said that large aggregated CTRs can be difficult to review and are not necessarily useful. One large bank described encountering CTRs with more than 750 parties, which the bank splits into separate CTRs by regional locations to capture all the transaction details.[59] Officials from OCDETF Fusion Center and CBP noted that large consolidated CTRs may aggregate unrelated transactions, making it difficult for investigators to establish a money trail. Although our data analysis shows that law enforcement agencies generally access CTRs with a larger number of parties, this does not necessarily indicate that these CTRs are more useful. Instead, it may be that the search criteria match CTRs with more parties simply because they contain more data to match.

[58]See Department of the Treasury, Financial Crimes Enforcement Network, *FinCEN CTR (Form 112) Reporting of Certain Currency Transactions for Sole Proprietorships and Legal Entities Operating Under a "Doing Business As" ("DBA") Name,* FIN-2020-R001, (Feb. 10, 2020). This ruling was later suspended in guidance issued in response to the COVID-19 pandemic, but FinCEN stated that financial institutions that had already made the necessary changes to comply with the 2020 ruling did not need to revert to prior practice and could report CTRs in accordance with the now-suspended ruling. See Department of the Treasury, Financial Crimes Enforcement Network, *The Financial Crimes Enforcement Network Provides Further Information to Financial Institutions in Response to the Coronavirus Disease 2019 (COVID-19) Pandemic,* (Apr. 3, 2020).

[59]FinCEN defines the term party as the person(s) involved in the transactions. A party can be an individual or a business.

AMLA requires FinCEN to review CTR requirements to determine if changes are needed to reduce unnecessary burden for filers and ensure that CTRs provide highly useful information to law enforcement.[60] This review includes assessing potential improvements to CTR aggregation for entities with common ownership. Further, Section 6205 of AMLA requires Treasury to review and determine whether the CTR dollar thresholds, including aggregate thresholds, should be adjusted.

As of May 2024, FinCEN officials told us the agency was in the process of conducting these reviews by taking steps such as soliciting and evaluating input from relevant stakeholders. As previously discussed, officials also noted FinCEN's commitment to making changes as needed to ensure law enforcement continues to have access to highly useful information while eliminating unnecessary regulatory burdens. However, FinCEN has not completed the reviews that were due in January 2022 or determined what changes, if any, it will make to aggregation requirements. Simplifying and clarifying aggregation requirements could reduce unnecessary burden on financial institutions while still providing useful information to law enforcement.

## FinCEN Does Not Have a Performance Management Process Specific to CTRs

FinCEN has not established a performance management process that defines performance goals and measures and is specifically related to CTR effectiveness. We have previously defined a performance management process as a process by which organizations

- set goals to identify the results the agency seeks to achieve,
- collect performance information to measure progress, and
- use that information to assess results and inform decisions to ensure further progress toward achieving those goals.[61]

We have also previously identified key practices to help federal officials manage and assess the performance of their efforts, including individual programs and activities.[62] CTRs are an important program activity

[60]AMLA Section 6204 states that Treasury is to propose changes to the reporting requirements to reduce any unnecessarily burdensome regulatory requirements and ensure that the information provided fulfils the purposes described in 31 U.S.C. § 5311. Those purposes are to require reports that are highly useful in criminal, tax, or regulatory investigations, risk assessments, or proceedings; or intelligence or counterintelligence activities, including analysis, to protect against terrorism.

[61]GAO/GGD-96-118.

[62]GAO-23-105460.

because they result in the majority of BSA filings (about 75 percent) and have a significant impact on both law enforcement agencies and financial institution filers. These key practices state that performance goals should be objective, measurable, and quantifiable.

FinCEN's performance plan identifies goals from Treasury's strategic plan, including the objective of increasing financial system transparency. While the plan has a performance measure on the usefulness of BSA reports to law enforcement, the measure is not specific to CTRs.[63] In addition, our previous work has found that the surveys FinCEN uses for this performance measure were not reliable.[64] FinCEN officials noted the challenges of quantifying the use of CTRs, as described in DOJ's annual report on agencies' use of BSA reporting required by AMLA.[65] The officials also said the agency is considering performance management steps, such as more targeted measures for tracking the usefulness of BSA reports, but does not yet have goals or measures related to CTRs.

FinCEN already collects data on law enforcement's access of CTRs. Some of these data, such as the number and percentage of CTRs accessed by law enforcement, could serve as a valuable source of evidence to measure CTR usefulness. By developing a performance management process, including goals and related measures, that is targeted to CTRs, FinCEN could better monitor the effectiveness of CTRs and identify modifications and improvements to better ensure CTRs meet statutory objectives.

## Law Enforcement Agencies Find CTRs Useful, but Did Not Access Most CTRs

Our survey found that nearly all of the 327 law enforcement agencies with direct access to CTRs used them and considered them important to investigations and prosecutions. However, these agencies accessed a small portion of all CTRs filed. This suggests that there are opportunities to reduce the volume of CTRs without compromising their usefulness to law enforcement.

[63]The performance measure related to BSA reports is "Percentage of domestic law enforcement and regulators who assert queried Bank Secrecy Act data led to detection and deterrence of illicit activity."

[64]GAO-24-106301.

[65]Pub. L. No. 116-283, § 6201, 134 Stat. 3388, 4565–4566 (2021).

## Law Enforcement Reported CTRs Can Be a Useful Source of Information

We conducted a generalizable survey of all 327 law enforcement agencies that had a memorandum of understanding with FinCEN for direct access to BSA reports (165 federal and 162 state and local agencies).[66] We received responses from 197 agencies (89 federal and 108 state and local agencies), an overall response rate of 60 percent. We asked about agencies' use of CTRs from January 2021 through January 2024.

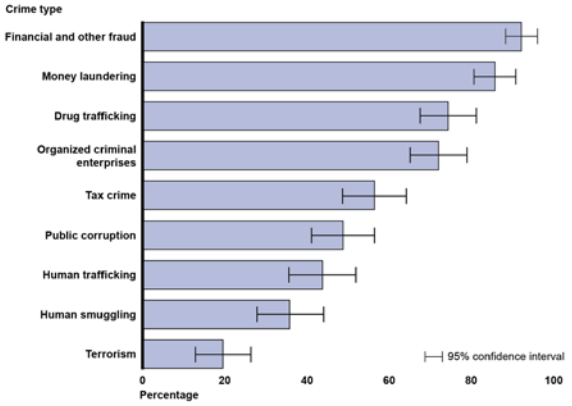
### Use of CTRs

We estimated that 96 percent of law enforcement agencies used CTRs from January 2021 through January 2024. Federal agencies used CTRs at generally the same rates as state and local agencies.[67] Surveyed agencies reported that CTRs were relevant to a range of crimes, especially fraud, money laundering, drug trafficking, and organized crime (see fig. 7). In addition, FBI provided data indicating that CTRs are most often relevant to its program that investigates drug trafficking and organized crime.

[66]We surveyed all law enforcement agencies that had an active memorandum of understanding with FinCEN to access BSA reports as of June 30, 2023. See app. I for additional discussion of our survey methodology and app. II for detailed survey results.

[67]In a 2020 GAO survey of 5,257 law enforcement personnel at six federal agencies, we found that 67 percent of surveyed personnel used CTRs in their work at least occasionally from 2015 through 2018. GAO, *Anti-Money Laundering: Opportunities Exist to Increase Law Enforcement Use of Bank Secrecy Act Reports, and Banks' Costs to Comply with the Act Varied*, GAO-20-574 (Washington, D.C.: Sept. 22, 2020).

**Figure 7: Estimated Percentage of Law Enforcement Agencies That at Least Occasionally Identified Currency Transaction Reports Relevant to Selected Crimes, January 2021–January 2024**




Source: GAO. | GAO-25-106500

Notes: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with the Financial Crimes Enforcement Network to access Bank Secrecy Act reports as of June 30, 2023. We use the term "at least occasionally" to cover survey responses that reported using currency transaction report fields "occasionally" or "frequently." The response options to this survey question were "frequently," "occasionally," "not often," "never," and "not applicable to agency."

According to our survey, federal, state, and local agencies generally align in their use of CTRs by crime type. Law enforcement agency officials provided the following examples of investigations in which CTRs were useful:

- A complex money laundering investigation in which CTRs helped investigators identify patterns of money movement and additional bank accounts associated with the scheme.
- A benefits fraud investigation in which CTRs helped investigators detect a business owner defrauding a government program.

- Tax fraud investigations in which CTRs helped identify retail businesses that may be underreporting cash receipts.
- Money laundering investigations in which suspects import cash to the U.S., generating CTRs and alerting law enforcement to investigate the source of the cash.

Law enforcement agencies use CTRs as a searchable database to confirm information about subjects of existing investigations and potentially discover new leads.[68] Officials from most law enforcement agencies we interviewed told us they search all BSA reports at once, rather than just CTRs. Investigators search for information, such as a subject's name, date of birth, or other identifying information, according to FinCEN officials. An estimated 91 percent of surveyed agencies at least occasionally used CTRs to develop leads for existing investigations. In addition, an estimated 47 percent of agencies searched CTRs as a standard practice for each investigation or prosecution.

Law enforcement agencies sometimes also use CTRs to develop cases and initiate new investigations, according to our interviews and survey. Officials from many of the law enforcement agencies we interviewed told us their agencies did not typically use CTRs to initiate investigations. Some of these officials said it was more common to initiate investigations in response to a SAR. However, an estimated 67 percent of surveyed agencies at least occasionally used CTRs to identify the need for new investigations. For example, IRS-CI has used CTRs for case development projects in the areas of pandemic relief fraud, tax fraud, and casino-based money laundering, according to officials.[69]

## Importance of CTRs

An estimated 91 percent of law enforcement agencies reported that CTRs were important to investigations or prosecutions. According to our survey results, the most important aspect of CTRs was providing unique account information—about 75 percent of surveyed agencies considered it very important.

Officials from most law enforcement agencies we interviewed emphasized that criminals know about CTR reporting requirements and

[68]As discussed earlier, agencies without direct access to BSA reports may request searches of the BSA database through FinCEN or through the agency designated as their state coordinator.

[69]Results from these case development projects include the initiation of 40 investigations of pandemic fraud involving approximately $66 million and the initiation of 49 investigations related to casino CTRs, according to IRS-CI officials.

modify their behavior to avoid CTRs. Many of these officials said CTR requirements force criminals to act in ways that increase chances of detection through other methods, such as structuring SARs. Financial institutions reported more than 900,000 structuring activities on SARs each fiscal year from 2019 through 2023.[70] From 2019 through 2022, law enforcement agencies accessed structuring SARs through BSA Portal more than 450,000 times each fiscal year.[71]

Officials from many law enforcement agencies we spoke with told us that CTRs are more likely to contain accurate information than other sources or may contain information that is not available from other sources. For example, IRS-CI officials said a CTR may capture the identity of a person conducting a transaction on behalf of a business, while bank records may not, which could help trace illicit currency movements. Additionally, some officials said it would often be harder and more time- or resource-intensive to obtain information from alternative sources, potentially hindering investigations.

Still, most surveyed agencies reported they would have been able to use information from other sources, such as SARs, if CTR information had been unavailable. An estimated 90 percent of agencies would have been able to use SARs instead of CTRs from January 2021 through January 2024. An estimated 64 percent of agencies would have been similarly efficient in their work by using SARs instead of CTRs (see table 3).

**Table 3: Estimated Percentage of Law Enforcement Agencies That Were Able to Use Other Sources Instead of Currency Transaction Reports, January 2021–January 2024**

| | Estimated percentage | 95 percent confidence interval |
|---|---|---|
| **Bank records** | **91%** | **87–95%** |
| Yes, with similar efficiency | 51% | 44–59% |
| Yes, but with less efficiency | 40% | 32–47% |

[70]SARs can report multiple types of suspicious activities on a single report, including multiple types of structuring activities. For purposes of this report, we considered a structuring SAR to be any SAR that reports at least one structuring activity. Not all reportable structuring activities arise from attempts to avoid CTRs. For example, attempts to avoid threshold-based recordkeeping requirements for funds transfers are also reportable as structuring activity. There were over 575,000 structuring SARs filed in fiscal year 2023 that reported structuring activity to avoid the CTR threshold.

[71]Most agencies did not specifically track access to structuring SARs on agencies' internal systems over this period.

| | Estimated percentage | 95 percent confidence interval |
|---|---|---|
| **Suspicious activity reports (other than structuring)** | **90%** | **86–95%** |
| Yes, with similar efficiency | 64% | 57–72% |
| Yes, but with less efficiency | 26% | 19–32% |
| **Suspicious activity reports (structuring)** | **88%** | **83-93%** |
| Yes, with similar efficiency | 60% | 52–67% |
| Yes, but with less efficiency | 28% | 21–35% |
| **Other Bank Secrecy Act reports** | **79%** | **73–85%** |
| Yes, with similar efficiency | 45% | 37–53% |
| Yes, but with less efficiency | 34% | 27–42% |
| **314(a) program[a]** | **66%** | **58–75%** |
| Yes, with similar efficiency | 25% | 17–34% |
| Yes, but with less efficiency | 41% | 32–50% |
| **Tax records** | **63%** | **55–71%** |
| Yes, with similar efficiency | 26% | 19–33% |
| Yes, but with less efficiency | 37% | 29–45% |

Source: GAO. | GAO-25-106500

Notes: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with the Financial Crimes Enforcement Network (FinCEN) to access Bank Secrecy Act reports as of June 30, 2023. Upper- and lower-bound 95 percent confidence intervals are provided for each estimate.

[a]FinCEN's 314(a) program enables law enforcement agencies, through FinCEN, to contact U.S. financial institutions to locate accounts and transactions of subjects that may be involved in terrorism or money laundering.

IRS-CI provided data showing that, on average, about 35 cases originated from CTRs each fiscal year from 2020 to 2022. Other than IRS-CI, few law enforcement agencies track whether using CTRs leads to outcomes such as case originations, indictments, convictions, or recoveries.[72] Officials from some agencies we interviewed said they do not track use of CTRs separately from other sources of information used during an investigation or prosecution. Additionally, officials from four agencies told us they do not mention CTRs in court records, warrants, or

[72]FinCEN operates the FinCEN Law Enforcement Awards program, which recognizes BSA reporting that was particularly helpful in supporting investigations. FinCEN publishes brief descriptions of award-receiving cases but does not make public the extent to which the investigations used any specific type of BSA report. In previous reports, we discuss some other mechanisms that FinCEN and law enforcement use to provide metrics and feedback to financial institutions on their use of BSA reports. See GAO-24-106301 and GAO-19-582.

other evidentiary documents.[73] An estimated 13 percent of surveyed agencies reported tracking their CTR use. Among 23 agencies that described on our survey how they tracked their CTR use, two described tracking outcome-related metrics.[74]

In response to a Congressional mandate, DOJ began submitting an annual report to Treasury in 2022 that is required to contain statistics, metrics, and information on contributions of BSA reports to law enforcement outcomes.[75] In a 2022 report, we found that law enforcement agencies had difficulty linking BSA reports to outcomes, and some reported difficulty determining what it means to "use" a BSA report.[76] We made two recommendations for DOJ to improve data collection and analytical rigor for its annual reports to Treasury, and as of July 2024, DOJ had implemented one of these two recommendations.[77] The second annual DOJ report to Treasury, covering fiscal year 2022, did not include any outcome metrics specifically for CTRs.[78]

## A Small Portion of CTRs Are Accessed by Law Enforcement

[73]Some law enforcement agencies may avoid using CTRs as evidence because of concerns about revealing investigative techniques, officials said.

[74]One agency described tracking investigations that use CTRs generally and one described specifically tracking investigative outcomes of investigations that use CTRs.

[75]Anti-Money Laundering Act of 2020, Pub. L. No. 116-283, § 6201, 134 Stat. 3388, 4565-4566 (2021). Section 6201 of the act requires DOJ, in consultation with other agencies, to annually produce a report containing statistics, metrics, and other information on the use of data derived from financial institutions reporting under the BSA, and directs DOJ to submit the report to Treasury, which is to use the information to help assess the usefulness of BSA reporting, enhance feedback and communications with financial institutions and other entities subject to BSA requirements, and assist FinCEN in considering revisions to certain reporting requirements.

[76]GAO, *Bank Secrecy Act: Action Needed to Improve DOJ Statistics on Use of Reports on Suspicious Financial Transactions,* GAO-22-105242 (Washington, D.C.: Aug. 25, 2022).

[77]GAO-22-105242. DOJ neither agreed nor disagreed with the recommendations.

[78]The report included statistics on investigations initiated by some law enforcement agencies as a result of BSA data in general.

Most CTRs are not accessed by law enforcement agencies, according to our analysis of data from FinCEN's BSA Portal and agencies' internal systems.[79]

Five federal agencies—FBI, U.S. Immigration and Customs Enforcement, IRS-CI, CBP, and DEA—accounted for about two thirds of all law enforcement CTR accesses through BSA Portal in fiscal years 2019–2023. Overall, personnel from these five agencies constituted more than half of all active law enforcement users on BSA Portal. All except DEA also have Agency Integrated Access agreements with FinCEN, permitting them to allow personnel to access BSA reports on their internal systems.[80] DEA officials told us that the agency has requested Agency Integrated Access, and FinCEN officials told us FinCEN is working with DEA to draft an Agency Integrated Access agreement to provide DEA access.[81]

Accessing a CTR does not necessarily mean that law enforcement personnel viewed it or used it in their work. For example, officials said IRS-CI's internal system records access when a user loads a page with information from multiple sources, including CTRs, making it impossible

[79]Most authorized agencies access BSA reports through FinCEN's BSA Search tool within BSA Portal. Some large users of BSA reports also have special authority permitting them to allow personnel to access BSA reports on their internal systems. As part of this authority, agencies are required to maintain auditable logs of CTRs accessed on their systems. Systems differ in how they display CTR information and record CTR access. Access includes users opening a CTR on-screen, downloading a CTR, or—for certain agencies' internal systems only—loading a summary screen that contained information from a CTR. Throughout this report we specify whether we are referring to CTRs accessed through BSA Portal, agencies' internal systems, or both. See app. III for additional information on agency access.

[80]Agency Integrated Access, formerly called bulk data access, allows agencies to download BSA data onto their own audited and protected computer systems. The agencies then may grant personnel access to search BSA data directly on internal systems. As of June 2024, the law enforcement agencies with Agency Integrated Access were FBI, ICE, IRS-CI, CBP, OCDETF, and Secret Service. Secret Service officials told us that, as of December 2023, the agency was in the process of implementing direct access to BSA reports on its internal systems and investigative personnel did not yet have access.

[81]In 2023, the Acting Director of FinCEN testified that the agency was updating its procedures related to access to BSA information in response to weaknesses identified by the Treasury Office of the Inspector General. Himamauli Das, Acting Director, FinCEN, testimony before the House Committee on Financial Services, Subcommittee on National Security, Illicit Finance, and International Financial Institutions, 118th Cong., April 27, 2023.

to determine if the user looked at or used a particular CTR.[82] Similarly, BSA Portal allows law enforcement users to download batches of up to 5,000 BSA reports per session, according to FinCEN officials. Accessing a CTR through this method does not ensure law enforcement personnel reviewed or used it.

Conversely, BSA Portal access data may not always capture law enforcement's views or use of CTR information. Specifically, when using BSA Portal, users can view CTR fields on a summary search results screen without opening or downloading the CTR and generating an access record.[83] This means that law enforcement personnel may use CTR information in their work without it being reflected in the access data. However, officials from two federal law enforcement agencies that are heavy users of CTRs told us that investigators would typically review a relevant report in BSA Portal rather than viewing only summary data.

## CTRs Accessed through BSA Portal in Fiscal Years 2014–2023

A small portion of the CTRs filed were ever accessed by law enforcement through FinCEN's BSA Portal during the period of our review. Of the more than 167 million CTRs filed from fiscal year 2014 through fiscal year 2023, about 5.4 percent (about 9 million) were accessed through the portal.[84] FinCEN's policy, prior to a system transition in June 2024, was to make CTRs accessible indefinitely.[85] Because they were available for longer, earlier years' CTRs were more likely to be accessed. Fewer than 7 percent of CTRs were accessed within 5 years of filing, and 7.6 percent

[82]IRS-CI was the heaviest user of CTRs as measured by access data. See app. III for additional information.

[83]FinCEN's audit logs do not track user views of summary query results in BSA Portal, according to officials. FinCEN tracks when a CTR was opened, downloaded, or exported. We considered CTR access to be any instance that a CTR was opened, downloaded, or exported.

[84]The 5.4 percent does not include CTRs accessed on the internal systems of Agency Integrated Access agencies. We present analysis of data from those agencies' internal systems later in this section. Access data also do not reflect CTRs that law enforcement obtained directly from a financial institution through legal process, such as a subpoena. See app. IV for additional information on which CTRs were accessed through BSA Portal.

[85]After a system transition in June 2024, FinCEN no longer makes CTRs accessible through BSA Portal indefinitely, according to FinCEN officials. Instead, BSA Portal users can access CTRs from the most recent 10 years and the current year. The majority of law enforcement agencies with Agency Integrated Access store CTRs in their internal systems for access by authorized users indefinitely, according to officials. IRS-CI and OCDETF retain CTRs in their internal systems for 10 years plus the current year, while CBP, FBI, and ICE retain CTRs indefinitely, according to officials. ICE officials told us that ICE is coordinating with FinCEN to implement time-based data retention policies.

of fiscal year 2014 CTRs had been accessed by the end of fiscal year 2023 (see table 4).[86]

**Table 4: Proportion of Currency Transaction Reports (CTRs) Accessed by Law Enforcement Agencies in BSA Portal Within 3, 5, and 9 Years of Filing, Fiscal Years 2014–2023**

| | Proportion of CTRs | Filing years included |
|---|---|---|
| Accessed within 3 years | 5.7% | 2014–2020 |
| Accessed within 5 years | 6.6% | 2014–2018 |
| Accessed within 9 years | 7.6% | 2014 |

Source: GAO analysis of Financial Crimes Enforcement Network (FinCEN) data. | GAO-25-106500

Notes: This table displays CTRs accessed through BSA Portal and does not include CTRs accessed on the internal systems of Integrated Access agencies. CTRs were counted as accessed within 3 years if they were accessed by the end of the third fiscal year after the fiscal year in which they were filed.

Among the 5.4 percent of CTRs accessed through BSA Portal, most were accessed once. Fewer than 1 percent of CTRs filed in fiscal years 2014 through 2023 were accessed through the portal more than twice. However, law enforcement officials noted investigators may view CTRs downloaded from BSA Portal multiple times outside of the portal, or share them with colleagues, which would count as a single access in our analysis.[87] This suggests some CTRs that were only accessed once may have been viewed many times.[88]

## CTRs Accessed through Either BSA Portal or Agency Internal Systems in Fiscal Year 2023

A significant portion of law enforcement's CTR use occurs on internal systems of agencies with Agency Integrated Access. However, these systems differ in how they display CTR information, how users access it,

[86]FinCEN's system records an access when a CTR is opened or downloaded through BSA Portal but does not distinguish between an on-screen view and a download, according to officials. In our analyses of law enforcement CTR accesses through BSA Portal, either opening or downloading CTRs counts as an access.

[87]Our analysis of CTR accesses through FinCEN's BSA Portal counts on-screen views within BSA Portal and downloads from BSA Portal. Viewing a CTR on-screen and then downloading it would count as two accesses, according to officials. Downloading a CTR and viewing it multiple times outside of BSA Portal would count as one access, for the initial download.

[88]Among CTRs filed from fiscal years 2014 through 2023, 3.6 percent were accessed through BSA portal once, 1.0 percent were accessed twice, and 0.8 percent were accessed more than twice. The remaining 94.6 percent of CTRs were not accessed.

and how such access is recorded. As a result, data on CTR accesses from internal systems are not directly comparable between agencies or with FinCEN's BSA Portal.[89] To present a more comprehensive picture, we combined BSA Portal data with internal system data from agencies with Agency Integrated Access.[90]

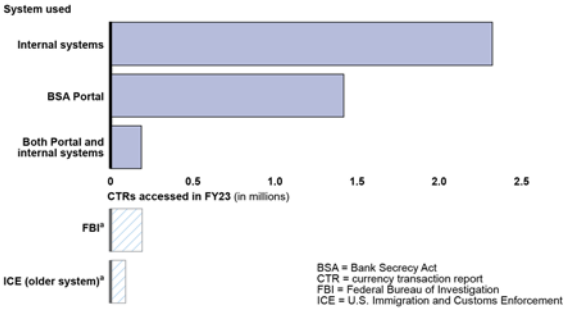
Our analysis of the combined data for fiscal year 2023 (the most recent full year with complete data) showed that law enforcement agencies accessed between about 3.9 million and about 4.2 million of the CTRs filed since fiscal year 2014.[91] This represented less than 3 percent of the more than 167 million CTRs filed in that period. See figure 8 for law enforcement access to CTRs on BSA Portal or agencies' internal systems.

[89]For example, BSA Portal displays some information from CTRs to users on a search results screen but does not record a view unless the user opens the full CTR or downloads the CTR. Some agency internal systems record a view when CTR information is displayed on summary screens, and their users may rely on CTR information from summary screens without opening the full CTR. See app. III for more details about access data.

[90]We obtained full fiscal year 2023 data on CTR accesses from FBI, IRS-CI, CBP, and OCDETF systems. We obtained partial fiscal year 2023 data from ICE's recently implemented internal system, but most of the agency's internal CTR use occurred on an older system. The combined data do not include accesses by FinCEN analysts through BSA Portal or FinCEN internal systems. See app. III for more information on FinCEN's use of CTRs for analytic purposes.

[91]In fiscal year 2023, law enforcement agencies accessed at least 3,929,286 and as many as 4,214,595 of the 167,525,214 CTRs filed since fiscal year 2014. Law enforcement personnel accessed 3,929,286 such CTRs through BSA Portal, ICE's newer system, and the internal systems of IRS-CI, CBP, and OCDETF. FBI personnel accessed 193,001 such CTRs through FBI's internal system and up to 92,308 such CTRs appeared in search results in ICE's older system. However, because these agencies did not provide us with FinCEN CTR identification numbers for these two systems, we could not determine how many of the CTRs accessed in these systems were also accessed in other agencies' systems.

**Figure 8: Number of CTRs Accessed by Law Enforcement on BSA Portal or Agency Internal Systems in Fiscal Year 2023 (FY23), for CTRs Filed in Fiscal Years 2014–2023**




Source: GAO analysis of agency data. | GAO-25-106500

Notes: Internal systems category includes CTRs accessed on the internal systems of IRS Criminal Investigation, U.S. Customs and Border Protection, the Organized Crime and Drug Enforcement Task Forces, and ICE's newer internal system. Systems differ in how they display CTR information and record CTR access.

[a]We were not able to determine the extent to which CTRs accessed by FBI or ICE's older system overlap with CTRs accessed by other law enforcement agencies because FBI and ICE did not provide us with FinCEN CTR identification numbers for these systems. For that reason, these numbers are presented separately.

Officials from the Department of Homeland Security said one reason most CTRs are not accessed could be because CTRs largely reflect lawful activity, making them less relevant to law enforcement than SARs, which focus on suspicious activity. According to Department of Homeland Security officials, CTRs typically are used to support SAR information and may not be useful unless they contain information related to a SAR. In addition, officials from one law enforcement agency told us that an absence of CTR filings can provide useful information about the sufficiency of a financial institution's anti-money laundering program, making even search results with no matches useful to investigators.

## Characteristics of CTRs Accessed by Law Enforcement

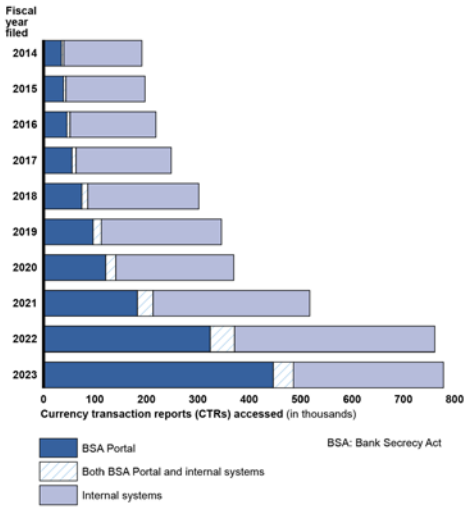
We compared the characteristics of CTRs that were accessed by law enforcement personnel in fiscal year 2023 to those that were not accessed.[92] We identified the following trends:

- Newer CTRs were accessed more frequently. Law enforcement personnel accessed more recent CTRs more frequently than older ones. For example, during fiscal year 2023, they accessed roughly four times as many 2022 filings as 2014 filings (see fig. 9).[93] Despite this, law enforcement personnel continue to access older CTRs, particularly on internal systems.

[92]Analyses in this section use the combined data on CTRs filed in fiscal years 2014–2023 and accessed by law enforcement agencies in fiscal year 2023 through BSA Portal or agency internal systems. In app. IV, we also present analyses of CTRs accessed by law enforcement over all 10 years through BSA Portal. Most agency internal systems did not have access data available for all 10 years.

[93]There were about 15.4 million CTRs filed in fiscal year 2014 and about 20.9 million filed in fiscal year 2023. Our analysis of CTRs accessed by filing date does not include CTRs accessed on FBI's internal system because FBI was not able to provide complete information on filing years for older CTRs.

**Figure 9: Number of CTRs Accessed by Law Enforcement on BSA Portal or Agency Internal Systems in Fiscal Year 2023, by Fiscal Year Filed**




Source: GAO analysis of agency data. | GAO-25-106500

Notes: Includes CTRs accessed through BSA Portal and CTRs accessed on the internal systems of IRS Criminal Investigation, U.S. Customs and Border Protection, the Organized Crime and Drug Enforcement Task Forces, and U.S. Immigration and Customs Enforcement. Systems differ in how they display CTR information and record CTR access. This analysis does not include CTRs accessed on the Federal Bureau of Investigation's (FBI) internal system because FBI was not able to provide complete information on filing years for older CTRs.

- **CTRs with multiple parties were accessed more frequently**. CTRs with multiple parties, such as the transaction's conductor and beneficiaries, were more likely to be accessed by law enforcement (see table 5). This is because CTRs are used as a searchable database for investigation subjects and other persons of interest. However, some law enforcement agency officials told us that CTRs with high numbers of parties are difficult to interpret and likely to generate "false positive" search results.

**Table 5: Currency Transaction Report (CTR) Filings, Fiscal Years 2014–2023, and Proportion Accessed in Fiscal Year 2023, by Number of Parties**

| | Number of CTRs filed, fiscal years 2014–2023 | Number of CTRs accessed by law enforcement agencies in fiscal year 2023 (proportion) |
|---|---|---|
| **All CTRs** | **167,525,214** | **3,929,286 (2.3%)** |
| Missing/zero parties | 92,301 | 2,290 (2.5%) |
| One to five parties | 164,313,175 | 3,755,208 (2.3%) |
| Six to 50 parties | 3,039,961 | 130,005 (4.3%) |
| More than 50 parties | 79,777 | 41,783 (52.4%) |

Source: GAO analysis of agency data. | GAO-25-106500

Notes: Includes CTRs accessed through BSA Portal and CTRs accessed on the internal systems of IRS Criminal Investigation, U.S. Customs and Border Protection, the Organized Crime and Drug Enforcement Task Forces, and U.S. Immigration and Customs Enforcement. Systems differ in how they display CTR information and record CTR access. This analysis does not include CTRs accessed on the Federal Bureau of Investigation's (FBI) internal system because FBI did not provide information on the number of parties.

- **Money services business CTRs were accessed at a higher rate than those of other financial institutions.** Depository institutions filed the majority (86 percent) of CTRs in fiscal years 2019–2023, followed by casinos (about 9 percent), and money services businesses (about 3 percent).[94] However, money services business and casino CTRs were accessed at a higher rate than CTRs filed by other types of financial institutions, as of fiscal year 2023 (see table 6). Nearly 10 percent of CTRs filed by money services businesses were accessed that year, compared to less than 3 percent of CTRs filed by depository institutions. According to IRS-CI officials, CTRs from money services businesses are particularly useful for investigating tax fraud.

[94]We used the filer type field reported on Part IV of the CTR form, which was added to the form in 2017. Because 2019 was the first full fiscal year in which nearly all CTRs reported filer type on Part IV, our analyses that included filer type only used data from fiscal years 2019–2023. See app. I for details.

**Table 6: Currency Transaction Report (CTR) Filings, Fiscal Years 2019–2023, and Proportion Accessed in Fiscal Year 2023, by Filer Type**

| | Number of CTRs filed in fiscal years 2019–2023 | Number accessed by law enforcement agencies in fiscal year 2023, excluding FBI (proportion) | Number accessed by Federal Bureau of Investigation (FBI) in fiscal year 2023 (proportion)[a] |
|---|---|---|---|
| **All CTRs** | **90,403,652** | **2,772,949 (3.1%)** | **193,001 (0.2%)** |
| Money services business | 2,967,403 | 291,178 (9.8%) | 8,596 (0.3%) |
| Casino | 8,277,569 | 355,905 (4.3%) | 23,884 (0.3%) |
| Depository institution | 77,789,487 | 2,073,259 (2.7%) | 157,578 (0.2%) |
| Other | 1,361,142 | 52,530 (3.9%) | 2,943 (0.2%) |
| Missing/unknown | 8,051 | 77 (1.0%) | 0 (0.0%) |

Source: GAO analysis of agency data. | GAO-25-106500

Notes: Includes CTRs accessed through BSA Portal and CTRs accessed on the internal systems of IRS Criminal Investigation, U.S. Customs and Border Protection, the Organized Crime and Drug Enforcement Task Forces, U.S. Immigration and Customs Enforcement, and the Federal Bureau of Investigation (FBI). Systems differ in how they display CTR information and record CTR access. The other category includes CTRs filed by securities and futures filers as well as filers that selected the 'other' filer type option.

[a]We were not able to determine the extent to which CTRs accessed by FBI overlap with CTRs accessed by other law enforcement agencies because FBI did not provide us with FinCEN CTR identification numbers.

- **Access rates differ by party industry.** CTRs request that filers report a party's occupation or type of business and assign a related NAICS code.[95] But occupation/business type and NAICS code are noncritical fields and fewer than half of CTRs report at least one NAICS code. The top reported industries were grocery or convenience stores, restaurants or bars, and gas stations, but CTRs with parties in these industries were accessed at lower rates than others in fiscal year 2023 (see table 7).[96]

[95]We represent industry in this analysis by NAICS code at the three-digit level. CTRs allow filers to report NAICS codes at up to the six-digit level.

[96]The respective NAICS codes are 445 (food and beverage retailers), 722 (food services and drinking places), and 447 (gasoline stations).

**Table 7: Currency Transaction Report (CTR) Filings, Fiscal Years 2014–2023, and Proportion Accessed in Fiscal Year 2023, by Selected Industry**

| | Number of CTRs filed in fiscal years 2014–2023[a] | Number accessed by law enforcement agencies in fiscal year 2023 (proportion) |
|---|---|---|
| **All CTRs** | **167,525,214** | **3,929,286 (2.3%)** |
| Missing/unknown[b] | 105,078,134 | 2,517,405 (2.4%) |
| 1. Food and beverage retailers | 8,702,093 | 154,144 (1.8%) |
| 2. Food services and drinking places | 8,513,308 | 132,395 (1.6%) |
| 3. Gasoline stations | 7,504,655 | 109,186 (1.5%) |
| 4. Administrative and support services | 5,297,020 | 120,337 (2.3%) |
| 5. Motor vehicle and parts dealers | 4,484,701 | 105,452 (2.4%) |
| 6. Credit intermediation and related activities | 4,383,286 | 128,048 (2.9%) |
| 7. Couriers and messengers | 3,795,634 | 72,940 (1.9%) |
| 8. Merchant wholesalers, durable goods | 2,293,877 | 74,319 (3.2%) |
| 9. Merchant wholesalers, nondurable goods | 2,202,856 | 60,853 (2.8%) |
| 10. Miscellaneous store retailers | 1,787,116 | 47,569 (2.7%) |
| All others | 23,732,101 | 706,998 (3.0%) |

Source: GAO analysis of agency data. | GAO-25-106500

Notes: Includes CTRs accessed through BSA Portal and CTRs accessed on the internal systems of IRS Criminal Investigation, U.S. Customs and Border Protection, the Organized Crime and Drug Enforcement Task Forces, and U.S. Immigration and Customs Enforcement. Systems differ in how they display CTR information and record CTR access. Industries are based on three-digit North American Industry Classification System (NAICS) codes. This analysis does not include CTRs accessed on FBI's internal system because FBI did not provide information on NAICS codes.

[a]The sum of CTRs by industry is higher than the total number of CTRs filed because a single CTR may report on parties in more than one industry. A CTR is counted for each industry reported, but multiple parties in the same industry are counted only once.

[b]NAICS code is a noncritical (nonrequired) field and CTRs may be filed without reporting a NAICS code for any party. Filers are expected to complete noncritical fields if they have direct knowledge of the information.

As discussed earlier, the BSA called for CTRs to be highly useful for law enforcement purposes. AMLA required Treasury to review CTR requirements and reporting thresholds to reduce unnecessary burdens on filers while maintaining usefulness for law enforcement. Our analysis shows that most CTRs are never accessed by law enforcement, suggesting room for optimization. FinCEN does not use access data to measure CTR usefulness or evaluate CTR requirements and instead relies on user surveys and other measures of value, according to FinCEN officials. By reducing less relevant CTR filings, FinCEN could reduce the burden on financial institutions while preserving valuable CTRs.

Additionally, our analysis identified characteristics of those CTRs that are most commonly accessed. In its efforts to reduce CTR filings, leveraging such data could assist FinCEN in targeting reductions of less useful CTRs.

## Changing the CTR Threshold Involves Balancing Law Enforcement Needs Against Filers' Compliance Burden

### CTR Filings Have Increased as Reporting Threshold Has Remained at 1972 Level

The CTR reporting threshold that Treasury established in 1972 has not been adjusted for inflation, possibly contributing to an increase in CTR filings.[97] CTR filings rose by about 62 percent between fiscal year 2002 and fiscal year 2023, from 12.9 million to 20.9 million. AMLA required Treasury to review the CTR threshold, taking into account factors such as the cost to financial institutions and whether CTR thresholds should be tied to inflation or otherwise be adjusted based on other factors consistent with the purposes of the BSA, including the BSA's objective of providing highly useful information to law enforcement.

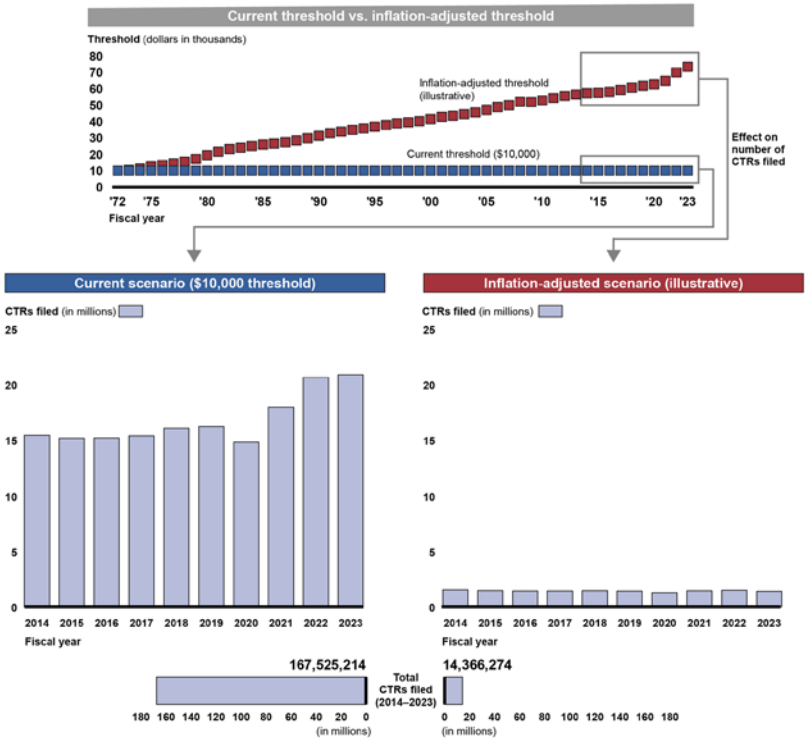
As inflation has increased nominal (unadjusted) prices of goods and services, the number of cash transactions made with financial institutions exceeding the fixed $10,000 CTR threshold would have likely increased as a result, holding other factors constant. The $10,000 threshold that was set in 1972 is equivalent to about $72,880 in 2023 dollars.[98] An inflation-adjusted threshold would have reduced the number of CTRs filed

[97]FinCEN officials told us the rationale for setting the threshold at $10,000 was not recorded and that it is unclear whether any formal analysis was conducted to support it. The officials said that the threshold may be related to 1945 rules created by Treasury. In implementing section 5(b) of the Trading with the Enemy Act, Treasury required monthly reporting for transactions over $10,000 made in any currency denomination, except when the financial institution determined the transaction to be legitimate. The Federal Register notice does not provide any analysis or explanation of the basis for determining the Trading with the Enemy Act threshold reporting requirements. Trading with the Enemy Act, Pub. L. 65-91, §5(b), 40 Stat. 411, 415 (1917) (codified as amended at 50 U.S.C. § 4305), and 10 Fed. Reg. 6547, 6556 (June 5, 1945).

[98]In this example and throughout this report, we use calendar year inflation from the Bureau of Labor Statistics' Consumer Price Index, unless specified otherwise.

by at least 90 percent in each fiscal year since 2014, with the percentage reduction increasing slightly each year (see fig. 10).

**Figure 10: Effect on Filing Volume If Currency Transaction Report (CTR) Threshold Had Been Adjusted for Inflation**




Source: GAO analysis of Financial Crimes Enforcement Network and Bureau of Labor Statistics data. | GAO-25-106500

Notes: We use fiscal year 2014–2023 data because comparable data were unavailable prior to fiscal year 2014. We use the fiscal year Consumer Price Index for All Urban Consumers provided by the Bureau of Labor Statistics to calculate the inflation-adjusted thresholds for each fiscal year. Between fiscal years 2014 and 2023, the inflation-adjusted threshold increased from $57,348 to $73,445. This figure portrays the inflation-adjusted threshold in fiscal year rather than calendar year inflation to align with FinCEN's fiscal year CTR data.

Factors other than inflation may also have affected the number of CTRs filed. Changes in consumer behavior, such as a further shift from cash to credit card payments during the COVID-19 pandemic, may have reduced CTR filings in fiscal year 2020.[99] CTR rule changes, such as those related to exemptions, may have decreased filings in 2009, according to a 2010 FinCEN study.[100] In addition, automation technology has increased the number of CTRs filed, particularly for aggregated CTRs, according to three bank and credit union representatives. All software vendors we interviewed said automated systems are more effective and efficient than human tellers at detecting and aggregating transactions over $10,000.

## Small Changes in the CTR Threshold Might Significantly Affect Compliance Burden

FinCEN conducted research on reducing CTRs that are not useful to law enforcement in 2004 through the BSA Advisory Group, which consisted of representatives from federal agencies, financial institutions, and other stakeholders.[101] This study included the evaluation of a possible recommendation to increase the CTR reporting threshold.[102] In 2019, FinCEN solicited input on this issue from users of BSA reports during an assessment of the benefits of BSA reporting. Neither effort resulted in changes to the threshold.

### Potential Effects of Change to CTR Threshold

Relatively small changes to the CTR threshold would significantly change the number of CTRs filed. Based on our analysis of fiscal year 2023 CTR data, a threshold of $20,000 would have reduced CTR filings by 65 percent (see fig. 11).

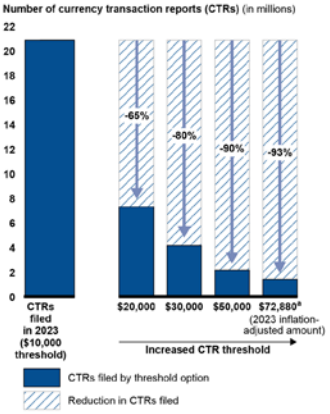
[99]This shift to credit cards was reported in Federal Reserve, Federal Reserve Financial Services, *2023 Findings from the Diary of Consumer Payment Choice,* (Atlanta, GA: May 5, 2023).

[100]Financial Crimes Enforcement Network, *Designation of Exempt Person (DOEP) & Currency Transaction Reporting (CTR): Assessing the Impact of Amendments to the CTR Exemption Rules Implemented on January 5, 2009,* (Vienna, VA: July 12, 2010).

[101]For example, the group's Subcommittee on CTRs considered options such as increasing the CTR reporting threshold to $20,000.

[102]For example, the group's Subcommittee on CTRs considered options such as increasing the CTR reporting threshold to $20,000.

**Figure 11: The Number of CTRs Filed in Fiscal Year 2023 Would Have Been Significantly Lower If the Reporting Threshold Had Been Raised**




Source: GAO analysis of Financial Crimes Enforcement Network data. | GAO-25-106500

[a]Inflation-adjusted amount calculated using Bureau of Labor Statistics' Consumer Price Index for All Urban Consumers for calendar year 2023.

Most bank and credit union representatives we interviewed stated that increasing the CTR threshold would decrease their compliance burden. A relatively modest increase of $5,000 to $20,000 could significantly reduce compliance costs, most bank and credit union representatives said.[103] Conversely, reducing the threshold could significantly increase compliance costs, according to many bank and credit union representatives we interviewed.

Small threshold changes could significantly affect staff costs due to incremental workload such as manual staff review for each CTR filed.

[103]In 2020, GAO reviewed a nongeneralizable sample of 11 banks and estimated that their total direct costs for complying with the BSA ranged from about $14,000 to about $21 million in 2018. See GAO, *Anti-Money Laundering: Opportunities Exist to Increase Law Enforcement Use of Bank Secrecy Act Reports, and Banks' Costs to Comply with the Act Varied*, GAO-20-574 (Washington, D.C.: Sept. 22, 2020).

Although automated systems are used, manual tasks like data entry, follow-up, and review are still necessary, according to financial institution representatives. These tasks, including pre-filing reviews, research, and collection of customer information, are the most burdensome aspects of CTR compliance, according to bank and credit union representatives.

Even if most CTRs require no staff intervention, significant resources are still devoted to manual review, according to two large bank representatives. Casinos in particular spend significant time manually collecting information from non-member players, sometimes relying on manual surveillance to aggregate transactions and collect identifying information, according to gaming industry representatives. Reviewing and aggregating 1 day's worth of CTRs usually takes 7 to 12 hours and can take up to 2 days during peak gaming periods, they said.

### FinCEN Time and Cost Estimates

Many financial institution representatives we interviewed disputed FinCEN's time and cost estimates for filing a CTR, saying that they were too low. In its 2020 regulatory filing to renew CTR requirements, FinCEN estimated a CTR takes about 8 minutes to file, in addition to the total annual cost burden for filing CTRs. Based on FinCEN's total annual cost burden estimate, we calculated that a CTR costs filers about $3.40 on average.[104] While three bank and credit union representatives said these were reasonable estimates, others provided significantly higher cost estimates, ranging from $10 to $81 per CTR.

Many representatives told us that FinCEN's estimate did not account for manual review and quality control processes, which they said add considerable time and cost. Bank and credit union representatives explained that CTR filing involves multiple staff levels, such as tellers to complete the CTR fields and middle managers and compliance specialists to review them. One bank representative said that the branch manager review alone can take about 45 minutes. Another bank

[104]FinCEN's 2020 Paperwork Reduction Act renewal of CTR requirements analyzed 2019 CTR filing data to estimate that CTR requirements impose a total annual cost burden of $54.7 million. Roughly 16 million CTRs were filed in 2019, so based on FinCEN's cost estimates, we calculated that compliance costs were roughly $3.40 per CTR on average. FinCEN's analysis recognized large differences in per-CTR burden between fully automated batch filers and other filers. On February 5, 2024, FinCEN issued an updated Paperwork Reduction Act estimate based on the 2020 Paperwork Reduction Act estimate. Based on the 2024 update, we calculated the average cost to file a CTR would be about $3.70.

representative noted the bank hires an outside consulting firm for CTR reviews, further increasing costs.

### Industry Recommendations for CTR Threshold and Alternatives

Many financial institution representatives we interviewed generally recommended increasing the CTR threshold. Six of the 13 banks and credit unions we interviewed suggested minimum threshold amounts between $15,000 and $30,000, while two suggested thresholds of $100,000 or more. Three representatives deferred to law enforcement agencies and regulators, and two did not provide an answer. Most other financial institutions recommended setting the CTR threshold at the inflation-adjusted amount (about $73,000) or at an amount between $20,000 and the inflation adjusted amount.

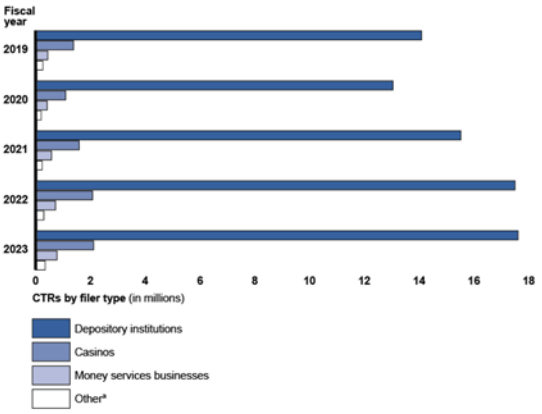
When asked about which potential alternatives to current CTR requirements would reduce compliance burden the most, seven of the 13 bank and credit union representatives preferred fully replacing CTRs with SARs (which report suspicious transactions). Six preferred reporting all cash transactions directly to FinCEN without a report. Other alternatives identified as potentially the most beneficial included removing aggregation requirements, streamlining the CTR form, and easing exemptions requirements.

A change in the CTR threshold may also reduce BSA compliance costs related to structuring SARs. Financial institutions are required to file SARs when they believe customers are attempting to break up transactions to remain under the threshold, as discussed earlier. FinCEN reported over 500,000 structuring SARs in 2023 related to transactions below the threshold. Increasing the CTR threshold might reduce the number of structuring SARs, thereby reducing the overall BSA compliance burden.

## Threshold Changes Could Affect Certain Filers More Than Others

In fiscal year 2023, depository institutions filed about 84 percent of CTRs, followed by casinos at about 10 percent and money services businesses at about 4 percent (see fig. 12). The top three individual filers, all large banks, accounted for nearly 30 percent of annual filings in each of the fiscal years 2022 and 2023.

**Figure 12: Currency Transaction Reports (CTR) Filed, by Filer Type, Fiscal Years 2019–2023**

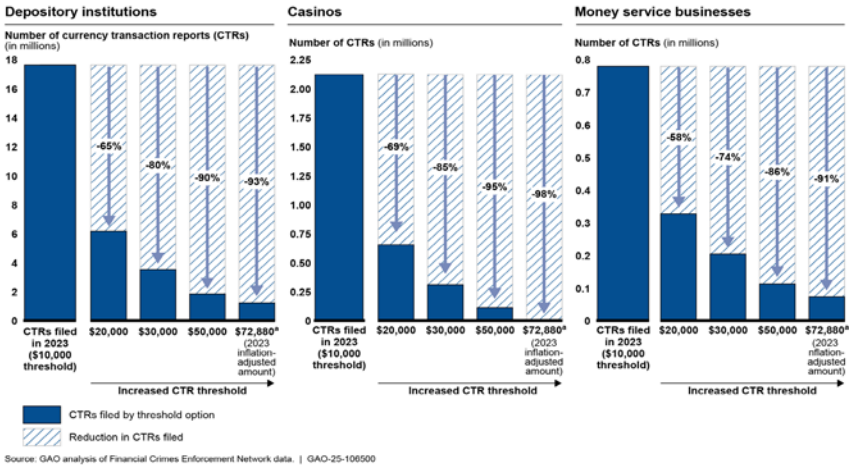



Source: GAO analysis of Financial Crimes Enforcement Network data. | GAO-25-106500

[a]This category includes CTRs filed by all other filer types (such as securities broker-dealers), CTRs with missing filer types, and CTRs for which filers selected "other," such as bank holding companies.

Because CTR compliance costs are tied to filing volume, changes to the threshold would affect filer types differently. Entities that file a high proportion of their CTRs close to the current threshold would see the greatest percentage reductions in filings, with casinos seeing the highest percentage reductions (see fig. 13).

Figure 13: Effect a Hypothetical Increase in CTR Threshold Would Have Had on Different Filer Types in Fiscal Year 2023




Source: GAO analysis of Financial Crimes Enforcement Network data. | GAO-25-106500

[a]Inflation-adjusted amount calculated using Bureau of Labor Statistics' Consumer Price Index for All Urban Consumers for calendar year 2023.

## Most Law Enforcement Agencies Support Maintaining the Current CTR Threshold

Most federal, state, and local law enforcement agencies we surveyed supported maintaining the $10,000 threshold. An estimated 76 percent of law enforcement agencies thought that increasing the threshold would negatively affect their ability to fight crime.[105] In interviews, some agencies expressed similar concerns. For example, Homeland Security Investigations officials said a higher threshold could hinder money

[105]The Financial Action Task Force develops and promotes policy recommendations that are recognized as international anti-money laundering standards. It recommends that countries consider establishing a large currency transaction reporting system as part of establishing a financial intelligence unit. However, the Financial Action Task Force does not specify a threshold at which it should be reported. See Financial Action Task Force (2012–2022), *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation* (Paris, France: Mar. 4, 2022).

laundering investigations by making it harder to prove a suspect's knowledge of the threshold. Officials from IRS-CI told us that a higher threshold would have a negative effect on its investigations and reduce the number of leads the agency reviews for investigative potential.

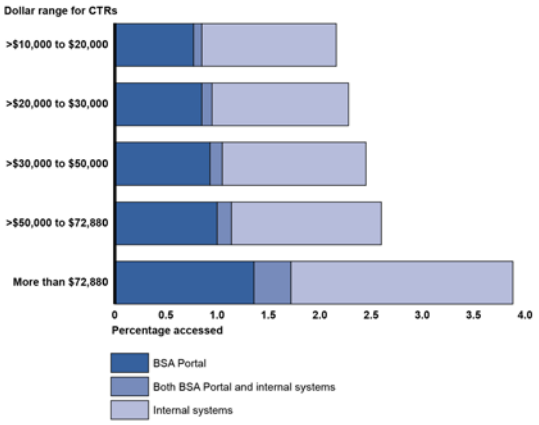
Federal, state, and local law enforcement, BSA compliance consultants, and think tanks we interviewed had mixed opinions on whether lowering the CTR threshold would be beneficial. One out of the 11 federal law enforcement agencies and one out of seven of the BSA compliance consultants and think tanks we interviewed advocated lowering the CTR threshold. In our survey, an estimated 52 percent of law enforcement agencies thought a lower threshold would benefit their agency, and an estimated 67 percent of those identifying an optimal threshold level selected an amount lower than $10,000.

However, some agencies noted drawbacks to a lower threshold, including unnecessary burden or irrelevant data. For example, officials from the Executive Office for United States Attorneys noted that U.S. Attorneys primarily focus on CTRs with high dollar values, making a threshold change less relevant to their investigations State and local law enforcement agencies we interviewed had mixed opinions on whether the threshold should be lowered.

Analysis of CTR access data indicates law enforcement agencies accessed a larger share of CTRs with higher dollar values than those with lower dollar values. In fiscal year 2023, agencies accessed just over 3.4 percent of CTRs filed from fiscal years 2014 through 2023 with dollar values over $50,000 and about 2.2 percent of CTRs with values under $50,000 in BSA Portal or agencies' internal systems (see fig. 14).[106] However, agencies still accessed more CTRs with values of $20,000 or less than those with higher dollar values due to the large number filed, despite viewing a smaller share of CTRs with values of $20,000 or less.

[106]We did not include CTRs accessed on the internal system of the FBI because we were not able to determine the extent to which CTRs accessed by FBI overlap with CTRs accessed by other law enforcement agencies because FBI did not provide us with FinCEN CTR identification numbers.

**Figure 14: Proportion of CTRs Filed in Fiscal Years 2014–2023 That Were Accessed by Law Enforcement in Fiscal Year 2023, by CTR Dollar Range**




Source: GAO analysis of data from Financial Crimes Enforcement Network's (FinCEN) Bank Secrecy Act (BSA) Portal and agencies' internal systems. | GAO-25-106500

Note: Access was through BSA Portal or agencies' internal systems, which included those of U.S. Immigration and Customs Enforcement, IRS Criminal Investigation, U.S. Customs and Border Protection, and Organized Crime and Drug Enforcement Task Forces. We did not include CTRs accessed on the internal system of the Federal Bureau of Investigation (FBI) because we were not able to determine the extent to which CTRs accessed by FBI overlap with CTRs accessed by other law enforcement agencies because FBI did not provide us with FinCEN CTR identification numbers.

## CTR Collection of Personal Information Has Led to Privacy Considerations

Most bank and credit union representatives told us that collecting personal information for CTRs can raise privacy considerations. Several noted that some parties may be reluctant to provide information needed for the CTR form, especially if they are not customers of the bank. This can include scenarios where an employee conducts a transaction on behalf of a business. Such individuals sometimes refuse to provide their information or leave without providing it, according to the representatives. Some financial institution representatives noted that CTR filing requirements can upset their customers.

Many bank and credit union representatives we interviewed said some customers that appear uncomfortable providing personal information will cancel a large transaction or break it up into smaller transactions to avoid triggering a CTR. This behavior may be considered structuring activity, a federal crime, and requires the institution to file a suspicious activity report with personal information and a narrative on the suspicious behavior.

Additionally, CTR aggregation requirements can lead to an increase in the amount of personal information reported through CTRs. Three bank representatives told us they collect personal information from conductors for cash transactions well below the $10,000 threshold in case aggregated transactions exceed the threshold and a CTR needs to be filed. This means that conductors for some cash-intensive businesses may have their personal information collected frequently.

Most think tank and privacy group representatives we interviewed generally opposed the collection of personal information for CTR reporting and most supported raising the CTR threshold. They expressed concerns about collecting personal information for legitimate transactions, the security of the information collected, and the effects of such collection on financial inclusion. Two representatives said that CTRs are not indicative of suspicious behavior and collecting information for legitimate transactions could lead to a vast database used for surveillance. One representative noted that reporting on legal transactions can negatively affect individuals' ability to freely purchase sensitive or personal items.[107]

Further, representatives from two think tank and privacy groups noted that some people may avoid traditional financial institutions due to privacy concerns. One of these representatives also noted that CTR reporting requirements create a disadvantage for communities that rely on cash, such as undocumented or low-income individuals. This is consistent with a 2021 Federal Deposit Insurance Corporation (FDIC) survey, which

[107]In *United States v. Miller*, the Supreme Court held that individuals do not have a reasonable expectation of privacy under the Fourth Amendment in their financial records maintained by a bank. This case established that the Fourth Amendment does not prohibit the obtaining of information revealed to a third party and conveyed to government authorities, even if the information is revealed on the assumption that it will be used only for a limited purpose and that the confidence placed in the third party will not be betrayed. See *United States v. Miller*, 425 U.S. 435 (1976).

found that avoiding banks to have more privacy was the third-most cited reason by unbanked individuals for not having a bank account.[108]

## Conclusions

CTRs play an important role in helping law enforcement combat money laundering, terrorism financing, and other financial crimes. However, opportunities exist to reduce unnecessary burden on filers while maintaining the usefulness of CTRs for law enforcement:

- **Streamlining CTR fields.** Evidence indicates that certain noncritical fields on CTRs were burdensome for filers to complete and not highly useful for law enforcement. Identifying and eliminating such fields could reduce unnecessary filer burden while still providing highly useful information to law enforcement.
- **Clarifying aggregation requirements.** Many financial institutions identified challenges complying with aggregation requirements, and their interpretations of these requirements was inconsistent. Simplifying and clarifying these requirements could make CTR compliance easier and less burdensome.
- **Establishing CTR-specific performance management.** FinCEN has some performance goals and measures for BSA reports overall, but none that are specific to CTRs. Establishing a CTR-specific performance management process, including related goals and measures, would enable FinCEN to better assess the effectiveness of CTRs in achieving statutory objectives and identify areas for enhancement.
- **Optimizing the number of CTRs required.** CTR filings have increased substantially over the years, in part because the reporting threshold has never been adjusted for inflation and eligibility for exemptions is limited. Yet law enforcement agencies access relatively few CTRs. By taking steps to reduce the number of unused CTRs, such as by raising the reporting threshold or expanding exemptions, FinCEN has opportunities to reduce reporting burdens without compromising the value of CTRs to law enforcement. An analysis of existing data on the characteristics of CTRs rarely accessed by law enforcement would help inform such an effort.

[108]Federal Deposit Insurance Corporation, *2021 FDIC National Survey of Unbanked and Underbanked Households*, (Washington, D.C.: Oct. 2022).

## Recommendations for Executive Action

We are making a total of four recommendations to Treasury:

The Secretary of the Treasury should ensure that the Director of FinCEN takes steps to eliminate CTR data fields that are unnecessarily burdensome for filers and of little use to law enforcement. This could be done as part of FinCEN's AMLA review or through a different method. (Recommendation 1)

The Secretary of the Treasury should ensure that the Director of FinCEN takes steps to simplify and clarify aggregation requirements. This could be done as part of FinCEN's AMLA review or through a different method. (Recommendation 2)

The Secretary of the Treasury should ensure that the Director of FinCEN establishes a performance management process that defines performance goals and measures for monitoring the usefulness of CTRs. (Recommendation 3)

The Secretary of the Treasury should ensure that the Director of FinCEN takes steps to reduce the number of CTRs filed that are not used by law enforcement, such as by raising the reporting threshold or expanding criteria to allow for further exemptions. These actions should be informed by an analysis of the characteristics of CTRs that have been less likely to be accessed by law enforcement. (Recommendation 4)

## Agency Comments and Our Evaluation

We provided a draft of this report to Treasury (including FinCEN), CFTC, the National Credit Union Administration, the Department of Homeland Security, the Department of the Interior, DOJ, the Federal Reserve, FDIC, IRS, the Office of the Comptroller of the Currency, and SEC for their review and comment.

In its written comments, reproduced in appendix V, FinCEN concurred with our four recommendations and stated it would address them as part of its required AMLA reviews. The National Credit Union Administration provided a letter acknowledging our observations, which is reproduced in appendix VI. The Department of Homeland Security, DOJ, FDIC, FinCEN, and the Office of the Comptroller of the Currency provided technical comments on the draft report, which we incorporated as appropriate. CFTC, the Department of the Interior, Federal Reserve, and SEC did not have any comments.

IRS-CI's audit liaison provided comments via email. The comments included a technical comment, which we incorporated as appropriate. In

addition, IRS-CI stated that while it agreed with some aspects of the report, it had concerns that the report does not accurately convey the value of CTRs at the current threshold. The agency suggested we better quantify "filer burden," including with data on the time required for a CTR filing and the proportion of financial institutions finding it burdensome. However, our report already includes data from FinCEN's 2020 Paperwork Reduction Act review on the estimated time frame for filing a CTR and overall annual CTR cost burden and further analyzes these data to determine a per-filing cost.

IRS-CI's comments also stated that our report could better reflect the multiple ways law enforcement may access CTRs, such as through agencies' internal systems. As discussed in the report, our analyses captured the multiple ways law enforcement accessed CTRs, including through internal systems, and we present that information in the report. In response to IRS-CI's comments, we added some of that information to the report's highlights page. In addition, our analysis of CTRs accessed by law enforcement included indirect searches, such as those made through task forces. Further, appendixes III and IV provide detailed information, including on which law enforcement agencies accessed CTRs, how often, at what transaction values, and for what purposes.

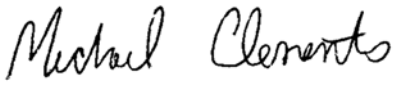
IRS-CI disagreed with the report's suggestion that raising the reporting threshold could be done without compromising the value of CTRs to law enforcement. The agency noted it supports maintaining the current threshold, based on its analysis of usage, and that raising it would have a serious negative impact on the agency's mission capability. In response, we added additional information on IRS-CI's position. In addition, our report acknowledges the value of CTRs that are actually used and presents survey findings that most law enforcement agencies believe increasing the threshold would negatively affect their crime-fighting ability.

Further, our report's fourth recommendation calls on FinCEN to reduce the number of CTRs filed that are not used by law enforcement, with raising the reporting threshold as just one possible avenue. As we note in the recommendation, any actions taken should be informed by an analysis of the characteristics of CTRs less likely to be accessed, which are of less value to law enforcement.

We are sending copies of this report to the appropriate congressional committees, the Secretary of the Treasury, the Attorney General, the Secretary of the Interior, the Secretary of Homeland Security, the Commissioner of the IRS, the Chairman of CFTC, the Chairman of FDIC,

the Chairman of the Federal Reserve, the Chairman of the National Credit Union Administration, the Acting Comptroller of the Currency, the Chair of SEC, and other interested parties. This report will also be available at no charge on our website at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-8678 or ClementsM@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix VII.



Michael E. Clements
Director, Financial Markets and Community Investment

# Appendix I: Objectives, Scope, and Methodology

This report examines (1) how currency transaction report (CTR) requirements have changed since they were established, and the extent to which these requirements align with statutory objectives; (2) the extent to which CTRs provide useful information to law enforcement; and (3) the potential effects of changing the CTR threshold. The scope of our review was use of CTRs by law enforcement agencies and not other entities, including intelligence agencies.

## Review of CTR Requirements and Alignment with Statutory Objectives

For our first objective, we reviewed relevant laws, including the Currency and Foreign Transactions Reporting Act of 1970 (also known as the Bank Secrecy Act, or BSA), Money Laundering Suppression Act of 1994, and the Anti-Money Laundering Act of 2020 (AMLA). We also reviewed FinCEN's regulations implementing these statutes. In addition, we reviewed CTR-related guidance and administrative rulings, and documentation from the Financial Crimes Enforcement Network (FinCEN), such as past and current CTR forms, filing instructions, and user guides to identify changes to CTR requirements.

Through our review of the relevant laws, we identified the statutory objectives of CTRs, including the key objective of providing highly useful information to law enforcement. We compared FinCEN's CTR requirements, guidance, and administrative rulings against the statutory objectives to determine the extent to which they align. We also assessed the steps FinCEN has taken to comply with AMLA requirements related to CTRs. Finally, we assessed the extent to which FinCEN used performance measurement key practices identified in our prior work, such as defining performance goals that cover all programs and activities.[1] We also assessed the extent to which FinCEN used the performance management process to implement CTR-related statutory objectives.

## Survey on Law Enforcement Agencies' Use of CTRs

To collect information on how law enforcement agencies use CTRs and the extent to which CTRs provide important information for their work, we administered a web survey. The survey was administered between November 1, 2023, and January 31, 2024, to a population of all 327 law

[1]See, for example, GAO, *Evidence-Based Policymaking: Practices to Help Manage and Assess the Results of Federal Efforts*, GAO-23-105460 (Washington, D.C.: July 2023); *The Results Act: An Evaluator's Guide to Assessing Agency Annual Performance Plans*, GAO/GGD-10-1.20 (Washington, D.C.: Apr. 1, 1998); and *Executive Guide: Effectively Implementing the Government Performance and Results Act*, GAO/GGD-96-118 (Washington, D.C.: June 1, 1996).

enforcement agencies with access to CTRs.[2] Survey questions included those related to

- perspectives on CTR usefulness,
- perspectives on specific CTR fields,
- preferences on potential changes to the CTR threshold, and
- frequency of use of CTRs.

To develop the survey, we reviewed FinCEN documentation and prior GAO work on CTR requirements, as well as prior GAO work on law enforcement use of BSA reports.[3] We pretested our survey on a judgmental sample of four agencies. In selecting those agencies, we included one federal, one state, and two local agencies with access to BSA reports. We additionally selected at least one agency each that (1) used Agency Integrated Access in addition to BSA Portal, (2) served as a state coordinator, (3) worked as a prosecutorial agency, and (4) was a heavy, midsize, and light user of BSA reports. Finally, the four agencies were not from the same regions of the U.S. We selected a number of alternate agencies after some selected agencies did not respond or declined to participate in the pretest.

All law enforcement agencies included in the survey population had an active memorandum of understanding with FinCEN to access CTRs as of June 30, 2023. The survey population included Offices of Inspectors General, tax fraud investigators, and agencies with criminal tax investigations. We excluded intelligence agencies that have access to CTRs.

To encourage participation in the survey, we sent law enforcement agencies notices that they would receive the survey, and we conducted follow-up. Follow-up included calling agencies to remind them about the

[2]We distributed surveys directly to law enforcement agencies' point of contact for accessing Bank Secrecy Act (BSA) data, except for the Department of Justice (DOJ). For DOJ, we coordinated the distribution of the web survey through the DOJ liaisons rather than directly through the BSA access liaison.

[3]GAO, *Bank Secrecy Act: Action Needed to Improve DOJ Statistics on Use of Reports on Suspicious Financial Transactions*, GAO-22-105242 (Washington, D.C.: Aug. 25, 2022); *Anti-Money Laundering: Opportunities Exist to Increase Law Enforcement Use of Bank Secrecy Act Reports, and Banks' Costs to Comply with the Act Varied*, GAO-20-574 (Washington, D.C.: Sept. 22, 2020); and *Bank Secrecy Act: Increased Use of Exemption Provisions Could Reduce Currency Transaction Reporting While Maintaining Usefulness to Law Enforcement Efforts*, GAO-08-355 (Washington, D.C.: Feb. 21, 2008).

survey, ensuring they received the survey link, and answering any questions they had about accessing the survey.

We received 197 responses out of a total population of 327 law enforcement agencies, for a 60 percent response rate. We used logistic regression models on our survey data to look for correlation with the propensity to respond among agency administrative levels (federal, state, and local). We detected response bias among federal agencies and found that state and local agencies were about 62 percent more likely to respond to the survey than federal agencies, with an odds ratio of 1.62, statistically significant at the 95 percent confidence level. We adjusted sample weights to ensure that estimates are generalizable to the population of law enforcement agencies with direct access to BSA reports, as well as to reflect the response bias identified. We express our confidence in the precision of our sample's results at a 95 percent confidence interval.

We analyzed the survey results in aggregate and by subgroups (for example, federal, state, and local levels), when applicable. We do not report any results by subgroup or response category that contained fewer than 20 responses to protect respondent confidentiality and ensure statistical precision.

## Analysis of Data on CTR Filings and Characteristics

For our second objective, we obtained and analyzed data from FinCEN on the number and characteristics of CTRs filed in fiscal years 2014–2023 and law enforcement access to those CTRs through FinCEN's BSA Portal for fiscal years 2014–2023. Specifically, we obtained data from FinCEN's BSA database, as of September 2023, with additional updates provided through April 2024, on all CTRs filed in the 10-year period. These data included the BSA ID number and CTR fields such as filing financial institution type, transaction dollar values, and number and industry of parties on the CTR.

We analyzed the CTR data to assess the composition of the CTR database over the 10-year period. We used the filer type field reported on Part IV of the CTR form, which was added to the form in 2017. Because 2019 was the first full fiscal year in which nearly all CTRs reported filer type on Part IV, our analyses that included filer type only used data from fiscal years 2019–2023. Because CTRs aggregate cash deposits and withdrawals separately, we used the greater of a CTR's cash in or cash out value to define the transaction dollar value of a CTR for the purposes of our analyses. We defined a CTR that reported on a business as any

CTR for which the entity indicator on Part I was checked for at least one party.

## Analysis of CTRs Accessed by Law Enforcement on BSA Portal

To determine which CTRs were accessed by law enforcement through FinCEN's BSA Portal, we obtained data from BSA Portal as of April 2024 for CTRs filed in fiscal years 2014–2023. The BSA Portal access data included a record of each instance in which a user from a law enforcement agency viewed a CTR on-screen or downloaded a CTR in fiscal years 2014–2023. The data included information about the CTR accessed, the law enforcement agency accessing the CTR, and the date accessed. We then analyzed the characteristics of CTRs accessed by law enforcement agencies through BSA Portal, such as transaction dollar amount and filer type.

We also obtained summary data from FinCEN on law enforcement access to all CTRs through BSA Portal in fiscal years 2019–2023 (including those filed before 2014). We used the summary data to describe the extent of law enforcement access to CTRs through BSA Portal over the most recent full 5-year period. We present analyses of the BSA Portal summary access data in appendix III.

To assess the reliability of the CTR data and the BSA Portal access data, we conducted electronic and manual data testing, reviewed related documentation including CTR forms and filing guides, and interviewed knowledgeable agency officials. We determined that these data were sufficiently reliable for the purpose of describing key characteristics of CTRs, including which CTRs were accessed by law enforcement.

For purposes of these analyses, an "agency" is any law enforcement entity that has a memorandum of understanding with FinCEN for access to BSA reports through BSA Portal or Agency Integrated Access. Because each U.S. Attorney's Office negotiates a separate memorandum of understanding with FinCEN, each office that has access is counted as a federal law enforcement agency.

## Analysis of CTRs Accessed by Law Enforcement on Agencies' Internal Systems

To determine which CTRs were accessed by law enforcement on agency internal systems, we obtained and analyzed available data on user access to CTRs in the internal systems of five law enforcement agencies that have Agency Integrated Access agreements with FinCEN. Agency Integrated Access, formerly called bulk data access, permits agencies to download CTRs and other BSA reports in bulk from FinCEN and allows agency personnel to access BSA reports on internal systems. As of June 2024, there were six agencies within scope that had Agency Integrated

Access. One of the six—the U.S. Secret Service—was in the process of configuring its systems and investigative personnel did not yet have access to CTRs on internal systems as of December 2023, according to officials.

We obtained data on CTRs accessed in the internal systems of the other five agencies with Agency Integrated Access. We then analyzed the number and characteristics of CTRs accessed on these agencies' internal systems in fiscal year 2023, the most recent full year and the year for which we were able to obtain the most complete data. The agencies' internal systems varied in the way they record access to CTRs (see table 8). Data we obtained from the Federal Bureau of Investigation's internal system contained a different unique identifier for accessed CTRs instead of the BSA identification number used by FinCEN and other agencies. For that reason, we were unable to determine the extent to which CTRs accessed on the Federal Bureau of Investigation's internal system were also accessed on other systems.

**Table 8: Agency Internal Systems Providing Currency Transaction Report (CTR) Access Data**

| Agency | System(s) | System event(s) recorded as CTR access |
|---|---|---|
| Federal Bureau of Investigation | Data Integration and Visualization System | A user views the full CTR transcript |
| U.S. Immigration and Customs Enforcement | Repository for Analytics in a Virtualized Environment[a] | A user views the full CTR transcript |
| Organized Crime and Drug Enforcement Task Forces | OCDETF Fusion Center Compass data warehouse | A user views or downloads the full CTR transcript |
| U.S. Customs and Border Protection | Analytical Framework for Intelligence, Automated Targeting System | A user views the full CTR transcript, or information from the CTR is displayed on a summary screen in response to a user's search[b] |
| IRS Criminal Investigation | Lead and Case Analytics | A user loads a page that has information from the CTR or downloads the CTR |

Source: GAO presentation of information from listed agencies. | GAO-25-106500

[a]Access data were available from June 29 through September 30, 2023, for U.S. Immigration and Customs Enforcement's recently implemented system. The agency also provided summary data on CTR appearances in search results on an older system, Integrated Case Management.

[b]U.S. Customs and Border Protection provided separate CTR access data for "summary views" and instances where users viewed the full CTR transcript. We chose to include both summary views and full transcript views in our analysis of CTR access because officials told us that agency personnel typically use information from the summary screen in their workflows and rarely elect to view the entire transcript. Officials told us some users accessed CTRs through automated searches.

To assess the reliability of these data, we conducted electronic and manual data testing, reviewed related documentation, and interviewed

knowledgeable agency officials. Agency systems differ in how CTR information is displayed, how users typically access CTR information, and how CTR access is recorded in the system. For example, some agencies only accessed CTRs by viewing them individually on-screen, while others also accessed CTRs by searching them with automated scripts or viewing CTR information on summary screens along with information from other sources. CTR access does not necessarily mean that law enforcement personnel reviewed the CTR or used it in their work. We found the data sufficiently reliable to describe the extent to which CTRs were accessed on agency internal systems in fiscal year 2023.

We also obtained access data from a secondary IRS Criminal Investigation system, Investigative Data Examination Application, but we found that these data were not sufficiently reliable to describe CTR access in fiscal year 2023 because they showed improbable patterns of access that were not sufficiently explained. We did not include these data in our analyses.

To help determine the extent to which CTRs provide useful information to law enforcement, we also reviewed prior GAO reports, Inspector General reports, and other studies on the use of and access to CTRs by law enforcement and others. We assessed FinCEN's use of its data to inform decisions on CTR policy against BSA and AMLA statutory provisions.

## Review of Potential Effects of Changing the CTR Threshold

To determine the potential effects of changing the CTR threshold, we used FinCEN's data on CTR filings described earlier to assess the impact of inflation on the increase in CTR filings between 2014 and 2023. To show the hypothetical change in CTRs filed in each year with an inflation-adjusted CTR threshold, we used fiscal year Consumer Price Index data and BSA Portal CTR data to calculate the inflation-adjusted threshold and corresponding reduction in CTRs filed for each fiscal year from 2014 through 2023.[4] This analysis provided a hypothetical scenario to illustrate the potential effect of an inflation-adjusted CTR threshold on the number of filings.

We also used the CTR data described in our second objective to identify how changes to the CTR threshold might affect the volume and characteristics of CTRs filed at various threshold levels (e.g., $20,000, $30,000, $50,000, and an inflation-adjusted level). We analyzed CTR

[4]We used calendar year Consumer Price Index for All Urban Consumers data in all other analyses.

filling amount data and compared the number of CTRs filed in 2023 with the hypothetical number of CTRs filed at each of the selected threshold levels. We also compared CTRs filed in 2023 with the hypothetical number of CTRs filed at different threshold levels by filer type, including depository institutions, casinos, and money services businesses.

We also used data on law enforcement CTR accesses to analyze how frequently law enforcement accessed CTRs at the selected thresholds. Finally, we reviewed prior GAO reports and documentation on CTR reporting requirements, including comment letters and international standards. We also reviewed industry and other stakeholder studies and Congressional testimony related to CTRs.

## Interviews with Federal Agencies

For all three objectives, we interviewed officials from the Department of the Treasury's Office of Terrorism and Financial Intelligence and FinCEN, and the following federal law enforcement agencies and federal financial regulators.

- **Federal law enforcement agencies:** Internal Revenue Service's Criminal Investigation in the Department of the Treasury; Drug Enforcement Administration; Executive Office for U.S. Attorneys; Federal Bureau of Investigation, Money Laundering and Asset Recovery Section; Organized Crime Drug Enforcement Task Forces in the Department of Justice; U.S. Customs and Border Protection; U.S. Immigration and Customs Enforcement's Homeland Security Investigations; and U.S. Secret Service in the Department of Homeland Security; and Bureau of Indian Affairs in the Department of the Interior.
- **Financial regulators:** Federal Deposit Insurance Corporation (FDIC), Board of Governors of the Federal Reserve System, National Credit Union Administration, Office of the Comptroller of the Currency, Commodity Futures Trading Commission, Securities and Exchange Commission, and the Internal Revenue Service.

Our interviews with these agencies covered their use of CTRs and the importance of CTRs in their work. Nine of the law enforcement agencies were selected because they were the top five law enforcement users of BSA Portal or had Agency Integrated Access agreements with FinCEN. They included both investigative and prosecutorial agencies. We also interviewed the Bureau of Indian Affairs' Office of Justice Services to obtain information on its use of CTRs to support tribal law enforcement agencies and provide law enforcement services to Tribes.

## Interviews with Tribal, State, and Local Law Enforcement Agencies

We also interviewed one tribal and nine state and local law enforcement agencies about their use of CTRs and the extent to which CTRs provide important information for their work.

We identified tribal law enforcement agencies by considering agencies that (1) were among the largest tribal law enforcement agencies (top 11) based on data from a 2018 Department of Justice census of tribal, state, and local law enforcement agencies; (2) had requested a BSA search between 2019 and 2022; and (3) were suggested by the Bureau of Indian Affairs in an interview. Of those Tribes identified using these criteria, we interviewed one tribal law enforcement agency that met two of the three criteria (among the largest tribal law enforcement agencies and recommended by the Bureau of Indian Affairs) and agreed to speak with us.

We identified state and local law enforcement agencies that had direct access to BSA data through a memorandum of understanding with FinCEN. We then selected nine agencies that reflected a range of types, locations, and number of CTRs accessed.

We also interviewed four umbrella organizations representing tribal, state, and local law enforcement agencies.[5] We selected these organizations because they were cited by agency and other sources as supporting intelligence gathering or sharing efforts.

## Interviews with Depository Institutions and Software Vendors

**Depository institutions.** We conducted semi-structured interviews with a nongeneralizable sample of 13 depository institutions (banks and credit unions) to determine how CTR reporting requirements affect depository institutions' operations, costs, and customer service. We selected our sample to reflect a range of depository institution types (credit union and community, regional, or national bank) and asset sizes (total assets). We restricted our sample to insured U.S. banks with traditional retail banking

[5]We considered umbrella organizations to be advisory groups, research groups, or nonprofit organizations advocating for, or representing, different types of law enforcement agencies or attorney general's offices (e.g., tribal, state, local) or law enforcement positions/roles (e.g., sheriffs, chiefs).

services (deposit taking and lending) and excluded certain types of nontraditional banks.[6]

We created a dataset of institutions using publicly available call report data from the National Credit Union Administration and FDIC bank data for FDIC-insured institutions for the third quarter of fiscal year 2023. We categorized institutions into credit unions, community banks (assets less than $10 billion), regional banks (assets between $10 and $100 billion), and large banks (assets greater than $100 billion). The number of institutions we selected from each category was based on the number of institutions and the percentage of total assets held by each category (see table 9).

We drew random samples of institutions in each category from our dataset of institutions, reviewed them to ensure they met our criteria, and verified they filed at least one CTR in 2023. If a selected institution did not meet our criteria or its officials did not respond, we contacted the next institution in the random sample until we reached the desired number of interviews for each category.

**Table 9: Key Sample Weighting Criteria for Depository Institution Interviews**

| Institution category (number selected) | Asset size for category | Regulators represented in each category | Percentage of total assets held per category (%) | Total number of institutions in each category |
|---|---|---|---|---|
| Large (4) | More than $100 billion | OCC, Federal Reserve | 64% | 29 |
| Regional (2) | Between $10 and $100 billion | FDIC | 13% | 122 |
| Community (4) | Less than $10 billion | FDIC, Federal Reserve | 14% | 4,434 |
| Credit union (3) | Not applicable | NCUA | 9% | 4,742 |

Legend:

Federal Reserve = Board of Governors of the Federal Reserve System

[6]We focused our interviews to federally insured U.S. banks and credit unions. We excluded foreign banks and their U.S. branches, banks with nontraditional accounts, consumer nonbanks and industrial loan companies, trust companies, banker's banks, credit card banks, bank holding companies and banks directly owned by other banks, banks established within 3 or fewer years, and credit unions, community banks, or regional banks recently part of a merger or acquisition. After selecting our banks, we also reviewed the sample to ensure that at least one bank in our sample was overseen by each federal banking regulator (Office of the Comptroller of the Currency , National Credit Union Administration , Federal Reserve, and FDIC).

OCC = Office of the Comptroller of the Currency

FDIC = Federal Deposit Insurance Corporation

NCUA = National Credit Union Administration

Source: GAO analysis of FDIC and NCUA data. | GAO-25-106500

Our interviews with these bank and credit union representatives covered topics that included costs associated with filing CTRs, FinCEN guidance, alternatives to the CTR threshold, and customer privacy concerns.

**Software vendors.** We conducted semi-structured interviews with representatives of four automation technology companies to collect information on CTR requirements, how their software supports CTR filers' CTR compliance, compliance costs, and their perspectives on the reporting threshold. To identify potential vendors, we consulted industry associations, BSA and anti-money laundering experts, and financial institution regulators, resulting in a list of 12 vendors. We selected a nongeneralizable sample of four vendors because they were frequently mentioned in our interviews, offered a variety of products, and served a range of financial institutions.

## Interviews with Industry Associations, Experts, and Privacy Groups

In addition, we conducted semi-structured interviews with representatives from nongeneralizable samples of organizations to identify specific limitations or challenges related to CTRs and views on improving or streamlining CTR requirements.[7] In addition to individual selection criteria described below, we selected these organizations because they filed comment letters related to CTRs on recent FinCEN rulings and information requests, or demonstrated expertise in anti-money laundering issues.[8]

[7]The 11 industry association interviews generally included staff from (1) industry associations and (2) financial institutions that were members of the association. We collectively refer to these staff as "financial institution representatives" throughout this report, unless otherwise noted. We refer to consultants with expertise in overall anti-money laundering topics and compliance technology as "BSA compliance consultants" and refer to think tank and policy groups that address privacy, civil liberty, and other related concerns as "think tank and privacy group representatives".

[8]We reviewed comments made in response to a Request for Information and an Advanced Notice of Proposed Rulemaking. The request for information sought comment on ways to streamline, modernize, and update the anti-money laundering and countering the financing of terrorism regime to protect U.S. national security in a cost-effective and efficient manner. FinCEN received 140 comments. See 86 Fed. Reg. 71201 (Dec. 15, 2021). The Advanced Notice of Proposed Rulemaking sought public comment on potential regulatory amendments that would establish that all covered financial institutions must maintain an "effective and reasonably designed" anti-money laundering program. FinCEN received 110 comments. See 85 Fed. Reg. 58023 (Sept. 17, 2020).

**Industry associations.** We interviewed 11 industry associations that represent different types of financial institutions required to file CTRs—banks, credit unions, casinos, and money services businesses.[9] These institution types were chosen because FinCEN's 2020 Paperwork Reduction Act review of CTR requirements identified their members as filing nearly all (99 percent) CTRs.

**BSA and anti-money laundering experts and consultants.** We interviewed three BSA and anti-money laundering experts and consultants, selected because they had (1) prior work experience in BSA and anti-money laundering fields (such as roles at FinCEN), (2) consulting experience for major financial institutions, (3) demonstrated policy expertise, or (4) anti-money laundering accreditations.

**Think tanks and privacy groups.** We interviewed four think tank and policy groups that address privacy, civil liberty, and other related concerns, selected because their comment letters had raised issues relevant to BSA and anti-money laundering legislation, including CTRs.[10]

We conducted this performance audit from January 2023 to December 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[9]The industry associations were the American Bankers Association, American Gaming Association, Bank Policy Institute, Credit Union National Association, Independent Community Bankers of America, INFiN, Mid-Size Bank Coalition of America, Money Services Business Association, National Association of Federally-Insured Credit Unions, National Association of State Credit Union Supervisors, and the Wolfsberg Group.

[10]The four groups were the Brookings Institution, the Cato Institute, the Heritage Foundation, and the American Civil Liberties Union.

# Appendix II: GAO Survey of Law Enforcement Use of Currency Transaction Reports

## Survey Development

We conducted a web-based survey of law enforcement agencies with direct access to currency transaction reports (CTRs). The survey aimed to understand these agencies' use of CTRs and their perspectives on CTR usefulness. We surveyed all 327 law enforcement agencies that had an active memorandum of understanding with FinCEN to access CTRs and other Bank Secrecy Act (BSA) reports as of June 30, 2023.

We administered the survey from November 1, 2023, to January 31, 2024. We received valid responses from 197 agencies, representing a 60 percent response rate. To ensure the survey results are generalizable to the population, we adjusted sample weights. We express our confidence in the precision of our estimates as a 95 percent confidence interval. For a more detailed discussion of our survey methodology see appendix I.

The survey consisted of 18 multiple choice questions that explored the purposes for which law enforcement agencies used CTRs, the importance of CTRs and specific data fields, alternatives to CTRs, and the potential effects of changing the CTR threshold. The survey also provided respondents opportunities to supply additional information for most of their multiple-choice answers and to submit additional text responses. Most questions that included a date range for respondents' use of CTRs and other BSA reports covered the period since January 1, 2021 (approximately the previous 3 years). Some questions asked about their use since January 1, 2023 (approximately the previous year).

## Survey Results

Table 10 provides information on the survey respondents and tables 11 through 28 provide the questions from the survey and the responses to its individual questions.[1]

**Table 10: Valid Survey Responses by Government Level and Primary Function**

| | Valid survey responses |
|---|---|
| **All agencies** | 197 |
| **Government level** | |
| Federal law enforcement agencies | 89 |
| State law enforcement agencies | 53 |
| Local law enforcement agencies | 55 |
| **Primary function** | |

[1]We do not report any results by subgroup or response category that contained fewer than 20 responses to protect respondent confidentiality and ensure statistical precision.

| | Valid survey responses |
|---|---|
| Investigative agency | 105 |
| Prosecutorial agency | 47 |
| Multi-function agency | 45 |

Source: GAO. | GAO-25-106500

Note: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with the Financial Crimes Enforcement Network to access Bank Secrecy Act reports as of June 30, 2023.

**Table 11: Since January 1, 2021, did your agency use currency transaction reports in connection with investigations or prosecutions?**

| | Estimated percentage | 95 percent confidence interval |
|---|---|---|
| Yes | 96% | 93–99% |
| No | * | * |

Source: GAO. | GAO-25-106500

*Estimated percentages and confidence intervals for categories chosen by fewer than 20 respondents are not reported.

Notes: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with the Financial Crimes Enforcement Network to access Bank Secrecy Act reports as of June 30, 2023. Upper- and lower-bound 95 percent confidence intervals are provided for each estimate.

**Table 12: How often does your agency use each of the following methods to access currency transaction reports?**

| | At least occasionally | | Rarely or never | |
|---|---|---|---|---|
| | Estimated % | 95% CI | Estimated % | 95% CI |
| **Direct searches of FinCEN's BSA Portal/Search** | 93% | 89–96% | * | * |
| Federal | 92% | 86–98% | * | * |
| State or local | 96% | 92–100% | * | * |
| **Request to another agency or FinCEN to conduct searches** | 18% | 12–24% | 82% | 76–88% |
| Federal | 27% | 17–37% | 73% | 63–83% |
| State or local | * | * | 90% | 84–96% |
| **Internal agency system that receives bulk data download access from FinCEN** | * | * | 88% | 82–93% |
| Federal | * | * | 81% | 71–91% |
| State or local | * | * | 93% | 88–98% |
| **Receive referral, alert, or analysis (including "lead packages") of BSA reports from your agency, another agency, FinCEN, SAR review team, or Task Force** | 45% | 38–53% | 55% | 47–62% |
| Federal | 57% | 46–68% | 43% | 32–54% |

| | At least occasionally | | Rarely or never | |
|---|---|---|---|---|
| | Estimated % | 95% CI | Estimated % | 95% CI |
| State or local | 36% | 26–45% | 64% | 55–74% |
| **Directly from financial institution through due process, 314(a) program, or other method[a]** | 32% | 25–39% | 68% | 61–75% |
| Federal | 38% | 27–49% | 62% | 51–73% |
| State or local | 29% | 20–39% | 71% | 61–80% |

Legend: Estimated % = estimated percentage; 95% CI = 95 percent confidence interval; FinCEN = Financial Crimes Enforcement Network; BSA = Bank Secrecy Act.

Source: GAO. | GAO-25-106500

*Estimated percentages and confidence intervals for categories chosen by fewer than 20 respondents are not reported.

Notes: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with FinCEN to access BSA reports as of June 30, 2023. Upper- and lower-bound 95 percent confidence intervals are provided for each estimate. We use the term "at least occasionally" to cover survey responses that reported using access methods "occasionally" or "frequently." The response options to this survey question were "frequently," "occasionally," "not often," "never," and "don't know."

[a]FinCEN's 314(a) program enables law enforcement agencies to contact U.S. financial institutions through FinCEN to locate accounts and transactions of subjects that may be involved in terrorism or money laundering.

**Table 13: Does your agency have a standard practice to search currency transaction reports (either specifically or as part of a broader search of Bank Secrecy Act reports) for each investigation or prosecution?**

| | Estimated percentage | 95 percent confidence interval |
|---|---|---|
| **Yes** | 47% | 40–54% |
| Federal | 45% | 35–55% |
| State or local | 50% | 40–59% |
| **No** | 53% | 46–60% |
| Federal | 55% | 45–65% |
| State or local | 50% | 41–60% |

Source: GAO. | GAO-25-106500

Notes: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with the Financial Crimes Enforcement Network to access Bank Secrecy Act reports as of June 30, 2023. Upper- and lower-bound 95 percent confidence intervals are provided for each estimate.

**Table 14: Since January 1, 2021, how often did your agency identify currency transaction reports that were relevant for each of the following crimes?**

| | At least occasionally | | Rarely or never | |
|---|---|---|---|---|
| | Estimated % | 95% CI | Estimated % | 95% CI |
| **Drug trafficking** | 74% | 67–81% | 26% | 19–33% |
| Federal | 68% | 56–80% | * | * |
| State or local | 79% | 71–87% | 21% | 13–29% |
| **Financial and other fraud** | 92% | 88–96% | * | * |
| Federal | 89% | 82–96% | * | * |
| State or local | 95% | 91–99% | * | * |
| **Human smuggling** | 36% | 28–44% | 64% | 56–72% |
| Federal | * | * | 63% | 50–77% |
| State or local | 35% | 25–45% | 65% | 55–75% |
| **Human trafficking** | 44% | 35–52% | 56% | 48–65% |
| Federal | 41% | 27–55% | 59% | 45–73% |
| State or local | 46% | 35–56% | 54% | 44–65% |
| **Money laundering** | 86% | 81–91% | 14% | 9–19% |
| Federal | 85% | 77–93% | * | * |
| State or local | 86% | 80–93% | * | * |
| **Organized criminal enterprises** | 72% | 65–79% | 28% | 21–35% |
| Federal | 62% | 51–74% | 38% | 26–49% |
| State or local | 80% | 72–88% | * | * |
| **Proliferation of weapons of mass destruction** | * | * | 87% | 81–93% |
| Federal | * | * | 81% | 70–92% |
| State or local | * | * | 92% | 86–98% |
| **Public corruption** | 49% | 41–57% | 51% | 43–59% |
| Federal | 52% | 40–64% | 48% | 36–60% |
| State or local | 46% | 35–56% | 54% | 44–65% |
| **Tax crime** | 56% | 48–64% | 44% | 36–52% |
| Federal | 67% | 56–79% | 33% | 21–44% |
| State or local | 47% | 37–58% | 53% | 42–63% |
| **Terrorism** | 20% | 13–26% | 80% | 74–87% |
| Federal | * | * | 78% | 66–90% |
| State or local | * | * | 82% | 74–90% |

Legend: Estimated % = estimated percentage; 95% CI = 95 percent confidence interval

Source: GAO. | GAO-25-106500

*Estimated percentages and confidence intervals for categories chosen by fewer than 20 respondents are not reported.

Notes: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with the Financial Crimes Enforcement Network to access Bank Secrecy Act reports as of June 30, 2023. Upper- and lower-bound 95 percent confidence intervals are provided for each estimate. We use the term "at least occasionally" to cover survey responses that reported identifying currency transaction reports "occasionally" or "frequently." The response options to this survey question were "frequently," "occasionally," "not often," "never," and "not applicable to agency."

**Table 15: Since January 1, 2021, how often did your agency identify currency transaction reports (CTRs) that were relevant for each of the following purposes?**

| | At least occasionally | | Rarely or never | |
|---|---|---|---|---|
| | Estimated % | 95% CI | Estimated % | 95% CI |
| **Identifying the need for new investigations (e.g., by identifying potential subjects or suspicious activity)** | 67% | 60–74% | 33% | 26–40% |
| Federal | 69% | 59–79% | 31% | 21–41% |
| State or local | 65% | 55–74% | 35% | 26–45% |
| **Developing leads for existing investigations (e.g., by tracking where transactions took place or the name of conductors)** | 91% | 86–95% | * | * |
| Federal | 85% | 77–93% | * | * |
| State or local | 96% | 93–100% | * | * |
| **Analyzing trends, patterns, and issues associated with criminal activity, separate from ongoing case work** | 55% | 48–62% | 45% | 38–52% |
| Federal | 50% | 39–61% | 50% | 39–61% |
| State or local | 60% | 50–69% | 40% | 31–50% |
| **Prosecuting criminal cases where CTRs were used as evidence or used as a basis to obtain evidence (e.g., bank records)** | 65% | 58–72% | 35% | 28–42% |
| Federal | 68% | 58–79% | 32% | 21–42% |
| State or local | 62% | 52–72% | 38% | 28–48% |
| **Working on criminal prosecutions (post indictment or information), including for civil or criminal asset forfeiture or restitution purposes** | 58% | 51–66% | 42% | 34–49% |
| Federal | 63% | 51–74% | 37% | 26–49% |
| State or local | 54% | 43–64% | 46% | 36–57% |
| **Bringing civil or administrative actions where CTRs were used as evidence or used as a basis to obtain evidence (e.g., bank records)** | 34% | 26–42% | 66% | 58–74% |
| Federal | 43% | 31–55% | 57% | 45–69% |
| State or local | 25% | 16–34% | 75% | 66–84% |

Legend: Estimated % = estimated percentage; 95% CI = 95 percent confidence interval

Source: GAO. | GAO-25-106500

*Estimated percentages and confidence intervals for categories chosen by fewer than 20 respondents are not reported.

Notes: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with the Financial Crimes Enforcement Network to access Bank Secrecy Act reports as of June 30, 2023. Upper- and lower-bound 95 percent confidence intervals are provided for each estimate. We use the term "at least occasionally" to cover survey responses that reported identifying CTRs "occasionally" or "frequently." The response options to this survey question were "frequently," "occasionally," "not often," "never," and "not applicable to agency."

**Table 16: Since January 1, 2021, how useful were relevant currency transaction reports (CTRs) for each of the following purposes?**

| | Useful | | Not useful | |
|---|---|---|---|---|
| | Estimated % | 95% CI | Estimated % | 95% CI |
| **Identifying the need for new investigations (e.g., by identifying potential subjects or suspicious activity)** | 91% | 87–95% | * | * |
| Federal | 91% | 84–97% | * | * |
| State or local | 91% | 86–97% | * | * |
| **Developing leads for existing investigations (e.g., by tracking where transactions took place or the name of conductors)** | 97% | 94–99% | * | * |
| Federal | 96% | 92–100% | * | * |
| State or local | 97% | 94–100% | * | * |
| **Analyzing trends, patterns, and issues associated with criminal activity, separate from ongoing case work** | 82% | 76–89% | 18% | 11–24% |
| Federal | 73% | 62–84% | * | * |
| State or local | 90% | 84–97% | * | * |
| **Prosecuting criminal cases where CTRs were used as evidence or used as a basis to obtain evidence (e.g., bank records)** | 93% | 89–97% | * | * |
| Federal | 93% | 86–99% | * | * |
| State or local | 93% | 88–98% | * | * |
| **Working on criminal prosecutions (post indictment or information), including for civil or criminal asset forfeiture or restitution purposes** | 85% | 78–91% | 15% | 9–22% |
| Federal | 86% | 77–94% | * | * |
| State or local | 83% | 75–92% | * | * |
| **Bringing civil or administrative actions where CTRs were used as evidence or used as a basis to obtain evidence (e.g., bank records)** | 74% | 65–82% | 26% | 18–35% |
| Federal | 77% | 66–88% | * | * |
| State or local | 68% | 55–82% | * | * |

Legend: Estimated % = estimated percentage; 95% CI = 95 percent confidence interval

Source: GAO. | GAO-25-106500

*Estimated percentages and confidence intervals for categories chosen by fewer than 20 respondents are not reported.

Notes: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with the Financial Crimes Enforcement Network to access Bank Secrecy Act reports as of June 30, 2023. Upper- and lower-bound 95 percent confidence intervals are provided for each estimate. We use the term "useful" to cover survey responses that reported that CTR fields were "very useful" or "somewhat useful." The response options to this survey question were "very useful," "somewhat useful," "not very useful," "not at all useful," and "not applicable."

**Table 17: Since January 1, 2023, how important have currency transaction reports been to investigations or prosecutions in general?**

| | Estimated percentage | 95 percent confidence interval |
|---|---|---|
| Important | 91% | 87–95% |
| Not important | * | * |

Source: GAO. | GAO-25-106500

*Estimated percentages and confidence intervals for categories chosen by fewer than 20 respondents are not reported.

Notes: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with the Financial Crimes Enforcement Network to access Bank Secrecy Act reports as of June 30, 2023. Upper- and lower-bound 95 percent confidence intervals are provided for each estimate. We use the term "important" to cover survey responses that reported currency transaction reports were "very important" or "somewhat important." The response options to this survey question were "very important," "somewhat important," "not very important," "not at all important," and "not applicable."

**Table 18: Since January 1, 2023, how important have each of the following aspects of currency transaction report (CTR) requirements been to the overall usefulness of CTRs?**

| | Very important | | Somewhat important | | Not very important | | Not at all important | |
|---|---|---|---|---|---|---|---|---|
| | Estimated % | 95% CI | Estimated % | 95% CI | Estimated % | 95% CI | Estimated % | 95% CI |
| Provide a trail of cash transactions | 63% | 56–70% | 32% | 25–39% | * | * | * | * |
| Provide unique location and date information | 62% | 54–69% | 32% | 25–39% | * | * | * | * |
| Provide unique account information | 75% | 69–81% | 21% | 15–27% | * | * | * | * |
| Provide information on people conducting transactions on behalf of a business | 64% | 57–71% | 32% | 25–39% | * | * | * | * |
| Create structuring behavior that may result in structuring SARs | 51% | 43–58% | 37% | 30–44% | * | * | * | * |
| Aggregation of multiple transactions in a business day | 52% | 44–59% | 38% | 31–46% | * | * | * | * |
| Aggregation of multiple transactions across business and personal accounts | 53% | 45–60% | 37% | 29–44% | * | * | * | * |

Legend: Estimated % = estimated percentage; 95% CI = 95 percent confidence interval; SARs = Suspicious Activity Reports

Source: GAO. | GAO-25-106500

*Estimated percentages and confidence intervals for categories chosen by fewer than 20 respondents are not reported.

Notes: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with the Financial Crimes Enforcement Network to access Bank Secrecy Act reports as of June 30, 2023. Upper- and lower-bound 95 percent confidence intervals are provided for each estimate.

**Table 19: Since January 1, 2021, would your agency have been able to use the following sources instead of currency transaction reports in investigations or prosecutions**

| | Yes, with similar efficiency | | Yes, but with less efficiency | | No | |
|---|---|---|---|---|---|---|
| | Estimated % | 95% CI | Estimated % | 95% CI | Estimated % | 95% CI |
| Structuring SARs | 60% | 52–67% | 28% | 21–35% | 12% | 7–17% |
| SARs (other than structuring) | 64% | 57–72% | 26% | 19–32% | * | * |
| Other BSA reports (e.g., Form 8300, Currency and Monetary Instrument report) | 45% | 37–53% | 34% | 27–42% | 21% | 15–27% |
| Tax records | 26% | 19–33% | 37% | 29–45% | 37% | 29–45% |
| Bank records | 51% | 44–59% | 40% | 32–47% | * | * |
| 314(a) program[a] | 25% | 17–34% | 41% | 32–50% | 34% | 25–42% |

Legend: Estimated % = estimated percentage; 95% CI = 95 percent confidence interval; SARs = Suspicious Activity Reports; BSA = Bank Secrecy Act

Source: GAO. | GAO-25-106500

*Estimated percentages and confidence intervals for categories chosen by fewer than 20 respondents are not reported.

Notes: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with the Financial Crimes Enforcement Network (FinCEN) to access BSA reports as of June 30, 2023. Upper- and lower-bound 95 percent confidence intervals are provided for each estimate.

[a]FinCEN's 314(a) program enables law enforcement agencies to contact U.S. financial institutions through FinCEN to locate accounts and transactions of subjects that may be involved in terrorism or money laundering.

**Table 20: Thinking about currency transaction reports that your agency accessed since January 1, 2021, how often has your agency used information about each of the following categories?**

| | At least occasionally | | Rarely or never | |
|---|---|---|---|---|
| | Estimated % | 95% CI | Estimated % | 95% CI |
| **Information on the person conducting the transaction on their own behalf** | 93% | 90–97% | * | * |
| Federal | 94% | 88–99% | * | * |
| State or local | 93% | 88–98% | * | * |
| **Information on the person conducting the transaction for another** | 88% | 83–93% | 12% | 7–17% |
| Federal | 89% | 82–96% | * | * |
| State or local | 87% | 80–94% | * | * |

| | At least occasionally | | Rarely or never | |
|---|---|---|---|---|
| | Estimated % | 95% CI | Estimated % | 95% CI |
| **Information on the person on whose behalf the transaction was conducted** | 88% | 84–93% | 12% | 7–16% |
| Federal | 88% | 81–96% | * | * |
| State or local | 89% | 82–95% | * | * |
| **Information on the common carrier (e.g., armored car service)** | 30% | 22–37% | 70% | 63–78% |
| Federal | 31% | 20–42% | 69% | 58–80% |
| State or local | 29% | 19–34% | 71% | 62–81% |

Legend: Estimated % = estimated percentage; 95% CI = 95 percent confidence interval

Source: GAO. | GAO-25-106500

*Estimated percentages and confidence intervals for categories chosen by fewer than 20 respondents are not reported.

Notes: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with the Financial Crimes Enforcement Network to access Bank Secrecy Act reports as of June 30, 2023. Upper- and lower-bound 95 percent confidence intervals are provided for each estimate. We use the term "at least occasionally" to cover survey responses that reported using currency transaction report information "occasionally" or "frequently." The response options to this survey question were "frequently," "occasionally," "not often," "never," and "don't know."

**Table 21: Thinking about currency transaction reports that your agency accessed since January 1, 2021, how often has your agency used information from each of the following fields related to person(s) involved in the transactions?**

| | At least occasionally | | Rarely or never | |
|---|---|---|---|---|
| | Estimated % | 95% CI | Estimated % | 95% CI |
| **Occupation or business type** | 86% | 80–91% | 14% | 9–20% |
| Federal | 84% | 76–92% | * | * |
| State or local | 87% | 81–94% | * | * |
| **Account number** | 94% | 90–97% | * | * |
| Federal | 90% | 84–97% | * | * |
| **State or local** | 97% | 94–100% | * | * |
| **Social Security number / tax identification number** | 92% | 88–96% | * | * |
| Federal | 90% | 84–97% | * | * |
| State or local | 93% | 88–98% | * | * |
| **Identification number (e.g., license number, passport number)** | 84% | 78–89% | 16% | 11–22% |
| Federal | 80% | 72–89% | * | * |
| State or local | 86% | 79–93% | * | * |
| **Cash in and cash out amounts** | 93% | 89–96% | * | * |
| Federal | 90% | 84–97% | * | * |
| State or local | 95% | 90–99% | * | * |
| **Email address** | 76% | 69–82% | 24% | 18–31% |

| | At least occasionally | | Rarely or never | |
|---|---|---|---|---|
| | Estimated % | 95% CI | Estimated % | 95% CI |
| Federal | 73% | 63–83% | 27% | 17–37% |
| State or local | 78% | 70–87% | 22% | 13–30% |
| **Gender** | 39% | 32–47% | 61% | 53–68% |
| Federal | 36% | 25–47% | 64% | 53–75% |
| State or local | 42% | 32–52% | 58% | 47–68% |
| **NAICS code** | 24% | 17–32% | 76% | 68–83% |
| Federal | * | * | 76% | 65–87% |
| State or local | * | * | 75% | 65–86% |
| **Phone number** | 78% | 71–84% | 22% | 16–29% |
| Federal | 68% | 58–79% | 32% | 21–42% |
| State or local | 87% | 80–93% | * | * |
| **Location of transaction** | 85% | 80–90% | 15% | 10–20% |
| Federal | 83% | 75–91% | * | * |
| State or local | 87% | 81–94% | * | * |
| **Date of transaction** | 90% | 86–95% | * | * |
| Federal | 90% | 84–97% | * | * |
| State or local | 90% | 84–96% | * | * |

Legend: Estimated % = estimated percentage; 95% CI = 95 percent confidence interval; NAICS = North American Industry Classification System

Source: GAO. | GAO-25-106500

*Estimated percentages and confidence intervals for categories chosen by fewer than 20 respondents are not reported.

Notes: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with the Financial Crimes Enforcement Network to access Bank Secrecy Act reports as of June 30, 2023. Upper- and lower-bound 95 percent confidence intervals are provided for each estimate. We use the term "at least occasionally" to cover survey responses that reported using currency transaction report fields "occasionally" or "frequently." The response options to this survey question were "frequently," "occasionally," "not often," "never," and "don't know."

**Table 22: How would each of the following proposed alternatives to the current currency transaction report (CTR) requirements affect your agency?**

| | Positively | | No effect | | Negatively | |
|---|---|---|---|---|---|---|
| | Estimated % | 95% CI | Estimated % | 95% CI | Estimated % | 95% CI |
| **Keep CTRs, but remove aggregation requirements** | * | * | 22% | 15–28% | 68% | 61–76% |
| Federal | * | * | * | * | 70% | 59–81% |
| State or local | * | * | * | * | 67% | 56–77% |

| | Positively | | No effect | | Negatively | |
|---|---|---|---|---|---|---|
| | Estimated % | 95% CI | Estimated % | 95% CI | Estimated % | 95% CI |
| **Keep CTRs, but streamline the form to reduce fields** | 31% | 23–38% | 36% | 28–44% | 33% | 25–41% |
| Federal | 31% | 20–43% | 36% | 24–47% | 33% | 21–44% |
| State or local | 30% | 20–40% | 36% | 25–47% | 34% | 23–44% |
| **Remove CTRs, but require automatic reporting of all cash transactions** | 28% | 20–36% | 17% | 11–24% | 55% | 46–63% |
| Federal | * | * | * | * | 59% | 46–71% |
| State or local | 34% | 23–45% | * | * | 51% | 39–62% |
| **Remove CTRs and rely on suspicious activity reporting to identify suspicious cash transactions** | * | * | * | * | 75% | 69–82% |
| Federal | * | * | * | * | 75% | 65–85% |
| State or local | * | * | * | * | 76% | 67–85% |
| **Remove CTRs but enhance structuring SARs to include key CTR fields** | 24% | 17–32% | 22% | 15–29% | 54% | 46–62% |
| Federal | * | * | * | * | 52% | 39–64% |
| State or local | * | * | * | * | 57% | 45–68% |

Legend: Estimated % = estimated percentage; 95% CI = 95 percent confidence interval; SARs = Suspicious Activity Reports

Source: GAO. | GAO-25-106500

*Estimated percentages and confidence intervals for categories chosen by fewer than 20 respondents are not reported.

Notes: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with the Financial Crimes Enforcement Network to access Bank Secrecy Act reports as of June 30, 2023. Upper- and lower-bound 95 percent confidence intervals are provided for each estimate.

**Table 23: How would each of the following proposals affect your agency?**

| | Positively | | No effect | | Negatively | |
|---|---|---|---|---|---|---|
| | Estimated % | 95% CI | Estimated % | 95% CI | Estimated % | 95% CI |
| **Lower the currency transaction report (CTR) threshold** | 52% | 44–60% | 29% | 21–36% | 20% | 13–26% |
| Federal | 38% | 27–50% | 31% | 20–42% | 31% | 20–42% |
| State or local | 65% | 55–75% | 27% | 17–36% | * | * |
| **Lower the CTR threshold while removing aggregation requirements** | 16% | 9–22% | 24% | 17–32% | 60% | 52–69% |
| Federal | * | * | * | * | 70% | 59–82% |
| State or local | * | * | * | * | 49% | 37–61% |

| | Positively | | No effect | | Negatively | |
|---|---|---|---|---|---|---|
| | Estimated % | 95% CI | Estimated % | 95% CI | Estimated % | 95% CI |
| **Raise the CTR threshold** | * | * | 15% | 10–21% | 76% | 70–83% |
| Federal | * | * | * | * | 71% | 61–82% |
| State or local | * | * | * | * | 81% | 73–90% |
| **Adjust the CTR threshold to account for future periodic inflation changes** | * | * | 36% | 27–45% | 51% | 42–60% |
| Federal | * | * | 38% | 25–50% | 45% | 31–58% |
| State or local | * | * | 34% | 22–46% | 58% | 46–71% |
| **Adjust the CTR threshold to reflect past inflation (to about $74,000)** | * | * | 21% | 14–28% | 72% | 64–80% |
| Federal | * | * | * | * | 74% | 63–85% |
| State or local | * | * | * | * | 70% | 58–81% |

Legend: Estimated % = estimated percentage; 95% CI = 95 percent confidence interval

Source: GAO. | GAO-25-106500

*Estimated percentages and confidence intervals for categories chosen by fewer than 20 respondents are not reported.

Notes: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with the Financial Crimes Enforcement Network to access Bank Secrecy Act reports as of June 30, 2023. Upper- and lower-bound 95 percent confidence intervals are provided for each estimate.

**Table 24: In your agency's experience, has your agency found higher dollar value currency transaction reports (those over $50,000) to be more or less useful than lower dollar value currency transaction reports (those $50,000 or under)?**

| | Higher dollar value more useful | | No difference | | Lower dollar value more useful | |
|---|---|---|---|---|---|---|
| | Estimated % | 95% CI | Estimated % | 95% CI | Estimated % | 95% CI |
| **All agencies** | * | * | **72%** | **65–79%** | **16%** | **10–21%** |
| Federal | * | * | 66% | 55–77% | * | * |
| State or local | * | * | 80% | 70–88% | * | * |

Legend: Estimated % = estimated percentage; 95% CI = 95 percent confidence interval

Source: GAO. | GAO-25-106500

*Estimated percentages and confidence intervals for categories chosen by fewer than 20 respondents are not reported.

Notes: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with the Financial Crimes Enforcement Network to access Bank Secrecy Act reports as of June 30, 2023. Upper- and lower-bound 95 percent confidence intervals are provided for each estimate.

**Table 25: In your agency's opinion, should the currency transaction reporting requirement be changed from the current $10,000 threshold?**

| | Yes | | No | |
|---|---|---|---|---|
| | Estimated % | 95% CI | Estimated % | 95% CI |
| **All agencies** | **25%** | **18–32%** | **75%** | **68–82%** |
| Federal | * | * | 80% | 71–90% |
| State or local | 30% | 20–41% | 70% | 59–80% |

Legend: Estimated % = estimated percentage; 95% CI = 95 percent confidence interval

Source: GAO. | GAO-25-106500

*Estimated percentages and confidence intervals for categories chosen by fewer than 20 respondents are not reported.

Notes: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with the Financial Crimes Enforcement Network to access Bank Secrecy Act reports as of June 30, 2023. Upper- and lower-bound 95 percent confidence intervals are provided for each estimate.

**Table 26: If the threshold were to change, in your agency's opinion, what would be the ideal new threshold? Please enter a numeric value.**

| | Estimated percentage | 95 percent confidence interval |
|---|---|---|
| $0–10,000 | 67% | 50–85% |
| More than $10,000 | * | * |

Source: GAO. | GAO-25-106500

*Estimated percentages and confidence intervals for categories chosen by fewer than 20 respondents are not reported.

Notes: This survey question was a free numeric response and the reported results are GAO's aggregation of the numeric responses. We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with the Financial Crimes Enforcement Network to access Bank Secrecy Act reports as of June 30, 2023. Upper- and lower-bound 95 percent confidence intervals are provided for each estimate.

**Table 27: Does your agency track any information on its use of currency transaction reports?**

| | Yes | | No | |
|---|---|---|---|---|
| | Estimated % | 95% CI | Estimated % | 95% CI |
| **All agencies** | **13%** | **8–18%** | **87%** | **82–92%** |
| Federal | * | * | 87% | 79–94% |
| State or local | * | * | 87% | 81–93% |

Legend: Estimated % = estimated percentage; 95% CI = 95 percent confidence interval

Source: GAO. | GAO-25-106500

*Estimated percentages and confidence intervals for categories chosen by fewer than 20 respondents are not reported.

Notes: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with the Financial Crimes Enforcement Network to access Bank Secrecy Act reports as of June 30, 2023. Upper- and lower-bound 95 percent confidence intervals are provided for each estimate.

**Table 28: In the past 5 years (since January 1, 2019), has FinCEN ever contacted your agency (other than through the annual audit process) about how your agency accesses currency transaction reports?**

| | Yes | | No | |
|---|---|---|---|---|
| | Estimated % | 95% CI | Estimated % | 95% CI |
| All agencies | 14% | 9–18% | 86% | 82–91% |

Legend: Estimated % = estimated percentage; 95% CI = 95 percent confidence interval; FinCEN = Financial Crimes Enforcement Network

Source: GAO. | GAO-25-106500

Notes: We conducted a generalizable survey of 327 law enforcement agencies that had an active memorandum of understanding with FinCEN to access Bank Secrecy Act reports as of June 30, 2023. Upper- and lower-bound 95 percent confidence intervals are provided for each estimate.

# Appendix III: Law Enforcement Agencies Most Frequently Accessing Currency Transaction Reports

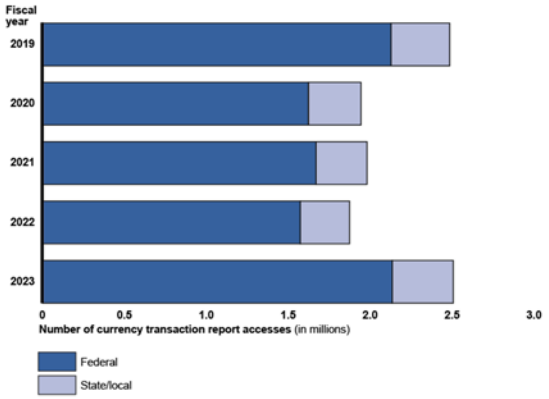
This appendix provides information on access to currency transaction reports (CTRs) by law enforcement agencies through the Financial Crimes Enforcement Network's (FinCEN) BSA Portal and on the internal systems of agencies with Agency Integrated Access.[1] Appendix I provides more information about these data.

While other sections of this report analyze the number of CTRs accessed by law enforcement agencies, this appendix presents analyses of the volume of accesses. In these analyses, multiple accesses to the same CTR by an agency are counted individually, providing a more detailed picture of usage patterns.

Our analysis found that law enforcement agencies accessed CTRs through BSA Portal about 2.5 million times in fiscal year 2023. Federal law enforcement agencies accessed CTRs more than 2.1 million times, while state and local agencies accessed CTRs more than 370,000 times. Both figures were the highest in the past 5 years, following 2022 figures that were the lowest in the past 5 years (see fig. 15).

[1]Agency Integrated Access, formerly called bulk data access, allows agencies to download BSA data onto their own audited and protected computer systems. The agencies then may grant personnel access to search BSA data directly on internal systems.

**Figure 15: Law Enforcement Currency Transaction Report Accesses through FinCEN's BSA Portal, Fiscal Years 2019–2023**




Source: GAO analysis of Financial Crimes Enforcement Network (FinCEN) data. | GAO-25-106500

Federal agencies accounted for about 85 percent of total law enforcement accesses of CTRs through FinCEN's BSA Portal in fiscal years 2019–2023. As of April 2024, federal agencies also made up about 86 percent of registered BSA Portal users from law enforcement agencies. About half of federal, state, and local law enforcement agencies had fewer than 500 CTR accesses per year over the 5-year period (see table 29). Most agencies with access to the portal are relatively small, with a median of five registered users as of April 2024.

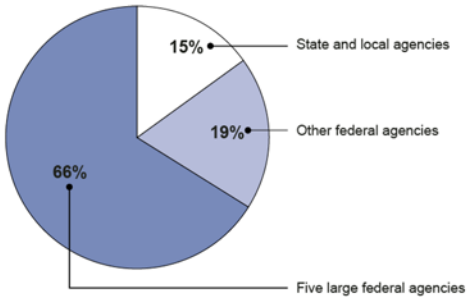
**Table 29: Law Enforcement Agencies' Average Number of Currency Transaction Report (CTR) Accesses per Year through BSA Portal, Fiscal Years 2019–2023**

| | Fewer than 500 CTR accesses | 500 to 4,999 CTR accesses | 5,000 to 49,999 CTR accesses | 50,000 or More CTR accesses |
|---|---|---|---|---|
| Federal law enforcement agencies | 87 (48%) | 75 (42%) | 13 (7%) | 5 (3%) |
| State/local law enforcement agencies | 90 (54%) | 60 (36%) | 16 (10%) | 0 (0%) |

Source: GAO analysis of Financial Crimes Enforcement Network (FinCEN) data. | GAO-25-106500

Five large federal law enforcement agencies averaged more than 50,000 CTR accesses per year over the 5-year period: the Drug Enforcement Administration (DEA), U.S. Immigration and Customs Enforcement (ICE), Federal Bureau of Investigation (FBI), IRS Criminal Investigation (IRS-CI), and U.S. Customs and Border Protection (CBP). Together, these agencies accessed CTRs through BSA Portal more than 7 million times in fiscal years 2019 through 2023, accounting for roughly two-thirds of all law enforcement CTR accesses (see fig. 16).

**Figure 16: Law Enforcement Currency Transaction Report Accesses through BSA Portal, by Type of Agency, Fiscal Years 2019–2023**




Source: GAO analysis of Financial Crimes Enforcement Network (FinCEN) data. | GAO-25-106500

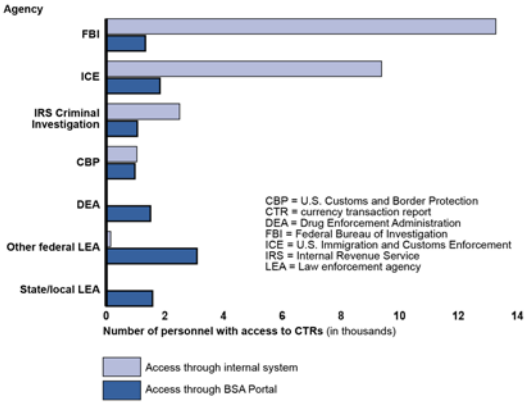
Note: The five large federal agencies are the Drug Enforcement Administration, U.S. Immigration and Customs Enforcement, Federal Bureau of Investigation, IRS Criminal Investigation, and U.S. Customs and Border Protection.

DEA was the heaviest law enforcement user of CTRs through BSA Portal. It averaged more than 750,000 CTR accesses per year over the period, more than all state and local agencies combined. ICE and FBI averaged more than 200,000 CTR accesses in BSA Portal each year over the period. Unlike the other four large federal agencies that frequently access CTRs, DEA does not have Agency Integrated Access, as we discuss below, and relies on BSA Portal for access to CTRs and other BSA reports.

These five large federal agencies each had more than 900 personnel with active portal accounts as of April 2024, collectively accounting for more

than half of the portal's law enforcement users. Four of the agencies have Agency Integrated Access agreements with FinCEN, permitting them to provide personnel with access to BSA reports through their internal systems. These agencies sometimes have many more personnel with access through internal systems than through BSA Portal (see fig. 17).[2] FinCEN requires that these agencies provide appropriate training to all personnel with access and maintain an audit trail when personnel access BSA information on internal systems.

**Figure 17: Number of Law Enforcement Personnel with Access to CTRs through BSA Portal and Internal Systems, Selected Agencies**




Source: GAO analysis of agency data. | GAO-25-106500

Note: User counts for internal systems are as of August and September 2023. User counts for BSA Portal are as of April 2024, except IRS Criminal Investigation, which is as of June 2024. Some law enforcement personnel have access to CTRs through both BSA Portal and their agency's internal system.

Overall, summary data from agencies with Agency Integrated Access indicate that a substantial volume of law enforcement CTRs are accessed

[2]CBP has similar numbers of users for BSA Portal and internal systems. CBP officials said the agency requires users of BSA information through its internal systems to also maintain BSA Portal access.

on these agencies' internal systems (see table 30). Accesses on internal systems are not directly comparable to accesses through BSA Portal due to differences in how systems record access.

**Table 30: Currency Transaction Report (CTR) Accesses in Fiscal Year 2023 at Selected Federal Agencies**

| | CTR accesses in BSA Portal, fiscal year 2023 | CTR accesses in internal system(s), fiscal year 2023 |
|---|---|---|
| Federal Bureau of Investigation | 309,548 | 409,251 |
| U.S. Immigration and Customs Enforcement | 338,545 | 92,308[a] |
| IRS Criminal Investigation | 121,913 | 3,568,107[b] |
| U.S. Customs and Border Protection | 55,186 | 1,277,087[c] |
| Drug Enforcement Administration | 720,145 | Not applicable[d] |

Source: Financial Crimes Enforcement Network (FinCEN) and the listed agencies. | GAO-25-106500

Notes: Because of differences in how CTR information is displayed, how accesses are counted, and user workflows, CTR accesses on agency internal systems are not directly comparable to accesses through BSA Portal or to CTR accesses on the internal systems of other agencies.

[a]U.S. Immigration and Customs Enforcement implemented a new internal system for CTR access in June 2023, according to officials, but the majority of the agency's internal CTR use occurred on an older system. Reported CTR accesses are for CTR appearances in search results on the older system.

[b]IRS Criminal Investigation's internal system records access when a user loads a page with information from a CTR, but users may not view information from every CTR loaded, according to officials.

[c]U.S. Customs and Border Protection's internal systems display relevant CTR information to users in a summary format and users generally do not elect to view the entire CTR transcript, according to officials. Reported CTR accesses are for summary views.

[d]The Drug Enforcement Administration did not have access to CTRs on its internal systems as of June 2024.

Key uses of CTRs by the five largest law enforcement users include the following:

- FBI officials told us they most commonly use CTRs for complex financial crime, organized crime, violent crime, and corruption cases. An FBI analysis of CTRs filed from October 1, 2020, to July 31, 2022, found that CTRs most commonly matched to the main subject of investigations in the Organized Crime and Drug Enforcement program. About 20 percent of these subjects had at least one matching CTR.
- ICE Homeland Security Investigations agents told us they regularly use CTRs to generate leads in ongoing cases, such as identifying potential co-conspirators or obtaining accurate identifying information about suspects known only by nicknames.

- IRS-CI officials told us that the agency's internal system serves as the primary data tool for investigative staff and contains information from multiple sources. CTRs can play a role in identifying potential fraud when analyzed in conjunction with information from other sources, such as tax records, corporate records, and bank records, according to officials. For example, IRS-CI has a particular interest in CTRs filed by check cashers, as business owners who frequently cash checks may fail to report those funds as income on their tax returns.
- CBP officials said the agency uses CTRs to support the screening, vetting, and interdiction of travelers who may pose a risk to national security, public safety, and lawful trade and travel. CBP personnel find CTRs useful to compare to FinCEN Form 105 (Report of International Transportation of Currency or Monetary Instruments), which are filed when travelers enter or leave the U.S. with more than $10,000 in currency or other monetary instruments.
- DEA officials told us that drug investigations often rely on tracking movements of currency, and CTRs are very helpful in this process. While most drug sellers attempt to avoid triggering CTRs by staying below the $10,000 threshold, they may inadvertently create patterns of activity that generate aggregated CTRs or SARs, the officials explained. DEA officials told us that the agency has requested Agency Integrated Access, and FinCEN officials told us FinCEN is working with DEA to draft an Agency Integrated Access agreement to provide DEA access.

Two additional federal agencies play key roles in facilitating law enforcement use of CTR information.

- The Organized Crime Drug Enforcement Task Forces (OCDETF) Fusion Center plays a key role in interagency coordination, combining BSA data with those of 24 partner agencies. The Fusion Center can identify all active investigations related to a subject identified on a CTR or other BSA report, facilitating communication between agencies, according to officials. OCDETF personnel have Agency Integrated Access and recorded over 85,000 CTR accesses on an internal system and about 1,000 through BSA Portal in fiscal year 2023.
- FinCEN does not categorize itself as a law enforcement agency but conducts analysis and provides analytic products that can support law enforcement agency investigations. It also issues advisories and notices that inform financial institutions about potential threats and vulnerabilities related to money laundering or terrorist financing. FinCEN personnel accessed CTRs almost 150,000 times through

BSA portal in fiscal year 2023. FinCEN personnel also access and analyze CTR information through certain software tools that are not counted in the BSA Portal access data, according to officials.

# Appendix IV: Currency Transaction Reports Accessed by Law Enforcement in BSA Portal, Fiscal Years 2014–2023

This appendix provides information on access to currency transaction reports (CTRs) in Financial Crimes Enforcement Network's (FinCEN) BSA Portal. We obtained and analyzed record-level FinCEN data for fiscal years 2014 through 2023, including data on all CTRs filed in the 10-year period and all law enforcement access of those CTRs through BSA Portal. Once filed, CTRs were continuously accessible to law enforcement agencies.[1] As a result, CTRs filed in earlier years were more likely to have been accessed by law enforcement within the 10-year period because they were accessible for longer. The results reported in this appendix do not include CTRs filed before 2014 or accessed on the internal systems of agencies with Agency Integrated Access agreements.

**Table 31: Currency Transaction Reports (CTRs) Accessed by Law Enforcement Agencies in BSA Portal, Fiscal Years 2014–2023, by Law Enforcement Level**

| | Number of CTRs filed in fiscal years 2014–2023 | Number of CTRs accessed by law enforcement agencies |
|---|---|---|
| All CTRs | 167,525,214 | 9,107,883 (5.4%) |
| Accessed only by federal agency | | 7,099,984 (4.2%) |
| Accessed only by state/local agency | | 1,659,261 (1.0%) |
| Accessed by both federal and state/local agency | | 348,638 (0.2%) |

Source: GAO analysis of Financial Crimes Enforcement Network data. | GAO-25-106500

**Table 32: Currency Transaction Reports (CTRs) Accessed by Law Enforcement Agencies in BSA Portal, Fiscal Years 2014–2023, by Number of Times Accessed**

| | Number of CTRs filed in fiscal years 2014–2023 | Number of CTRs accessed by law enforcement agencies |
|---|---|---|
| All CTRs | 167,525,214 | 9,107,883 (5.4%) |
| Accessed one time | | 6,052,193 (3.6%) |
| Accessed two times | | 1,713,756 (1.0%) |
| Accessed three or more times | | 1,341,934 (0.8%) |

Source: GAO analysis of Financial Crimes Enforcement Network data. | GAO-25-106500

[1]After a system transition in June 2024, FinCEN no longer makes CTRs accessible through BSA Portal indefinitely, according to FinCEN officials. Instead, BSA Portal users can access CTRs from the most recent 10 years and the current year.

**Table 33: Currency Transaction Reports (CTRs) Accessed by Law Enforcement Agencies in BSA Portal, Fiscal Years 2014–2023, by Number of Agencies Accessing**

| | Number of CTRs filed in fiscal years 2014–2023 | Number of CTRs accessed by law enforcement agencies |
|---|---|---|
| All CTRs | 167,525,214 | 9,107,883 (5.4%) |
| Accessed by one agency | | 8,150,455 (4.9%) |
| Accessed by two agencies | | 750,843 (0.4%) |
| Accessed by three or more agencies | | 206,585 (0.1%) |

Source: GAO analysis of Financial Crimes Enforcement Network data. | GAO-25-106500

**Table 34: Transaction Value of Currency Transaction Reports (CTRs) Filed and Accessed by Law Enforcement Agencies in BSA Portal, Fiscal Years 2014–2023**

| | Number of CTRs filed in fiscal years 2014–2023 | Number of CTRs accessed by law enforcement agencies |
|---|---|---|
| All CTRs | 167,525,214 | 9,107,883 (5.4%) |
| Missing or less than $10,000 | 21,156 | 1,258 (5.9%) |
| >$10,000 to $20,000 | 107,032,931 | 5,330,098 (5.0%) |
| >$20,000 to $30,000 | 25,368,030 | 1,367,897 (5.4%) |
| >$30,000 to $50,000 | 16,673,346 | 977,605 (5.9%) |
| >$50,000 to $72,880 | 6,455,989 | 408,232 (6.3%) |
| Over $72,880 | 11,973,762 | 1,022,793 (8.5%) |

Source: GAO analysis of Financial Crimes Enforcement Network data. | GAO-25-106500

**Table 35: Transaction Value of Currency Transaction Reports (CTRs) Accessed by Law Enforcement Agencies in BSA Portal, Fiscal Years 2014–2023, by Proportion of CTRs Accessed**

| | Number of CTRs accessed by law enforcement agencies |
|---|---|
| **All CTRs** | **9,107,883** |
| Missing or less than $10,000 | 1,258 (0.0%) |
| >$10,000 to $20,000 | 5,330,098 (58.5%) |
| >$20,000 to $30,000 | 1,367,897 (15.0%) |
| >$30,000 to $50,000 | 977,605 (10.7%) |
| >$50,000 to $72,880 | 408,232 (4.5%) |
| Over $72,880 | 1,022,793 (11.2%) |

Source: GAO analysis of Financial Crimes Enforcement Network data. | GAO-25-106500

**Table 36: Filer Type of Currency Transaction Reports (CTRs) Filed and Accessed by Law Enforcement Agencies in BSA Portal, Fiscal Years 2019–2023**

| | Number of CTRs filed in fiscal years 2019–2023 | Number of CTRs accessed by law enforcement agencies |
|---|---|---|
| **All CTRs** | **90,403,652** | **3,649,663 (4.0%)** |
| Missing/unknown | 8,051 | 47 (0.6%) |
| Casino/card club | 8,277,569 | 456,856 (5.5%) |
| Depository institution | 77,789,487 | 2,834,112 (3.6%) |
| Money services business | 2,967,403 | 270,682 (9.1%) |
| Other | 1,361,142 | 87,966 (6.5%) |

Source: GAO analysis of Financial Crimes Enforcement Network data. | GAO-25-106500

Notes: Our analysis of CTRs by filer type covers fiscal years 2019–2023, which is the most recent and complete data capturing the type of financial institution filing the CTR. Because CTRs filed in more recent years were accessible through BSA Portal for less time than older CTRs, the proportion of CTRs accessed by law enforcement in this analysis may be lower, on average, than in our other analyses covering 2014–2023. The "other" category includes CTRs filed by securities and futures filers as well as filers that selected the "other" filer type option.

**Table 37: Party Count of Currency Transaction Reports (CTRs) Filed and Accessed by Law Enforcement Agencies in BSA Portal, Fiscal Years 2014–2023**

| | Number of CTRs filed in fiscal years 2014–2023 | Number of CTRs accessed by law enforcement agencies |
|---|---|---|
| **All CTRs** | **167,525,214** | **9,107,883 (5.4%)** |
| Missing or 0 parties | 92,301 | 1,189 (1.3%) |
| 1 to 5 parties | 164,313,175 | 8,666,748 (5.3%) |
| 6 to 50 parties | 3,039,961 | 385,408 (12.7%) |
| 51 to 500 parties | 74,735 | 49,735 (66.6%) |
| Over 500 parties | 5,042 | 4,803 (95.3%) |

Source: GAO analysis of Financial Crimes Enforcement Network (FinCEN) data. | GAO-25-106500

Note: FinCEN defines the term party as the person(s) involved in the transactions. A party can be an individual or a business.

**Table 38: Top 10 Industries by Two-Digit NAICS Code, Currency Transaction Reports (CTRs) Filed and Accessed by Law Enforcement Agencies in BSA Portal, Fiscal Years 2014–2023**

| | Number of CTRs filed in fiscal years 2014–2023[a] | Number of CTRs accessed by law enforcement agencies |
|---|---|---|
| **All CTRs** | **167,525,214** | **9,107,883 (5.4%)** |
| Missing/unknown[b] | 105,035,652 | 5,958,436 (5.7%) |
| 1. Retail trade (NAICS 44) | 26,298,149 | 1,187,374 (4.5%) |
| 2. Accommodation and food services (NAICS 72) | 9,368,602 | 345,718 (3.7%) |
| 3. Administrative and support (NAICS 56) | 5,466,441 | 285,151 (5.2%) |
| 4. Finance and insurance (NAICS 52) | 5,349,147 | 399,170 (7.5%) |
| 5. Transportation and warehousing (NAICS 48) | 4,845,451 | 264,001 (5.5%) |
| 6. Wholesale trade (NAICS 42) | 4,587,977 | 321,248 (7.0%) |
| 7. Other services (NAICS 81) | 3,921,874 | 198,178 (5.0%) |
| 8. Arts, entertainment, and recreation (NAICS 71) | 2,197,509 | 114,215 (5.2%) |
| 9. Construction (NAICS 23) | 2,176,065 | 135,473 (6.2%) |
| 10. Manufacturing (NAICS 31) | 1,577,799 | 85,392 (5.4%) |
| All Others | 6,285,761 | 402,611 (6.4%) |

Source: GAO analysis of Financial Crimes Enforcement Network data. | GAO-25-106500

[a]The sum of CTRs by industry is higher than the total number of CTRs filed because a single CTR may report on parties in more than one industry. A CTR is counted for each industry reported, but multiple parties in the same industry are counted only once.

[b]The North American Industry Classification System (NAICS) code is a noncritical (nonrequired) field and CTRs may be filed without reporting a NAICS code for any party. Filers are expected to complete noncritical fields if they have direct knowledge of the information.

**Table 39: Top 10 Industries by Three-Digit NAICS Code, Currency Transaction Reports (CTRs) Filed**

| | Number of CTRs filed in fiscal years 2014–2023[a] | Number of CTRs accessed by law enforcement agencies |
|---|---|---|
| **All CTRs** | **167,525,214** | **9,107,883 (5.4%)** |
| Missing/unknown[b] | 105,078,134 | 5,958,436 (5.7%) |
| 1. Food and beverage retailers (NAICS 445) | 8,702,093 | 380,882 (4.4%) |
| 2. Food services and drinking places (NAICS 722) | 8,513,308 | 299,930 (3.5%) |
| 3. Gasoline stations (NAICS 447) | 7,504,655 | 274,471 (3.7%) |
| 4. Administrative and support services (NAICS 561) | 5,297,020 | 276,976 (5.2%) |
| 5. Motor vehicle and parts dealers (NAICS 441) | 4,484,701 | 232,652 (5.2%) |
| 6. Credit intermediation and related activities (NAICS 522) | 4,383,286 | 325,466 (7.4%) |
| 7. Couriers and messengers (NAICS 492) | 3,795,634 | 181,184 (4.8%) |
| 8. Merchant wholesalers, durable goods (NAICS 423) | 2,293,877 | 158,601 (6.9%) |

| | Number of CTRs filed in fiscal years 2014–2023[a] | Number of CTRs accessed by law enforcement agencies |
|---|---|---|
| 9. Merchant wholesalers, nondurable goods (NAICS 424) | 2,202,856 | 153,875 (7.0%) |
| 10. Miscellaneous store retailers (NAICS 453) | 1,787,116 | 95,483 (5.3%) |
| All others | 23,732,101 | 1,411,254 (6.0%) |

Source: GAO analysis of Financial Crimes Enforcement Network data. | GAO-25-106500

[a]The sum of CTRs by industry is higher than the total number of CTRs filed because a single CTR may report on parties in more than one industry. A CTR is counted for each industry reported, but multiple parties in the same industry are counted only once.

[b]The North American Industry Classification System (NAICS) code is a noncritical (nonrequired) field and CTRs may be filed without reporting a NAICS code for any party. Filers are expected to complete noncritical fields if they have direct knowledge of the information.

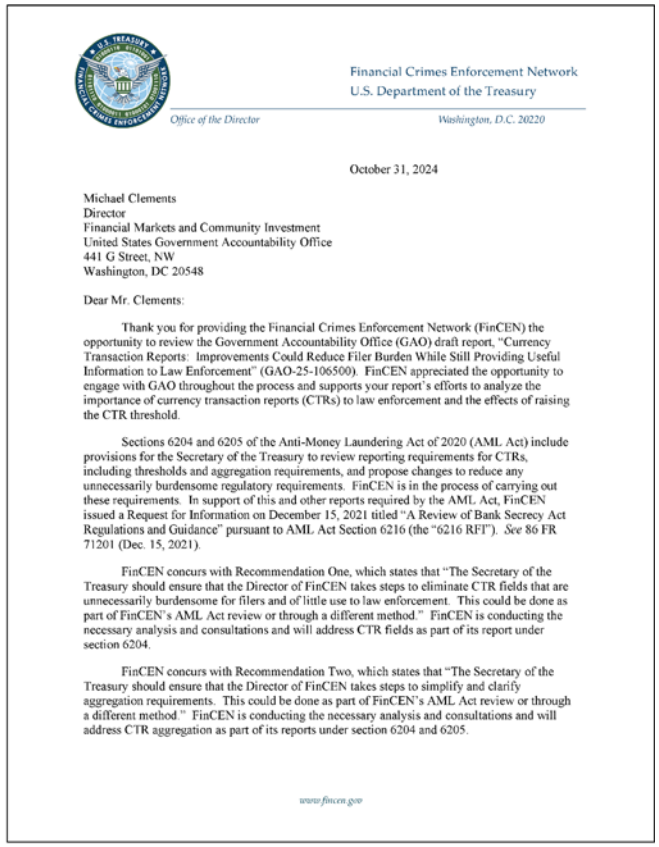
**Table 40: Presence of Business Parties on Currency Transaction Reports (CTRs) Filed and Accessed by Law Enforcement Agencies in BSA Portal, Fiscal Years 2014–2023**

| | Number of CTRs filed in fiscal years 2014–2023 | Number of CTRs accessed by law enforcement agencies |
|---|---|---|
| **All CTRs** | **167,525,214** | **9,107,883 (5.4%)** |
| With no businesses | 65,558,306 | 3,418,162 (5.2%) |
| With at least one business | 101,966,908 | 5,689,721 (5.6%) |

Source: GAO analysis of Financial Crimes Enforcement Network data. | GAO-25-106500

Note: For purposes of this analysis, a CTR reports on a business if the filer indicated that at least one party was an entity. CTRs reporting on sole proprietorships may report on the owner rather than the business entity. In that case the sole proprietorship is not counted as a business for purposes of this analysis.

# Appendix V: Comments from the Financial Crimes Enforcement Network



Financial Crimes Enforcement Network
U.S. Department of the Treasury

*Office of the Director* *Washington, D.C. 20220*

October 31, 2024

Michael Clements
Director
Financial Markets and Community Investment
United States Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Clements:

Thank you for providing the Financial Crimes Enforcement Network (FinCEN) the opportunity to review the Government Accountability Office (GAO) draft report, "Currency Transaction Reports: Improvements Could Reduce Filer Burden While Still Providing Useful Information to Law Enforcement" (GAO-25-106500). FinCEN appreciated the opportunity to engage with GAO throughout the process and supports your report's efforts to analyze the importance of currency transaction reports (CTRs) to law enforcement and the effects of raising the CTR threshold.

Sections 6204 and 6205 of the Anti-Money Laundering Act of 2020 (AML Act) include provisions for the Secretary of the Treasury to review reporting requirements for CTRs, including thresholds and aggregation requirements, and propose changes to reduce any unnecessarily burdensome regulatory requirements. FinCEN is in the process of carrying out these requirements. In support of this and other reports required by the AML Act, FinCEN issued a Request for Information on December 15, 2021 titled "A Review of Bank Secrecy Act Regulations and Guidance" pursuant to AML Act Section 6216 (the "6216 RFI"). *See* 86 FR 71201 (Dec. 15, 2021).

FinCEN concurs with Recommendation One, which states that "The Secretary of the Treasury should ensure that the Director of FinCEN takes steps to eliminate CTR fields that are unnecessarily burdensome for filers and of little use to law enforcement. This could be done as part of FinCEN's AML Act review or through a different method." FinCEN is conducting the necessary analysis and consultations and will address CTR fields as part of its report under section 6204.

FinCEN concurs with Recommendation Two, which states that "The Secretary of the Treasury should ensure that the Director of FinCEN takes steps to simplify and clarify aggregation requirements. This could be done as part of FinCEN's AML Act review or through a different method." FinCEN is conducting the necessary analysis and consultations and will address CTR aggregation as part of its reports under section 6204 and 6205.

*www.fincen.gov*

FinCEN concurs with Recommendation Three, which states that "The Secretary of the Treasury should ensure that the Director of FinCEN establish a performance management process that defines performance goals and measures for monitoring the usefulness of CTRs." FinCEN considered CTRs to be included in an existing performance measure, as part of improving tracking of overall BSA data. GAO's previous review (GAO-22-105242) from May 2021 to August 2022 of BSA data use tracking by the Department of Justice (DOJ) for AML Act § 6201 reporting highlighted FinCEN's limited ability to assess and provide feedback on the value of BSA reports because "agencies collected these data inconsistently or not at all." The DOJ in its most recent 6201 report for FY2023 discussed the challenges of quantifying the use of BSA reporting, including CTRs. However, FinCEN would like to note that the process of implementing consistent and reliable tracking of BSA data generally is an ongoing effort that involves significant resources and time by all agencies with BSA data access. FinCEN is working hard to complete certain AML Act reviews of existing BSA data use, and consider more targeted measures that improve both tracking and usefulness of BSA data to law enforcement, including CTRs.

FinCEN concurs with Recommendation Four, which states that "The Secretary of the Treasury should ensure that the Director of FinCEN takes steps to reduce the number of CTRs filed that are not used by law enforcement, such as by raising the threshold or expanding criteria to allow for further exemptions. These actions should be informed by an analysis of the characteristics of CTRs that have been less likely to be accessed by law enforcement." FinCEN is conducting the necessary analysis and consultations to complete reports required under sections 6204, which will address exemptions, and 6205, which will address the CTR threshold.

We appreciate the role of GAO in providing oversight of our programs and look forward to working with GAO in the future. FinCEN is committed to full implementation of the AML Act to ensure that the United States maintains an effective and risk-based AML/CFT supervisory and regulatory regime.

Sincerely,

/s/

Jimmy Kirby
Deputy Director

# Appendix VI: Comments from the National Credit Union Administration

National Credit Union Administration

October 30, 2024

SENT BY EMAIL

Michael E. Clements
Director, Financial Markets and Community Investment
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548
clementsm@gao.gov

Dear Mr. Clements:

We have reviewed your draft report entitled "Currency Transaction Reports: Improvements Could Reduce Filer Burden While Still Providing Useful Information to Law Enforcement." While there are no recommendations for the NCUA, we acknowledge the GAO's observations.

Thank you for the opportunity to review and comment on the draft report.

Sincerely,

Larry Fazio
Executive Director

1775 Duke Street – Alexandria, VA 22314-3428 – 703-518-6400

# Appendix VII: GAO Contact and Staff Acknowledgments

| | |
|---|---|
| GAO Contact | Michael E. Clements, (202) 512-8678 or clementsm@gao.gov |
| Staff Acknowledgments | In addition to the contact named above, Kevin Averyt (Assistant Director), Verginie Tarpinian (Analyst in Charge), Tracy Abdo, Padma Chirumamilla, Garrett Hillyer, Jill Lacey, Loren Lipsey, Ying Long, Alberto Lopez, Alec McQuilkin, Marc Molino, Dae Park, Seth Roca, Joshua Stick, and Farrah Stone made key contributions to this report. |

| | |
|---|---|
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| Congressional Relations | A. Nicole Clowers, Managing Director, ClowersA@gao.gov, (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548 |
| Public Affairs | Sarah Kaczmarek, Managing Director, KaczmarekS@gao.gov, (202) 512-4800, U.S. Government Accountability Office, 441 G Street NW, Room 7149 Washington, DC 20548 |
| Strategic Planning and External Liaison | Stephen J. Sanford, Managing Director, spel@gao.gov, (202) 512-4707 U.S. Government Accountability Office, 441 G Street NW, Room 7814, Washington, DC 20548 |

Please Print on Recycled Paper.

---------- Forwarded message ---------
From: **William Timmons** <william@timmonsllc.com>
Date: Sun, Feb 2, 2025 at 5:00 PM
Subject: Time Sensitive Communication from Rep Timmons - SC04
To: <zixta.martinez@cfpb.gov>

Good afternoon Ms. Martinez,

My name is William Timmons and I am a fourth term Congressman from South Carolina currently serving on the Financial Services Committee.

I apologize for contacting you on Sunday afternoon but it has come to my attention that the CFPB sent out CID notices after business hours on Friday and mere hours before Director Chopra was removed from office.

This is entirely inappropriate.

Please see my attached letter outlining my request to remedy the situation. I expect you will be receiving additional communications from Congress in the near future.

Respectfully,
William R Timmons, IV
864-616-8821

WILLIAM R. TIMMONS IV
4TH DISTRICT, SOUTH CAROLINA

COMMITTEE ON FINANCIAL SERVICES

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

267 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
202.225.6030

114 TRADE STREET
GREER, SC 29651
864.241.0175

UNITED STATES
HOUSE OF REPRESENTATIVES

February 2, 2025

Ms. Zixta Martinez
Deputy Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Deputy Director Martinez,

In the weeks since President Trump was elected, the Consumer Financial Protection Bureau (CFPB) has continued to act of its own accord, regardless of direction of the new administration. Given the shift in policy direction, it is essential to ensure that enforcement actions align with new leadership priorities and directives.

**I hereby request that you suspend any enforcement actions pending as of or commenced after November 5, 2024 until a new Director is confirmed by the United States Senate.**

This request includes any enforcement action that is public or nonpublic. Any un-served and/or pending civil investigative demands (CIDs) should be rescinded/revoked immediately, with prompt notice given to the relevant CID recipients. (This request excludes ongoing litigation subject to statutory or judicial deadlines that require prompt action.)

This transition period presents an opportunity to reassess ongoing and planned enforcement actions to ensure they are consistent with the new administration's objectives and policy approach. Continuing enforcement without such review will lead to unnecessary uncertainty, legal challenges, and inefficiencies that could be avoided by temporarily suspending non-essential actions.

I anticipate further communication on this subject from Congress to President Trump and I am hopeful President Trump will resolve this matter if you are unwilling to do so.

Thank you for your time and I am available should you have any questions. My email address is William@TimmonsLLC.com and my personal cell phone number is 864-616-8821.

Respectfully,

William R Timmons IV

William R. Timmons, IV
Member of Congress

**Make Community Banking Great Again Hearing**
*February 5, 2025 at 10 A.M.*

Mr. Chair, I have a unanimous consent request to enter the following statements in the record.

- 201 consumer, civil rights, labor, legal services, community organizations, and academics have submitted statements supporting the CFPB's overdraft rule.
- The Americans for Financial Reform, National Association for Latino Community Asset Builders, Rise Economy, HEAL Food Alliance, Small Business Majority, National Community Reinvestment Coalition, The Leadership Conference on Civil and Human Rights, and the Responsible Business Lending Coalition have submitted statements opposing any bill to weaken Section 1071 of the Dodd-Frank Act.

- The Free Speech Coalition submitted a statement raising concerns around the debanking issue and its disproportionate impact on marginalized communities.
- Inclusiv and the National Bankers Association have submitted statements in support of CDFIs.

**201 Consumer, Civil rights, Labor, Legal Services, Community Organizations and Academics**

February 5, 2025

Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Re: Oppose resolution to overturn CFPB overdraft fee rule

Dear Representative,

The undersigned 201 consumer, civil rights, labor, legal services and community organizations and academics write to urge you to oppose efforts to overturn the Consumer Financial Protection Bureau's overdraft fee rule, which will reduce most overdraft fees from $35 to $5, stop manipulative practices by big banks, improve transparency, and put $5 billion back into the pockets of everyday people and their families. The public widely views current overdraft fee practices as unfair.

The overdraft fee rule closes a paper-check era loophole that has allowed big banks to trick people into paying excessive overdraft fees and earn billions in profits off of the most vulnerable families. The rule lowers most so-called "courtesy" overdraft fees from $35 to $5, saving households that pay overdraft fees an average of $225 a year. The rule gives big banks a variety of options to cover overdrafts, including safer, more transparent overdraft lines of credit with no price limit and the same disclosure requirements as credit cards. The rule only applies to very large institutions with over $10 billion in assets, many of which have already adopted similar protections. Smaller banks and credit unions are completely exempt.

We urge you to stand with everyday people over big banks. Banks should not profit off the struggles of working families through excessive, back-end overdraft junk fees.

Yours truly,

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| 20/20 Vision | National |
| Accountable.US | National |
| American Association of People with Disabilities | National |
| American Friends Service Committee | National |
| Americans for Financial Reform (AFR) | National |
| Blue Future | National |
| CAARMA | National |

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| CAMEO Network | National |
| Center for Economic Justice | National |
| Center for Justice & Democracy | National |
| Center for LGBTQ Economic Advancement & Research (CLEAR) | National |
| Center for Responsible Lending | National |
| Center for Survivor Agency and Justice | National |
| Coalition on Human Needs | National |
| Consumer Action | National |
| Consumer Federation of America | National |
| Consumer Reports | National |
| Demand Progress Education Fund | National |
| Disability Belongs | National |
| Disability Rights Advocates | National |
| Equal Rights Advocates | National |
| Faith in Action National Network | National |
| Family Values @ Work | National |
| HEAL (Health, Environment, Agriculture, Labor) Food Alliance | National |
| Impact Fund | National |
| Interfaith Center on Corporate Responsibility | National |
| Justice in Aging | National |
| National Association for Latino Community Asset Builders (NALCAB) | National |
| National Association of Consumer Advocates | National |
| National Black Justice Coalition | National |
| National Center for Law and Economic Justice | National |
| National Coalition for Asian Pacific American Community Development (National CAPACD) | National |
| National Coalition for the Homeless | National |
| National Community Reinvestment Coalition | National |
| National Consumer Law Center (on behalf of its low-income clients) | National |
| National Consumers League | National |
| National Disability Institute | National |
| National Employment Law Project | National |
| National Partnership for Women & Families | National |

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| National Women's Law Center | National |
| P Street | National |
| People Power United | National |
| Public Citizen | National |
| Public Good Law Center | National |
| U.S. PIRG | National |
| Woodstock Institute | National |
| Alabama Arise | Alabama |
| Greater Birmingham Ministries | Alabama |
| VOICES for Alabama's Children | Alabama |
| Alaska Public Interest Research Group | Alaska |
| Arizona PIRG | Arizona |
| Center for Economic Integrity | Arizona |
| Community Investment Corporation | Arizona |
| William E. Morris Institute for Justice | Arizona |
| Arkansas Community Organizations | Arkansas |
| OMNI Center for Peace, Justice & Ecology | Arkansas |
| California Consumer Protection Attorneys Association | California |
| California School Employees Association | California |
| CALPIRG | California |
| Consumer Federation of California | California |
| Consumers for Auto Reliability and Safety | California |
| Housing and Economic Rights Advocates | California |
| Katharine & George Alexander Community Law Center | California |
| Mission Asset Fund | California |
| National Center for Lesbian Rights | California |
| OneJustice | California |
| Prof. Lauren Willis, LMU Loyola Law School* | California |
| Prof. Scott Maurer, Santa Clara Law* | California |
| Prof. Steven M. Graves, PhD, California State University* | California |
| Public Counsel | California |
| Public Law Center | California |
| Rise Economy | California |

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| The Greenlining Institute | California |
| TURN–The Utility Reform Network | California |
| Bell Policy Center | Colorado |
| Colorado Center on Law and Policy | Colorado |
| Colorado Fiscal Institute | Colorado |
| CoPIRG | Colorado |
| Towards Justice | Colorado |
| Connecticut Fair Housing Center | Connecticut |
| ConnPIRG | Connecticut |
| Prof. Annie Harper, Yale University Department of Psychiatry* | Connecticut |
| Delaware Community Reinvestment Action Council, Inc. | Delaware |
| DC Consumer Rights Coalition | District of Columbia |
| Health Care for America Now (HCAN) | District of Columbia |
| Legal Aid DC | District of Columbia |
| Prof. Emerita Ann Shalleck, American University, Washington College of Law* | District of Columbia |
| Prof. Emeritus Arthur E. Wilmarth, Jr., George Washington University Law School* | District of Columbia |
| Student Borrower Protection Center | District of Columbia |
| Tzedek DC | District of Columbia |
| Affordable Homeownership Foundation Inc | Florida |
| Florida PIRG | Florida |
| Jacksonville Area Legal Aid, Inc. | Florida |
| Latino Leadership, Inc. | Florida |
| Georgia PIRG | Georgia |
| Georgia Watch | Georgia |
| Citizen Action/Illinois | Illinois |
| Housing Action Illinois | Illinois |
| Illinois PIRG | Illinois |
| Legal Action Chicago | Illinois |

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| Legal Council for Health Justice | Illinois |
| Indiana Community Action Poverty Institute | Indiana |
| Indiana Legal Services, Inc. | Indiana |
| Prosperity Indiana | Indiana |
| Iowa PIRG | Iowa |
| Deacon Richard Murphy, Diocese of Owensboro KY* | Kentucky |
| REBOUND, Inc. | Kentucky |
| Habitat for Humanity St. Tammany West | Louisiana |
| Coastal Enterprises, Inc. | Maine |
| Legal Services for Maine Elders | Maine |
| Maine Center for Economic Policy | Maine |
| Maine Equal Justice | Maine |
| Maine People's Alliance | Maine |
| CASH Campaign of Maryland | Maryland |
| Economic Action Maryland Fund | Maryland |
| Maryland PIRG | Maryland |
| Prof. Jeff Sovern, Univ. of Maryland Francis King Carey School of Law,* | Maryland |
| Prof. Michele Gilman, University of Baltimore School of Law* | Maryland |
| Public Justice Center | Maryland |
| Massachusetts Action for Justice | Massachusetts |
| MASSPIRG | Massachusetts |
| The Neighborhood Developers | Massachusetts |
| Community Economic Development Association of Michigan (CEDAM) | Michigan |
| PIRGIM | Michigan |
| Exodus Lending | Minnesota |
| ISAIAH (MN) | Minnesota |
| Prof. Prentiss Cox, University of Minnesota Law School* | Minnesota |
| Missouri Faith Voices | Missouri |
| MoPIRG | Missouri |
| St. Louis Equal Housing & Community Reinvestment Alliance | Missouri |
| R.A.A. - Ready, Aim, Advocate Committee | Missouri |
| Economic Empowerment Center DBA Lending Link | Nebraska |
| Women's Fund of Omaha | Nebraska |

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| Legal Aid Center of Southern Nevada | Nevada |
| 603 Legal Aid | New Hampshire |
| New Hampshire PIRG | New Hampshire |
| Housing and Community Development Network of New Jersey | New Jersey |
| Manufactured Home Owners Association of New Jersey | New Jersey |
| New Jersey Appleseed Public Interest Law Center | New Jersey |
| New Jersey Citizen Action | New Jersey |
| New Jersey PIRG | New Jersey |
| Catholic Charities of Southern New Mexico | New Mexico |
| New Mexico Center on Law and Poverty | New Mexico |
| New Mexico Fair Lending Coalition | New Mexico |
| New Mexico PIRG | New Mexico |
| Prosperity Works | New Mexico |
| United South Broadway Corporation | New Mexico |
| Brooklyn Cooperative Federal Credit Union | New York |
| Center for Elder Law & Justice | New York |
| Church Women United in New York State | New York |
| Empire Justice Center | New York |
| Feerick Center for Social Justice, Fordham Law School | New York |
| Fifth Avenue Committee | New York |
| Genesee Co-op Federal Credit Union | New York |
| Housing and Family Services of Greater New York | New York |
| JustLeadershipUsa | New York |
| Mobilization for Justice | New York |
| New Economy Project | New York |
| New York Legal Assistance Group | New York |
| New Yorkers for Responsible Lending | New York |
| NYS Community Equity Agenda | New York |
| Prof. David Reiss, Cornell Law School & Cornell Tech* | New York |
| Volunteer Lawyers Project of CNY, Inc. | New York |
| WESPAC Foundation, Inc. | New York |
| NC State AFL-CIO | North Carolina |
| NCPIRG | North Carolina |

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| North Carolina Council of Churches | North Carolina |
| North Carolina Justice Center | North Carolina |
| Prof. Alexandra Sickler, University of North Dakota School of Law* | North Dakota |
| Red River Valley Community Action | North Dakota |
| Community Legal Aid | Ohio |
| Ohio PIRG | Ohio |
| Ohio Poverty Law Center | Ohio |
| CASA of Oregon | Oregon |
| Oregon Consumer Justice | Oregon |
| OSPIRG | Oregon |
| Community Legal Services of Philadelphia | Pennsylvania |
| PennPIRG | Pennsylvania |
| Economic Progress Institute (Rhode Island) | Rhode Island |
| Rhode Island PIRG | Rhode Island |
| Community Fresh Start | South Carolina |
| Latino Community Development | South Carolina |
| South Carolina Appleseed Legal Justice Center | South Carolina |
| Shelby County TN, Trustee | Tennessee |
| Brazos Valley Affordable Housing Corporation | Texas |
| Pathfinders | Texas |
| Prof. Neil Sobol, Texas A&M University School of Law* | Texas |
| RAISE Texas | Texas |
| Texas Appleseed | Texas |
| TexPIRG | Texas |
| United Way of Central Texas | Texas |
| ValleyInterfaith | Texas |
| Vermont Legal Aid | Vermont |
| Prof. Irene Leech, Virginia Tech* | Virginia |
| Virginia Citizens Consumer Council | Virginia |
| Virginia Organizing | Virginia |
| Virginia Poverty Law Center | Virginia |
| Statewide Poverty Action Network | Washington |
| WashPIRG | Washington |

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| Mountain State Justice, Inc. | West Virginia |
| WisPIRG | Wisconsin |

**Statement for the Record**

*On Behalf of*

**Americans for Financial Reform**

*to the*

**House Committee on Financial Services**

**"Making Community Banking Great Again"**

**February 5, 2025**

**Statement for the Record**
*On Behalf of*
**Americans For Financial Reform**
*Before the*
**House Financial Services Committee**
**February 5, 2025**

Americans for Financial Reform (AFR) appreciates the opportunity to provide a Statement for the Record for the House Financial Services Committee on "Make Community Banking Great Again." AFR is a nonpartisan and nonprofit coalition of more than 200 civil rights, consumer, labor, business, investor, faith-based, and civic and community groups. Formed in the wake of the 2008 crisis, AFR continues to work towards a strong, stable, and ethical financial system. We are committed to eliminating the inequity and systemic racism in the financial system and fighting for a just and sustainable economy.

Congress created the Consumer Financial Protection Bureau (CFPB) in the wake of the devastating 2008 financial crisis. In the aftermath of this crisis, and for the last 14 years, the CFPB has served everyday people and their families by cracking down on junk fees and holding banks and other financial firms accountable when they engage in unfair, deceptive, abusive, and illegal misconduct. A strong and independent CFPB is critical to helping people navigate safely through their everyday financial life. Whenever someone makes a purchase with their credit card, accesses their bank account, applies for a loan or a mortgage, the CFPB is there to make sure that process is transparent and fair. CFPB helps make that process is fair and transparent for consumers, which also promotes confidence in the marketplace for financial services. Protecting people from fraudulent practices, financial rip-offs, and junk fees saves people money that helps families make ends meet.

The courts, including the Supreme Court, continue to support the CFPB's strong and independent structure. This past May, the Supreme Court resoundingly sided with the CFPB and reaffirmed the constitutionality of the Bureau's funding mechanism in *CFPB v. Community Financial Services Association*. More recently, two Texas courts in separate cases, once again sided with the CFPB, reiterating the legitimacy of the agency's funding mechanism.[1]

In the past 14 years, a strong and independent CFPB has:

- **Obtained over $21 billion in relief for over 200 million people**[2] from restitution or cancelled debts as well as through its supervisory and enforcement powers. The Bureau's rules, guidance and other effective oversight has kept many billions of dollars more in people's pockets;

- **Returned $363 million to servicemembers and veterans** through 39 enforcement actions, including 6 Military Lending Act violations (and, importantly, the CFPB is the *only* agency charged with enforcing the Military Lending Act);

[1] *See Texas v. Colony Ridge, Inc.*, No. CV H-24-0941, 2024 WL 4553111, at *4 (S.D. Tex. Oct. 11, 2024) and *Consumer Fin. Prot. Bureau v. Active Network, LLC*, No. 4:22-CV-00898, 2024 WL 4437639, at *1 (E.D. Tex. Oct. 7, 2024).
[2] Consumer Financial Protection Bureau (CFBP). About the Bureau. Accessed December 6, 2024.

- **Returned $80 million in illegally charged overdraft fees to servicemembers, veterans and Department of Defense civilian employees.**[3] Last November, the CFPB ordered Navy Federal Credit Union, the nation's largest credit union, to stop charging illegal overdraft fees and required Navy Federal to refund $80 million back to its customers and pay a $15 million penalty to the CFPB victims relief fund;

- **Helped eliminate medical debt collections from the credit reports of 22.8 million people** removing at least one medical debt collection from their credit reports;

- **Cracked down on junk fees, including finalizing rules to curb excessive overdraft fees that would save consumers $5 billion annually;**[4]

- **Capped credit card late fees at $8 to save people $10 billion a year in junk fees, but tied up in court.** Last March, the CFPB finalized a rule to lower excessive credit card late fees, bringing typical credit card late fees from $32 down to $8.[5] This rule would have saved consumers $10 billion in late fees every year, but due to litigation initiated by Wall Street banks, the rule has been paused by an industry friendly 5th Circuit.[6]

These are just a few of the impactful ways the CFPB protects everyday people and their wallets, and why the CFPB's consumer protection mission has broad and bipartisan support. Attempts to undo the CFPB's final rules, particularly legislative attempts to undo the CFPB's final overdraft fee rule and repeal or weaken the small business and small farm loan transparency provisions of Section 1071 of the Dodd-Frank Act would raise costs for people, push them out of mainstream banking, drive up junk fees, and exacerbate discriminatory lending practices. Ultimately, repealing or weakening these critical final rules would undermine the community banks and other banks that are abiding by the rules and offering value to families, small businesses, small farms, and their communities.

**Repealing the CFPB's final overdraft fee rule would cost people $5 billion annually in junk fees and increase the number of people who are unbanked and underbanked.** Today's hearing references a draft Congressional Review Act resolution to rescind the CFPB's final overdraft rule which would prioritize fee gouging by big banks over the consumers that would save $5 billion every year from this commonsense rule. The CFPB overdraft fee rule[7] closes a decades old regulatory loophole that has been misused by the biggest banks to reap billions in profits from the most vulnerable families. Decades ago, overdraft loans were exempted from the Truth in Lending Act (TILA) because banks only occasionally charged overdraft fees as a convenience to prevent paper checks from bouncing. As banks became more automated, they exploited the paper check era loophole to routinely extend high-cost credit without complying with TILA, turning an occasional courtesy into a lucrative back-end junk fee.

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[3] CFPB. [Press release]. "CFPB orders Navy Federal Credit Union to pay more than $95 million for illegal surprise overdraft fees." November 7, 2024.
[4] CFPB. [Press release]. "CFPB closes overdraft loophole to save Americans billions in fees." December 12, 2024.
[5] Credit Card Penalty Fees (Regulation Z). 89 Fed. Reg. 52. March 15, 2024.
[6] Americans for Financial Reform Education Fund. Wall Street Ripoff Counter. Accessed December 6, 2024. Click here to see how much people have lost from the credit card late fee rule's delay.
[7] CFPB. Overdraft Lending: Very Large Financial Institutions. 89 Fed. Reg. 249. December 30, 2024 at 106768.

The overdraft fee rule will help everyone, but especially families that are struggling with high prices and making ends meet and tackle the top reason people become unbanked and underbanked. Households that pay overdraft fees lose an average of $225 to these fees every year. These high fees are a major reason people — particularly lower income households, people of color, and people with disabilities — avoid banks or lose their bank accounts and become unbanked. The proportion of families without a bank account are far higher for Black, Latine, Indigenous, and with family members with a disability than for white families (the unbanked rates are 10.6 percent of Black, and 9.5 percent of Latine households, 12.2 percent of Indigenous, and 11.2 percent of working age households with a family member with a disability, are unbanked, compared to only 1.9 percent of white households).[8]

The rule will also help reduce exploitive practices and increase fairness and transparency: Most debit card overdrafts are for less than $26 — far below the typical $35 fee — and are repaid within 3 days, resulting in the equivalent of a 16,000 percent annual percentage rate (APR) loan, often for transactions consumers would rather have denied.[9] Banks have also charged overdraft fees when the account had sufficient funds, manipulated the order of transactions, and engaged in other abuses that increase the number of overdraft infractions and fees. The rule will eliminate the incentive for these exploitative practices while allowing banks to offer overdraft credit profitably in a more transparent and fair manner.

Finally, many large financial institutions have already adopted similar protections, and the overdraft fee rule simply brings parity to all large financial institutions and exempts banks with less than $10 billion in assets. Citibank and Ally already have eliminated overdraft fees and mid-sized and smaller institutions are completely exempt from the rule. Other big banks will be able to charge a $5, a higher fee tailored to cover their costs, or, if they wish to make a profit, to offer overdraft lines of credit with transparent pricing, repayment period, and other requirements that apply to credit cards and other loans. Instead of cutting off access to mainstream banking services, this rule simply makes banking fairer and more transparent for consumers as well as all very large financial institutions.

**Repealing or weakening Section 1071 of the Dodd-Frank Act will hurt small businesses and farms, which are important engines for economic growth and household wealth building.** The discussion drafts of the "1071 Repeal to Protect Small Business Lending Act," the "Small Lenders Exempt from New Data Excessive Reporting (LENDER) Act," and the "Bank Loan Privacy Act" would repeal or weaken Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Small businesses and farms owned by women and people of color have faced historic, considerable, and persistent inequitable access to financing and credit related to structural racial wealth inequality, patterns of disparate treatment and outcomes securing loans, and discrimination. Section 1071 amended the landmark civil rights statute Equal Credit Opportunity Act to collect data on small business and farm lending to "facilitate enforcement of fair lending laws and enable communities and governmental entities, and creditors to identify business and community development needs"[10] The Equal Credit Opportunity Act outlaws lending

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[8] Federal Deposit Insurance Corporation. "2023 FDIC National Survey of Unbanked and Underbanked Households." November 2023 at 24.

[9] CFPB. [Fact sheet]. "The CFPB's proposed rule to curb excessive fees on overdraft loans by very large banks and close a decades old loophole." 2024.

[10] Dodd-Frank Wall Street Reform and Consumer Protection Act. Pub. L. 111-203. July 21, 2010 at §1071; 15 USC §1691c-2(a).

discrimination on the basis of race, color, religion, national origin, sex, marital status, or age.[11] The CFPB's final 1071 rule makes it possible to assess and enforce compliance with fair lending and anti-discrimination statutes, to identify community development small business and farm capital needs, and to improve transparency in small business and farm credit and lending markets.

Small businesses and farms are important engines for economic growth and household wealth building, but historic inequitable access to small business credit has impeded the ability of women and people of color to establish and grow entrepreneurial small businesses and farms. Studies continue to confirm that Black, Latine, and Asian small business owners had lower access to capital, are charged higher interest rates, receive lower loan amounts, and have higher loan rejection rates than comparably creditworthy white small business owners.[12] Small farmers, especially Black, Latine, Indigenous, Asian, and women farmers, have faced long-standing disparate treatment and discrimination in accessing farm credit on equitable terms.[13] Small farmers face substantial and similar barriers to credit on fair and equitable terms as small businesses, especially during economic crises.[14]

This continued inequitable access to credit and financing makes it more difficult for businesses and farms owned by people of color to sustain, reinvest, and expand their businesses. Collecting data helps make it easier to see otherwise missed patterns of discrimination in the context of small business and farm lending – discrimination which ultimately disadvantages certain small businesses and farms, which results in a less competitive marketplace that hurts all small business owners and farmers and the communities they serve. This transparency in small business and farm credit markets not only promotes governmental fair lending enforcement but provides vital tools for community groups, local governments, and small business and farm advocates to assess the availability of credit necessary to promote community development, especially in lower-income areas and communities of color. The three draft bills fail to address the critical purposes of rooting out lending discrimination and providing needed transparency in small business and farm credit markets and would further delay a law that has waited 15 years to be fully implemented.

For these reasons, we urge this committee to carefully oppose the legislative proposals that would repeal or weaken Section 1071 as well as the resolution of disapproval of the CFPB's overdraft fee rule. These proposals will hurt everyday people, including consumers and their families, as well as small business owners and farmers and the communities they serve. They will make community banking less helpful and more predatory and create a financial services marketplace that is less competitive and less fair for banks and financial firms that offer value and follow the rules. Instead of helping strengthen consumer protections and putting money into people's pockets, these bills

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[11] 15 USC §1691(a).

[12] de Zeeuw, Mels G. and Victor E. da Motta. Federal Reserve Bank of San Francisco. "Minority-owned enterprises and access to capital from Community Development Financial Institutions" Community Development Innovation Review. May 19, 2021 at 6 to 7.

[13] de Sam Lazaro. Fred an Simeon Lancaster. "Historically denied 'pivotal' loans, Black farmers still struggle to get support." *PBS Newshour.* December 7, 2021; Rosenberg, Nathan. "How USDA distorted data to conceal decades of discrimination against Black farmers." *The Counter.* June 26, 2019; Matin, Michel. "USDA awards Native Americans millions in discrimination suit." *NPR.* October 21, 2010; LaFraniere, Sharon. "U.S. opens spigot after farmers claim discrimination." *New York Times.* April 25, 2013; U.S. Department of Agriculture. [Press release]. "USDA notice to women and Hispanic farmers and ranchers: Compensation for claims of discrimination." July 7, 2011; Robinson, Jessica. "Women, Hispanic farmers say discrimination continues in settlement." *NPR.* November 9, 2012.

[14] Farm Aid, Food & Water Watch, National Family Farm Coalition, Rural Advancement Foundation Intl.-USA. "Don't Bank on It: Farmers Face Significant Barriers to Credit During Economic Downturn." March 2011.

only pad bank profits, push more people out of mainstream banking services, impose $5 billion in excessive junk fees, and will unfairly disadvantage small businesses and farms that would otherwise serve the communities.

NATIONAL
ASSOCIATION FOR
LATINO
COMMUNITY
ASSET
BUILDERS

February 5, 2025

Honorable French Hill
Chair
Committee on Financial Services
U.S House of Representatives
Washington, D.C. 20515

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

Chair Hill, Ranking Member Waters, and members of the committee,

We write in opposition to legislation being considered in the U.S. House Financial Services Committee on February 5th, 2025 at the hearing entitled: Make Community Banking Great Again.

NALCAB is a U.S. Treasury-certified Community Development Financial Institution (CDFI) that represents and serves more than 200 diverse nonprofit community development and asset-building organizations across the country. Over half of our members are lenders, many of which are certified CDFIs. These organizations strengthen access to quality affordable housing, safe financial products and services and the ability to start and grow successful businesses.

On July 21, 2010, *The Dodd Frank Wall Street Reform and Consumer Protection Act* (Dodd-Frank Act) was signed into law to build a safer, more stable financial system—one that promotes lasting economic growth and job creation. Access to responsible financial services and products is key to helping consumers build assets and plan for the future. Section 1071 of the Dodd-Frank Act makes progress in equity of opportunity by requiring that financial institutions collect and report information concerning small business credit applications. The collection of this data will help facilitate enforcement of fair lending laws and promote job creation and economic growth by ensuring all small businesses are able to access the tools needed to succeed. The small business lending market is not well understood due to lack of available data. Similar reporting has been required of mortgage lenders for decades, so it does not exist without precedent.

As a community-based organization that works directly with underinvested small businesses and the organizations that serve them, we deeply understand their unique needs and the importance of implementation of Section 1071. Given what is at stake for small businesses and our nation's economic growth - in July of 2019 NALCAB joined the lawsuit filed against the Consumer Financial Protection Bureau (CFPB) by the California Reinvestment Coalition.[1] The lawsuit sought a declaration that the CFPB's failure to issue regulations implementing Section 1071 of the Dodd-Frank Act violates the Administrative

[1] Mishkin, Barbara S, "CA Reinvestment Coalition Sues CFPB for Delaying Section 1071 Implementation." The National Law Review. May 22, 2019. https://www.natlawreview.com/article/ca-reinvestment-coalition-sues-cfpb-delaying-section-1071-implementation.

Procedure Act and requiring the CFPB to promptly issue such regulations.[2] As a result of this lawsuit, on March 30, 2023, the CFPB issued a final rule to increase transparency and expose discrimination in small business lending by implementing Section 1071.[3]

The U.S. economy depends on entrepreneurs. Using this widely accepted measure, the U.S. Small Business Administration (SBA) estimates that there are 33.2 million small businesses in the U.S. and that roughly half of all Americans in the labor force are employed by a small business or running one.[4] Increased data collection will provide an unprecedented window into the small business lending market. By making that data public, we will open new markets by allowing financial institutions to better understand the demand for small business credit products and the conditions under which they are being supplied by covered financial institutions. This will strengthen small businesses and enable them to do what they do best, innovate and create jobs. NALCAB urges a NO vote on any legislation that delays or rescinds implementation of Section 1071.

Sincerely,

Clarinda Landeros

Clarinda Landeros
Director of Public Policy

[2] Mishkin, Barbara. "CA Reinvestment Coalition Sues CFPB for Delaying Section 1071 Implementation." Consumer Finance Monitor. Ballard Spahr, May 22, 2019. https://www.consumerfinancemonitor.com/2019/05/22/ca-reinvestment-coalition-sues-cfpb-for-delaying-section-1071-implementation/.

[3] Culhane, John Jr., and Michael Gordon. "CFPB Agrees to March 31, 2023 Deadline for Section 1071 Final Rule." JD Supra. July 13, 2022. https://www.jdsupra.com/legalnews/cfpb-agrees-to-march-31-2023-deadline-8125149/.

[4] https://www.stlouisfed.org/publications/regional-economist/2023/oct/small-banks-big-impact-community-banks-small-business-lending

February 5, 2025

Chairman Hill
House Financial Services Committee

Ranking Member Waters
House Financial Services Committee

Re: *Rise Economy's statement in support of the section 1071 rule and opposing bills that would restrict or gut the rule*

Dear Chairman Hill and Ranking Member Waters,

Rise Economy respectfully submits this Statement in support of the Dodd Frank Act Section 1071 Rule, and in opposition to all bills and resolutions that are designed to weaken or discard the statutory provision or the rule.

Specifically, we oppose:

- H.R.__, the Small Lenders Exempt from New Data Excessive Reporting,
- H.R.__, the 1071 Repeal to Protect Small Business Lending Act, and
- H.R.__, the Bank Loan Privacy Act

Rise Economy is a California based alliance representing over 300 member organizations that work to create systemic change and economic justice in BIPOC and low-income communities. Rise Economy and its 300 plus nonprofit member organizations have been advocating for small business data collection and transparency within the small business market for decades. The data that will be collected by the Consumer Financial Protection Bureau's (CFPB) Section 1071 rulemaking will facilitate increased access to fairly priced credit for minorities, women, and LGBTQ owned small businesses in California and will help for-profit and nonprofit lenders better serve these, and all, small businesses.

Since Dodd-Frank was enacted in 2010, Rise Economy and its members have pushed for a strong rule to create transparency in the small business lending market in order to substantially increase access to credit for small businesses, to assist local government policy making efforts, and to root out

unlawful discrimination. In 2019, Rise Economy (known at that time as the California Reinvestment Coalition), represented by Democracy Forward, sued the CFPB for defying the Dodd-Frank Act' mandate for the CFPB to develop a rule designed to collect and disclose data on lending to women and minority-owned small businesses. Rise Economy settled that case in 2020, with the CFPB agreeing to a process and timeline to develop the rule.[1] In January 2022, Rise Economy and more than 60 California based organizations submitted a comment letter to the CFPB urging a strong, detailed, and transparent data collection rule.

Rise Economy believes the final Section 1071 rule meets the rule's statutory purpose of "facilitat[ing] enforcement of fair lending laws" and "enabl[ing] communities, governmental entities, and creditors to identify business and community development needs and opportunities of women-owned, minority-owned, and small businesses.[2]

We urge the Committee to reject the bills before you, and any and all efforts to weaken or abrogate Section 1071 for the following reasons:

1. **Section 1071 will substantially increase access to credit for small businesses, much as the Home Mortgage Disclosure Act (HMDA) has done for homeowners.** Section 1071 will be transformational for small businesses. Transparency around which lenders are serving communities with good products, and which are not, will create incentives for the entire industry to compete and to improve. This has been true in the mortgage market where similar data has been collected and reported without incident for decades. In fact, increases in data reporting under HMDA have led to noticeable increases in mortgage lending.[3] Section 1071 will finally bring small

[1] https://democracyforward.org/work/crc-v-cfpb-discriminatory-lending/
[2] 15 U.S.C. § 1691c–2(a)
[3] As seen with improvements to HMDA, changes to data collection in 1990 and 1993 was correlated with 70% increase in conventional home purchase lending to African Americans, and a 48% increase in lending to Latine borrowers from 1993 to 1995. See National Community Reinvestment Coalition. *Home Loans to Minorities and Low- and Moderate-Income Borrowers Increase in the 1990s but then Fall in 2001: A Review of National Data Trends from 1993 to 2001.*

businesses closer to parity with homeowners who have enjoyed the benefits of greater transparency and credit access under HMDA.

2. **Section 1071 will help lenders and local government identify gaps in credit access in order to better develop market and policy opportunities to meet demands**. Related to the point above, more detailed publicly available data will allow lenders to see where there are credit gaps that they can help to meet, facilitating research and development for new and better products that meet small business credit needs and grown lender revenue. Many lenders will want to report this kind of data, especially responsible lenders that wish to distinguish themselves from predatory lenders, but also lenders wanting to learn more about their markets and to ensure they are compliant with fair lending laws. In fact, NCRC analysis of 2018 CRA small business data found 157 or 22% of the 700 institutions reporting CRA small business loan data were smaller banks voluntarily reporting the data though not required to do so.[4] Further, we understand that most banks are preparing, if not prepared, for the new Section 1071 framework.

   Similarly, local governments will be better able to plan and adopt effective policies to support their small business communities armed with the data that Section 1071 will provide. If for example, a community's small business lenders are being denied loans due to credit issues, a local government may wish to support credit repair programs to help make their small businesses more bankable. If local small businesses are relying more heavily on high cost online lenders when seeking credit, a local government may wish to develop programs to connect the small business community to local community banks.

3. **Section 1071 will help root out unlawful discrimination. Sadly, discrimination against small business owners persists.** Mystery shopping studies by the National Community Reinvestment Coalition[5]

[4] NCRC analysis of 2018 CRA small business data found via https://www.ffiec.gov/hmcrpr/cra_fs19.htm
[5] Amber Lee, Bruce Mitchell, PhD, Anneliese Lederer, in cooperation with: Jerome Williams, Rutgers University; Sterling Bone, Utah State University; Glenn Christensen, Brigham Young University.

have found that white small business loan applicants were given significantly better treatment and information regarding loan products than their Black and Latine counterparts, particularly regarding loan fees and during the Paycheck Protection Program.[6] The Federal Reserve has also illustrated similar findings in which after controlling for firm characteristics such as profitability and creditworthiness, firms owned by people of color were still more likely to be denied loans than white-owned firms.[7] Additionally, the Federal Reserve's annual Small Business Credit Survey (SBCS) found that businesses owned by people of color were more likely to apply for traditional financing than white-owned businesses yet were less likely to receive the funding they applied for, even among those with good credit scores.[8]

4. **Section 1071 is an example of good governance, the product of a long and deliberative process by all three branches of government.** Congress in its wisdom passed the Dodd Frank Wall Street Reform Act in 2010 in response to the financial crisis. Among the Act's provisions was Section 1071, designed to increase lending transparency and access to credit for minority and women owned small businesses. With the CFPB's failure to develop the 1071 rule, the California Reinvestment Coalition (later Rise Economy) sued the CFPB in 2019, resulting in a settlement and a court order requiring the CFPB to follow a process and timeline for developing the rule.[9] To

"Disinvestment, Discouragement and Inequity in Small Business Lending," available at: https://ncrc.org/disinvestment/

[6] Anneliese Lederer, Sara Oros, in cooperation with: Jerome Williams, Rutgers University; Sterling Bone, Utah State University; Glenn Christensen, Brigham Young University. "Lending Discrimination Within the Paycheck Protection Program." Available at https://ncrc.org/lending-discrimination-within-the-paycheck-protection-program/

[7] 5 Mels de Zeeuw, Federal Reserve Bank of Atlanta Community and Economic Development Department, and Brett Barkley, Federal Reserve Bank of Cleveland Supervision and Regulation Department (November 2019). Mind the Gap: Minority Owned Small Businesses' Financing Experiences in 2018. Consumer and Community Context, a Federal Reserve System publication, Vol. 1, No. 2, p. 16. https://www.federalreserve.gov/publications/2019- november-consumer-communitycontext.htm

[8] 6 Fed Small Business, Small Business Credit Survey. "2022 Report on Firms Owned by People Of Color". Available at: https://doi.org/10.55350/sbcs-20220629

[9] https://democracyforward.org/work/crc-v-cfpb-discriminatory-lending/#:~:text=On%20February%2026%2C%202020%2C%20we,businesses%20by%20September%2015%2C%202020.

its credit, the CFPB conducted extensive research and stakeholder outreach to develop a full record that demonstrated its commitment to meeting its statutory charge,[10] but that also incorporated and addressed comments from the industry and which will weigh privacy concerns before determining what data will be made publicly available.[11] It has been nearly 15 years since the promise of increased transparency and greater access to credit was made. Small businesses in California should not have to wait any longer.

For these reasons, we urge the Committee to reject H.R.__, the Small Lenders Exempt from New Data Excessive Reporting, H.R.__, the 1071 Repeal to Protect Small Business Lending Act, and H.R.__, the Bank Loan Privacy Act. We urge this committee to support small businesses by supporting Section 1071.

Should you have any questions about this letter, please feel free to reach out to me at Rise Economy at (415) 864-3980, or kstein@rise-economy.org. Thank you for your consideration of our views.

Very Truly Yours,

Kevin Stein
Chief of Legal and Strategy

cc: Members of the House Financial Services Committee

[10] See for example: https://www.consumerfinance.gov/1071-rule/
[11] The Final Rule can be viewed here: https://files.consumerfinance.gov/f/documents/cfpb_1071-final-rule.pdf

February 4, 2025

The Honorable French Hill, Chair
U.S. House Committee on Financial Services
1533 Longworth HOB
Washington, DC 20515

The Honorable Maxine Waters, Ranking Member
U.S. House Committee on Financial Service
2221 Rayburn House Office Building
Washington, DC, 20515

**RE: Opposition to Weakening, Overturning, or Exemptions to Consumer Financial Protection Bureau (CFPB) Rule 1071**

Dear Chair Hill and Ranking Member Waters,

HEAL (Health, Environment, Agriculture, Labor) Food Alliance is a national multi-sector, multi-racial coalition that is building collective power to transform our food and farm systems for the health of our communities and the planet. Our 60+ member organizations represent over two million rural and urban farmers, ranchers, fishers, public health advocates, farm and food chain workers, indigenous groups, scientists, policy experts, community organizers, and activists.

**We write to express strong opposition to any current or future initiatives to weaken, overturn, or provide exemptions to the Consumer Financial Protection Bureau (CFPB) Rule 1071 on Small Business Lending Data Collection under the Equal Credit Opportunity Act.**

Current efforts that attempt to weaken CFPB rule 1071 include:

- The "1071 Repeal to Protect Small Business Lending Act"
- The "Small Lenders Exempt from New Data Excessive Reporting (LENDER) Act"
- The "Bank Loan Privacy Act"

Section 1071 of the Dodd-Frank Act amended the Equal Credit Opportunity Act (ECOA) to require financial institutions to compile, maintain, and submit to the Bureau certain data on applications for credit for all defined small businesses. To be clear, Section 1071 is not

optional – it is legally required under the Dodd-Frank Act. CFPB's regulatory updates are designed to implement Section 1071 as intended by Congress, and our organizations strongly support this effort.

The CFPB's regulatory updates are common sense efforts to improve the public's understanding of the on-the-ground impacts of lending (including agricultural lending), and ultimately to inform policy that is tangible and beneficial for farmers, consumers, and our food and farm systems.

**Rule 1071 Is Pro-Farmer and Pro-Market**

**The Section 1071 rule is pro-farmer.** Young, beginning, and small farmers have consistently demanded more transparent and fair markets. Having accurate and public data concerning the demographics primarily served by agricultural lenders will help farmers and consumers make better-informed financial decisions.

**The Section 1071 rule is pro-market.** The data required by Section 1071 will help lenders identify unmet credit needs and expand to new markets, especially in underserved and rural communities. The rule contains no mechanism to penalize lenders based on the demographic data reported. Collecting loan applicant demographics is not new to the vast majority of lenders covered by this rule.

**Why Agricultural Lending Data is Critical**

Creating effective and fair policy requires comprehensive and transparent data collection and analysis. To help ensure collection of more comprehensive agricultural lending data, it is critical that agricultural lenders — including those regulated by the Farm Credit Administration – participate in demographic reporting.

The Farm Credit System is among the country's most significant agricultural lenders, holding 44 percent of farm debt at the end of 2021.[1] But without data transparency, the public does not know which farmers are being served and which may be left behind, despite Farm Credit's unique responsibility to the public as a government-sponsored enterprise. Many **Farm Credit System lenders already collect home loan borrower demographics,** as required under the Home Mortgage Disclosure Act.

**Conclusion**

HEAL Food Alliance urges you to oppose any efforts to weaken, overturn, or provide exemptions to the Consumer Financial Protection Bureau (CFPB) Rule 1071 on Small Business

[1] Congressional Research Service. (2022, July) Agricultural Credit: Institutions and Issues. https://crsreports.congress.gov/product/pdf/R/R46768#:~:text

Lending Data Collection under the Equal Credit Opportunity Act to help small farmers and the market.

Sincerely,

Maleeka Manurasada
Director of Organizing

SMALL BUSINESS MAJORITY

**WRITTEN STATEMENT FOR THE RECORD BEFORE THE U.S. HOUSE COMMITTEE ON FINANCIAL SERVICES**

**"MAKE COMMUNITY BANKING GREAT AGAIN"**

February 5, 2025

John Arensmeyer

Founder & CEO, Small Business Majority

Dear Chair Hill, Ranking Member Waters and members of the House Committee on Financial Services:

As a leading representative of America's 34 million small businesses, Small Business Majority is pleased to offer written testimony to the House Committee on Financial Services in advance of its hearing on community banking to underscore the vital role responsible lending practices play in expanding access to capital for small businesses and entrepreneurs nationwide.

Small Business Majority is a national small business organization that empowers America's diverse entrepreneurs to build a thriving and equitable economy. From our 11 offices across the country, we engage our network of more than 85,000 small businesses and 1,500 business and community organizations to deliver resources to entrepreneurs and advocate for public policy solutions that promote inclusive small business growth. Our work is bolstered by extensive research and deep connections with the small business community that enables us to educate stakeholders about keys issues impacting America's entrepreneurs, with a special focus on the smallest businesses and those facing systemic inequities.

According to decades of financial research, it has become quite clear that today's banking system is not adequately serving American communities. Systemic discrimination remains ever-present in our financial services sector leaving borrowers historically impacted by redlining, discrimination and those lacking strong relationships to the financial sector unserved. When it comes to entrepreneurship and the ability to pursue the American Dream, the opportunity to start and grow one's own business is a dream that can feel out of the grasp of many. For example, data from the 2023 Small Business Credit Survey found that 56% of white-owned small businesses were fully approved for a loan, line of credit or merchant cash advance that they had applied for, compared to just 32% of Black and Hispanic owned businesses.[1] Additionally, previous national polling conducted by Small Business Majority found that while roughly 19% of small business owners overall obtained less capital than they sought, that number is higher among AAPI (36%), Black (31%) and Latino (26%) small business owners.[2]

When it comes to the small business lending market, the data is less clear, but the outcomes and experiences are like those of the traditional financing market. While the outcomes point to evidence of discriminatory lending practices by institutions large and small, we lack access to the data that would inform better public policy solutions to ensure that the American Dream is accessible to all who have the means to pursue it. Small business owners account for nearly half of the private sector workforce,

[1] "2024 Report on Employer Firms: Findings from the 2023 Small Business Credit Survey." Federal Reserve System. March 2024. https://www.fedsmallbusiness.org/reports/survey/2024/2024-report-on-employer-firms

[2] "Small businesses struggling to access capital, harming their financial recovery." Small Business Majority. February 2021. https://smallbusinessmajority.org/our-research/access-capital/small-businesses-struggling-access-capital-harming-their-financial-recovery

representing 99% of all businesses in the United States, making it incredibly more important that creditworthy entrepreneurs obtain the capital they need.

For these reasons, Small Business Majority urges very strong caution against dismantling current progress made towards responsible, data-driven lending practices. We strongly supported the Consumer Financial Protection Bureau's (CFPB) finalization of Section 1071 of the Dodd-Frank Act, which requires lenders to collect small business demographic and financial information. The data collected from Sec. 1071 will provide critical information that helps financial institutions and policymakers better understand how successful they are in lending to minority-owned, SEDI-owned and rural businesses. In other words, this data is key towards ensuring that today's lending markets are geared towards granting loans and fulfilling capital needs based on financial history, capital readiness and creditworthiness, not based on demographics.

While opponents of the rule state that requiring this information is "an overreach" or "unnecessary" or "burdensome" on small entities like community banks and large institutions alike, evidence shows that this information is not only necessary but critical towards helping small businesses and entrepreneurs succeed in today's increasingly volatile economy. Women and minority owned businesses continue to face discrimination in securing financing due to several compounding factors, including lower credit, a lack of assets and fewer banking relationships which in turn has limited many minority owned firms' ability to gain traction in their industry. Due to these factors, Black-owned businesses are up to twice as likely to be denied financing compared to white-owned firms.[3] These disparities may discourage minority-owned businesses from seeking capital or make it increasingly likely for them to fall victim to predatory or high-interest loans which significantly increases the likelihood that they will have to shut their doors for good.

Women and minority communities have historically faced discrimination in securing small business funding, and an estimated 90% of women and minority-owned small businesses have been shut out of federal emergency funding.[4] Therefore, transparency requirements in small business lending moving forward will help uncover discrimination or biases in underwriting that has historically plagued millions of small businesses for generations across our nation. Reporting this data will also increase transparency in terms and conditions for small business loan applications. Data collected through Section 1071 will likely curb excessive pricing and increase access to credit for creditworthy borrowers that have faced non-financial barriers in their capital access journey.

While the title of this hearing is ironically to "Make Community Banking Great Again" the decision to repeal Sec. 1071, ignoring the intent and decades of research proving that such regulation is necessary, would make American financial institutions and America's small business community worse in the long run. If made available, the data would inevitably force more responsible lending practices based on true economic indicators, not race, gender or tribal affiliation, but on a borrower's ability to pay back a loan and to create and grow a successful business.

Community-focused advocates have been eagerly awaiting the implementation of Section 1071 so that we can better understand the small business lending landscape. As when the rule faced challenges in a federal court in 2023, we are deeply concerned with the direction that the small business market is heading and absent any protections for borrowers to fend against discriminatory denials and refusals, small business owners will continue to feel the pain and seek out far more costly and opaque credit products commonly found in many payday or predatory lending business models.[5] 1071 would not only bring light to the disparities in lending by demographic, but would reveal more troubling business practices that are worthy

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[3] "Breaking Barriers to Credit and Capital Access for Black, Latinx, and Women-Owned Businesses." The Rockefeller Foundation. August 2020. https://www.rockefellerfoundation.org/perspective/breaking-barriers-to-credit-and-capital-access-for-black-latinx-and-women-owned-businesses/

[4] "Shut out of PPP loans, struggling with no child care: How Covid-19 is impacting women-owned small businesses." CNBC. May 2020. https://www.cnbc.com/2020/05/07/how-covid-19-is-impacting-women-owned-small-businesses.html

[5] "Report on Minority-Owned Small Businesses." Federal Reserve Bank of Atlanta. January 2020. https://www.atlantafed.org/community-development/publications/partners-update/2020/01/200108-report-on-minority-owned-small-businesses

of a bipartisan commitment to combat including misleading disclosures of APR or Estimated APR, or an outright lack of important financing information prior to taking out a loan – a commonly cited barrier by the Federal Reserve Bank of Cleveland.[6]

We not only urge the Committee to reconsider but caution against undoing what would have been the most important regulation for small business financing when it comes to leveling the playing field for America's entrepreneurial community. Small businesses make America great and to repeal key regulations designed to boost entrepreneurship is blatantly ignoring a lending epidemic that is unique to our history. We hope to work with the Committee to ensure that all entrepreneurs who are indeed ready to take on additional capital and start or grow their business have the ability to do so on their merit, not on their demographic background.

For any questions or additional information, please contact our Government Affairs Director, Alexis D'Amato, at adamato@smallbusinessmajority.org.

Sincerely,

John C. Arensmeyer

John Arensmeyer
Founder & CEO
Small Business Majority

[6] "Clicking for Credit: Experiences of Online Lender Applicants from the Small Business Credit Survey." Federal Reserve Bank of Cleveland. August 2022. https://www.clevelandfed.org/publications/cd-reports/2022/sr-20220816-clicking-for-credit-experiences-of-online-lender-applicants-from-sbcs

NCRC
National Community Reinvestment Coalition

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Jesse Van Tol
President & Chief Executive Officer

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Kevin Stein
Rise Economy

Beverly Watts
National Housing Committee, NAACP

February 5, 2025

House Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hill and Ranking Member Waters:

The National Community Reinvestment Coalition (NCRC) represents a network of over 700 community-based organizations committed to increasing access to credit and capital for underserved communities.

We are writing to express our opposition to the "1071 Repeal to Protect Small Business Lending Act", the "Small Lenders Exempt from New Data Excessive Reporting (LENDER) Act" and the "Bank Loan Privacy Act", all proposed legislation that would weaken Section 1071 of the Dodd-Frank Act and undermine the ability for financial institutions to effectively meet the needs of small businesses.

Section 1071 of the Dodd-Frank Wall Street and Consumer Protection Act was intended to "facilitate the enforcement of fair lending laws and enable communities, government entities, and creditors to identify business and community development needs and opportunities for women-owned, minority-owned, and small businesses."

The rationale behind the collection of Section 1071 data is similar to that of the Home Mortgage Disclosure Act (HMDA) dataset, allowing the public to identify which lenders are making a good faith effort to serve small businesses, and empowering lenders to identify how effectively they are meeting the needs of their small business customers.

The current efforts to prevent the implementation of Section 1071 is the latest effort by opponents to prevent the public from knowing how financial institutions lend, and to whom.

**The Small Lenders Exempt from New Data and Excessive Reporting (LENDER) Act**

This bill was first introduced in the 117th Congress as the Small LENDER Act. It would raise the origination threshold from 100 to 500 annual loans in the two preceding years. Such a bill would completely undermine the purpose of Section 1071.

NCRC
National Community Reinvestment Coalition

The CFPB estimates that a 100 loan threshold would cover about 19% of all depository institutions, and roughly 95% of small business lending by these institutions. The CFPB originally proposed a 25 loan threshold, which would've covered about 40% of depository institutions, but raised the threshold to 100 in response to industry feedback.

The 100 loan threshold is a reasonable compromise that reduces the impact on the smallest lenders, while also covering enough of the small business lending market to increase our understanding of how the credit needs of businesses are being met. Further raising the threshold to 500 loans would no longer enable the public to effectively monitor the fair lending performance of most banks, which directly frustrates the statutory purpose of Section 1071. In addition, assessing whether community needs are being met by lenders, which is the other major purpose of the law, would be thwarted in smaller cities and rural areas where these smaller loan volume banks are disproportionately located and have a significant market presence.

Many of the arguments made by Section 1071 opponents assert that the cost of compliance for most community banks would be so high, they would have no ability to originate small business loans. The CFPB employed data analysis and surveys of lenders to develop estimates of one-time start-up costs, annual fixed costs, and variable costs determined by the number of applications received. The CFPB grouped depository institutions into three categories based on the number of covered small business loans they originated and came up with estimates of net income that each category of depository lender generates from originating small business loans.

As the charts below show, using costs calculated by the CFPB and minimum estimates of net income from originations, one time and ongoing costs of compliance from deposit taking lenders range from just 0.1% to 0.9% of annual net income from originations of small business loans alone. After the one-time costs, estimated ongoing costs drop to just 0.06% to 0.4% of annual net income these institutions receive from just originating small business loans.

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One Time Costs

| Type of Bank or Savings Association | Minimum # of Originations For This Type | Net Income Per Origination - Minimum Estimate | Minimum Total Annual Net Income from Originations | Estimated One Time Costs | One Time Costs Percentage of Minimum Total Annual Net Income from Small Business Originations |
|---|---|---|---|---|---|
| A | 100 | $134,000 | $13,400,000 | $59,400 | 0.44% |
| B | 150 | $65,000 | $9,750,000 | $44,800 | 0.46% |
| C | 1000 | $252,000 | $252,000,000 | $77,800 | 0.03% |

Ongoing Costs

| Type of Bank or Savings Association | Minimum # of Originations For This Type | Net Income Per Origination - Minimum Estimate | Minimum Total Annual Net Income from Originations | Estimated Ongoing Costs | Ongoing Costs Percentage of Minimum Total Annual Net Income from Small Business Originations |
|---|---|---|---|---|---|
| A | 100 | $134,000 | $13,400,000 | $8,349 | 0.06% |
| B | 150 | $65,000 | $9,750,000 | $40,079 | 0.41% |
| C | 1000 | $252,000 | $252,000,000 | $278,618 | 0.11% |

Combined One Time and Ongoing Costs

| Type of Bank or Savings Association | Minimum # of Originations For This Type | Net Income Per Origination - Minimum Estimate | Minimum Total Annual Net Income from Originations | Estimated One Time and Ongoing Costs | Combined One Time and Ongoing Cost Percentage of Minimum Total Annual Net Income from Small Business Originations |
|---|---|---|---|---|---|
| A | 100 | $134,000 | $13,400,000 | $67,749 | 0.51% |
| B | 150 | $65,000 | $9,750,000 | $84,879 | 0.87% |
| C | 1000 | $252,000 | $252,000,000 | $356,418 | 0.14% |

Costs to borrowers will also be minor. The CFPB defined a set of costs per application as variable costs and noted that these costs will likely be passed on to applicants. However, the CFPB estimates these costs to be minimal as well, ranging from just $7.50 to $32 in expected additional closing costs.

These slight costs also pale in comparison to the economic benefits of ensuring that all entrepreneurs have access to capital. A 2020 study by Citigroup estimated that fair access to lending for African American-owned small businesses alone would have resulted in $650 billion in additional revenue per year for these businesses, as well as created an additional 6.1 million jobs per year. These massive increases in revenue and jobs will benefit the entire economic system, including lenders.

**The Bank Loan Privacy Act**

This bill was originally introduced in the 117th Congress as the Business Loan Privacy Act, and was justified on the false assertion that the CFPB did not reveal the factors that would be used to safeguard the data and personal information of small business loan applicants.

Arguments regarding the privacy of small business owners are being made in bad faith to delay and undermine compliance with the final rule.

For over 40 years federal agencies have collected and publicly released data on mortgage lending required by the Home Mortgage Disclosure Act (HMDA), with no incident of a borrower's identity having been revealed from HMDA

NCRC
National Community Reinvestment Coalition

data. The CFPB concluded that a Section 1071 dataset would be significantly similar and would pose no additional risks.

**The 1071 Repeal to Protect Small Business Lending Act**

This bill would completely repeal the CFPB's current final rule implementing Section 1071 of Dodd-Frank and initiate a completely new rulemaking process.

It is worth repeating, quality data enables better service for everyone. The collection of Section 1071 data empowers financial institutions to identify how effectively they are lending to underserved small businesses. These institutions will also be able to determine how well they are performing in contrast to competitors, yielding better products and services for the most small business borrowers over time. Without this information being publicly accessible, financial institutions are poorly equipped to accurately and objectively measure their own performance, undermining their own efforts to deliberately reach underserved borrowers. The public greatly benefits from pricing information on borrowing terms being readily available, allowing for the affordability and viability of lending to be accurately assessed.

Quality data also enables effective community development. In order to accurately assess and expand small business nationally, detailed data regarding small business borrowers must be collected. Women owned businesses account for approximately 20% of employers, generating approximately $1.8 trillion in revenue, and yet, borrowing trends among this demographic cannot be reliably determined. Despite making up approximately 12% of the population, only about 2% of small businesses are Black owned, and even among this small segment, characteristics regarding small business lending are poorly understood. In order to effectively meet community development goals, the public requires rich and granular data regarding small business lending to effectively allocate resources to programs and reliably assess their impacts.

In conclusion, despite objections raised by bank trade associations it is clear that efforts to undermine or repeal Section 1071 would lead to worse outcomes for many small business borrowers, as well as lenders, enforcement agencies, and researchers. The implementation of Section 1071 has been anticipated for approximately 15 years.

We strongly encourage you to oppose the bills mentioned above and support Section 1071.

Kevin Hill
Senior Policy Advisor

Bakari Levy
Government Affairs Associate

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Randi Weingarten
American Federation of Teachers
Larry Wright, Jr.
National Congress of American Indians
John C. Yang
Asian Americans Advancing Justice | AAJC

President and CEO
Maya Wiley

February 4, 2025

Dear Member of the House Committee on Financial Services:

On behalf of The Leadership Conference on Civil and Human Rights and the undersigned organizations, we are writing to express our opposition to the most recent public versions of the "1071 Repeal to Protect Small Business Lending Act," the "Small Lenders Exempt from New Data Excessive Reporting (LENDER) Act," and the "Bank Loan Privacy Act." We are deeply troubled that one of the committee's very first legislative priorities appears to be repealing or weakening a key addition to the Equal Credit Opportunity Act (ECOA), one of our country's landmark civil rights laws.

All three of the above-mentioned bills target Section 1071 of the Dodd-Frank Act of 2010, which built on ECOA to make it easier to root out and address patterns of discrimination, and to ensure better civil rights enforcement, in the context of small business and small farm lending. The data provided by Section 1071 is critical because loan applicants often don't know that they have been subjected to discrimination. We cannot eradicate discrimination if we cannot quantify it. Section 1071 also aims to provide valuable insights that can be used to address unmet credit needs. It is similar in many respects to the reporting of demographic data in mortgage lending, which has been required for decades under the Home Mortgage Disclosure Act.

While we are sensitive to concerns about possible regulatory burdens faced by smaller lending institutions, it is equally important to be sensitive to the historic and persistent patterns of discrimination faced by business loan applicants. Yet as drafted, the "1071 Repeal to Protect Small Business Lending Act" only includes several findings speaking to regulatory burdens, and it fails to mention why Section 1071 was enacted in the first place: "to facilitate enforcement of fair lending laws."[1] It would simply repeal Section 1071 without proposing any alternative policy to advance its purpose.

The other two above-mentioned bills would introduce excessive and unwarranted delays in the implementation of Section 1071 – a law that has been on the books for nearly 15 years, and whose enforcement is long overdue.

We urge you to oppose all three of these measures. Thank you for your consideration. If you have any questions, please feel free to contact Rob Randhava, senior counsel at randhava@civilrights.org.

Sincerely,

The Leadership Conference on Civil and Human Rights
20/20 Vision
Americans for Financial Reform
CAMEO Network
Center for LGBTQ Economic Advancement & Research (CLEAR)

The Leadership Conference



CenterLink: The Community of LGBTQ Centers
HEAL (Health, Environment, Agriculture, Labor) Food Alliance
League of United Latin American Citizens (LULAC)
NAACP Legal Defense and Educational Fund (LDF)
NALCAB – the National Association for Latino Community Asset Builders
National Association of Social Workers
The National Coalition for Asian Pacific American Community Development (National CAPACD)
National Community Reinvestment Coalition (NCRC)
National Fair Housing Alliance
National Partnership for Women & Families
National Young Farmers Coalition
Trans Income Project

RESPONSIBLE BUSINESS
LENDING COALITION

**WRITTEN STATEMENT FOR THE RECORD BEFORE THE U.S. HOUSE COMMITTEE ON FINANCIAL SERVICES**

**"MAKE COMMUNITY BANKING GREAT AGAIN"**

February 5, 2025

Louis Caditz-Peck, Executive Director, Responsible Business Lending Coalition

Dear Chair Hill, Ranking Member Waters and members of the House Committee on Financial Services:

On behalf of the Responsible Business Lending Coalition, I am pleased to submit comment for the House Financial Services Hearing "Making Community Banking Great Again," for the Committee to consider as they vote on legislation concerning the Section 1071 Small Business Lending Data Collection rule.

The Responsible Business Lending Coalition (RBLC) is a leading national voice on small business financing. The RBLC and its members represent over 1,000 for-profit lenders, nonprofit lenders and small business support organizations, and tens of thousands of small businesses themselves. These for-profits and nonprofits have come together to advocate for practices and policies that increase small businesses' access to the affordable financing they need to thrive.

The Board of Directors of the RBLC includes representatives of fintech small business lending companies (Camino Financial and Bluevine), Banks (LendingClub), Investors in small business financing (Community Investment Management), Nonprofit lenders to small businesses (Opportunity Finance Network, National Association for Latino Community Asset Builders, and the National Community Reinvestment Coalition), and small business groups (Small Business Majority).

Despite many differences across our industry, nonprofit, and small business members, we all agree that Section 1071 will improve access to capital for small businesses and should remain. In the following brief comment, I hope to share why we believe this regulation will improve access to capital and spur innovation in small business financing.

A Market-Based Approach to Spur Innovation

We view Section 1071 as a market-based, pro-innovation rule. Information about the products and prices available in any market is crucial for firms to identify opportunities where services are needed, and to innovate by identifying ways to improve upon existing products. Transparent markets are a cornerstone of a free-market economy.

Small business financing is no different, in this respect, than other markets. But currently it operates with limited information, despite its importance for our economic prosperity. In sum, no one knows how much small business financing is happening, who is receiving business financing products, and on what terms. Comprehensive, accurate information does not exist, in contrast especially to the mortgage lending market where this data is collected. By providing this missing information, Section 1071 will spur innovation within banks, community organizations, fintech companies, and others, to address areas of opportunity and improve small businesses' access to responsible capital.

Regulation that enhances transparency is a pro-competition alternative to strict rules or subsidies. In other words, one approach for the United States government to improve small business' access to capital is to mandate that firms lend to underserved businesses. Another approach is to provide subsidy making it economically feasible for firms to lend to underserved businesses. A third additional approach, taken in Section 1071, is to enhance the ability of the market to produce its own solutions without government intervention, by illuminating the workings of the market so that firms can spot opportunities for competition, and the innovation that results from competition.

The Section 1071 data will show, for the first time, what products and practices are effective at reaching small and underserved businesses. That will lead to more investment in those practices, as firms "build, buy, or partner" to replicate the lending approaches that the data shows are truly effective. The beneficiaries of this will be US small businesses, employees hired, and the economy broadly.

Access to capital is the number one barrier to small businesses starting up and growing. Many apply for a loan or line of credit but get denied. Small businesses in rural areas especially have a hard time accessing capital. This prevents the American small business ecosystem from being a competitive and flourishing market. The insight produced by the Section 1071 rules will produce a more competitive, innovative market, better able to deliver the capital our Main Street entrepreneurs require.

Regulatory Burden

Reporting this data will represent some regulatory cost. As lenders ourselves, we have considered these costs and found them manageable, considering the benefits. Some members of our coalition employ business models that are very successful at providing access to capital to underserved small businesses, and see opportunity if the effectiveness of these business strategies are validated by the public data of Section 1071. Other members of our coalition represent small businesses themselves, who are currently paying a cost for the lack of transparency in small business financing in the form of reduced access to capital and worse prices.

We also appreciate that the rule offers a tiered approach to not place an excess burden on smaller and mission-focused lenders – smaller lenders will have more time to comply with the rule, and only lenders making more than 100 loans per year are required to report.

Finally, we note that regulatory uncertainty creates unnecessary compliance costs. Lenders spent significant time and resources preparing to comply with the Final Rule. We are now prepared to comply, and do not want that effort and cost to be incurred again, unwinding systems we have built and revising them as the regulatory expectations change.

Recommendations

For the benefits of Section 1071 to occur, we emphasize two considerations that must be made: First, the data collected must be made publicly available in a form that enables it to inform market practice. Plans for how this data will be released remain to me made.

Second, the data must cover the broad range of products and firms that offer financing to small businesses. If a form of financing is exempted from 1071, this "picking of winners and losers" would exempt that form of financing from the competition and innovation resulting from transparency, and likely warp market practice by lowering regulatory compliance for some forms of financing but not others.

Third, As considerations to Section 1071 continue, we emphasize that heathy price competition is enhanced by transparent pricing information being available. Pricing data should remain a part of this data collection to produce price competition, and innovation of products and practices able to deliver credit to Main Street at lower prices.

We look forward to working with the committee to find a path to responsible implementation of Section 1071. Please, do not hesitate to contact me at Louis@borrowersbillofrights.org if you have any questions.

Sincerely,

Louis Caditz-Peck
Executive Director
Responsible Business Lending Coalition

Free Speech Coalition

**STATEMENT FOR THE RECORD**

**By**

**THE FREE SPEECH COALITION**

**"Making Community Banking Great Again"**

**United States House Committee on Financial Services**

**February 5, 2025**

## Introduction

Chairman Hill, Ranking Member Waters, and members of the Committee, the Free Speech Coalition (FSC) appreciates the opportunity to submit this Statement for the Record as the Committee examines the serious consequences of debanking in America. More specifically, our statement highlights the growing and unjustified trend of restricting basic financial services from lawful businesses and individuals in the adult industry.

### *About the Free Speech Coalition*

The Free Speech Coalition is the non-partisan trade association representing the legal adult industry with the mission of protecting the rights and freedoms of our members. For over thirty years, FSC has been a resource, an advocate, and a leader in the communities that we serve. An increasingly important matter for our membership is the lack of reliable access to basic financial products and services and the increasing evidence that FSC members are being subject to systematic debanking despite FSC members representing no increased risk to the banking system.

As in many industry sectors, the pandemic had a profound impact on the adult industry and spurred innovation. The creation of digital content platforms enabled thousands of individuals to supplement lost income or start new careers in adult content creation. Unfortunately, concurrent with this phenomena is evidence that financial regulators are putting pressure on banks to terminate relationships with those who participate in the adult industry leaving thousands – and potentially hundreds of thousands – of legal workers without the ability to access basic financial services.

Despite being a lawful industry that adheres to legal and financial compliance requirements, FSC members continue to experience systematic debanking—a practice that deprives individuals and businesses of fundamental financial services without clear justification. As financial institutions and federal banking regulators appear to apply subjective moral judgments rather than objective risk assessments, thousands of legal workers, independent entrepreneurs, and businesses are left without access to banking, payment processing, and lending.

## The Real-World Impact of Debanking on the Adult Industry

The issue of debanking is not theoretical—it has profound, tangible consequences for law-abiding Americans. According to FSC's 2023 *Financial Discrimination and the Adult Industry Report*, nearly **80% of surveyed industry professionals** reported experiencing some form of financial unfairness, and **63% had an account closed by a bank or digital payment**

**provider, such as Zelle, Cash App, Paypal, or Venmo**. These closures often occur **without warning, due process, or clear reasoning**.

Among the affected:

- Independent performers, creators, and small business owners who rely on digital platforms for income.
- Technology companies providing services to adult professionals.
- Educational organizations, advocacy groups, and even FSC itself—a 501(c)(6) nonprofit that has been denied banking services.

Moreover, this financial exclusion disproportionately harms women and individuals from marginalized communities, exacerbating economic inequality and forcing many into precarious financial situations, leading to a higher risk of financial exploitation.

### Regulatory Overreach and the Chilling Effect of FinCEN Guidance

The current wave of debanking in the adult industry can be traced back to unclear and overly broad regulatory guidance, particularly from the Financial Crimes Enforcement Network (FinCEN).

- **Misinterpretation of "High-Risk" Designations**: Financial institutions and digital payment platforms **misconstrue FinCEN's risk-based guidance** and default to closing accounts rather than assessing individual risk.
- **Conflation with Human Trafficking**: FinCEN advisories, particularly the **2014 and 2020 human trafficking risk indicators**, have led institutions to **wrongly associate routine transactions in the adult industry with illicit activity**.
- **Fear of Regulatory Repercussions**: The legacy of past government initiatives, such as Operation Choke Point, continues to instill **uncertainty among financial institutions** that servicing lawful adult businesses will result in heightened scrutiny from federal banking regulators.

While financial institutions and digital payment platforms are not required to close accounts merely because of Suspicious Activity Reports (SARs), **many institutions claim that FinCEN's guidance leaves them no choice**. This chilling effect creates a de facto prohibition on financial services for an entire legal industry.

**Personal Testimonies: The Human Cost of Financial Exclusion**

**1. Alana, Actress, Labor Advocate, and Mother**
*"After being a customer with Wells Fargo for over 30 years, Wells Fargo decided I was high risk due to my line of work and ended our relationship. Without any cause or reason, other than they were reevaluating our business relationship, my good credit with the bank was tossed to the side, all because I am adult actress. As the President of the performer union, I felt discriminated against for my choice of legal occupation. As a mother, a registered voter, a tax payer, and active advocate for our industry, I have seen others go through similar issues, but this was my first true experience of financial discrimination."*

**2. Zoë, CEO of an eCommerce Startup in the Adult Industry**
*"Since entering the sex toy industry nearly 10 years ago, I have been denied basic banking services such as a savings account, have been prohibited from using PayPal as an individual, am ineligible for the vast majority of loans or lines of credit, and in one instance in 2016 had funds withheld by the Michigan state treasury for unexplained reasons. I consider my experiences with banking discrimination to be relatively minor, relative to my colleagues in the industry, and yet it significantly disrupts my life and ability to prosper as a small business owner."*

**3. Maeve, Independent Content Creator & Small Business Owner**
*"Fall 2022 Charles Schwab shut down my checking account with no reason given. I was receiving payments from my main streaming site and OnlyFans. The closure letter was dated within one week of my last OnlyFans deposit. Upon contacting the bank, I was told they would not provide a reason and that there was no appeals process. I was not allowed to speak with anyone above frontline customer service agents."*

**Legislative and Regulatory Path Forward**

The Free Speech Coalition urges Congress to take the following steps to ensure financial fairness and equal access for all legal businesses:

1. **Clarify FinCEN Guidance**
    - Congress should work with FinCEN to **explicitly affirm that lawful adult industry businesses do not present an inherent financial crime risk.**
    - FinCEN should **revise its advisory language** to prevent the **misuse of trafficking-related "red flags" against legal adult businesses.**

2. **End Arbitrary Debanking**
    - Congress should investigate cases of **arbitrary and preemptive account closures** and demand transparency from financial institutions regarding their risk assessment processes.
    - **Regulatory agencies must provide clear due process protections** to ensure businesses have recourse before account terminations.

3. **Promote a Truly Risk-Based Approach**
    - Rather than blanket exclusions, banks, credit unions, and payment platforms should be encouraged to **evaluate businesses on their individual merits** and compliance history.

4. **Increase Congressional Oversight of Financial Institutions' Practices**
    - The Senate Banking Committee should examine whether financial institutions are making **independent, objective risk assessments** or merely acting out of fear of regulatory backlash.

## Conclusion

The ongoing debanking of the adult industry raises serious concerns around financial fairness and due process. The **denial of basic financial services to a lawful industry undermines fundamental American values**—economic freedom, equal opportunity, and the rule of law.

FSC remains committed to working with Congress, regulatory agencies, and financial institutions to ensure that all Americans—regardless of their lawful profession—have equal access to the financial system.

We thank Chairman Hill, Ranking Member Waters, and the Committee for its leadership on this critical issue and urge swift action to address the real-world harms of debanking in America.

Sincerely,

Alison Boden
Executive Director
Free Speech Coalition

/ inclusiv /

Cathleen A. Mahon, CEO/President of Inclusiv

Written Testimony on Community Banking

House Financial Services Committee

February 5, 2025

Thank you for the opportunity to submit testimony for the House Financial Services Committee's hearing "Making Community Banking Great Again." We appreciate the opportunity to highlight for the committee the vital role community lenders play in advancing economic opportunity and how Congress can support their critical work in underserved communities, particularly rural areas, and with small businesses that large financial institutions are not well-equipped to serve. We urge the Financial Services Committee to continue supporting longstanding, effective federal programs like the Community Development Financial Institutions (CDFI) Fund that help community lenders expand their work and to address barriers to community lenders' growth and impact with targeted policy interventions.

***About Inclusiv***

Inclusiv is the leading network of credit unions with a primary mission of promoting community development and financial inclusion. We are a certified Community Development Financial Institution (CDFI), and the only CDFI exclusively dedicated to investing in the community development credit union (CDCU) movement. Inclusiv supports credit unions serving people who have been excluded from economic opportunity. Our capital and programs help our members ensure everyone has the opportunity to achieve financial well-being and benefits from quality housing, good jobs, and strong, resilient local economies.

Our more than 500 member credit unions are headquartered in 47 states, Washington, DC, and U.S. territories including Puerto Rico, the US Virgin Islands and Guam. They collectively serve more than 21 million Americans and hold more than $314 billion in community-controlled assets. Nearly half of our members are small credit unions with less than $100 million in assets and two-thirds are certified CDFIs.

***Community Lenders Advance Economic Opportunity***

**1. CDFI Credit Unions Are a Vital Resource for Rural Communities**

/ inclusiv /

Rural communities too often contend with dual challenges of economic hardship and reduced access to financial services. Persistent poverty communities are overwhelmingly rural, and 85% of all persistent poverty counties are non-metro counties.[1] Banking deserts are also more common in rural areas, where mobile banking access is limited and the population tends to be older, preferring to bank at physical locations.[2]

As a result, many of these communities rely on credit unions or smaller community banks to access financial services. CDFI credit unions in rural areas, like Tongass FCU, play a critical role in filling the service gap and ensuring rural communities are not left behind. Tongass FCU began in Ketchikan, AK but has since been approached by other communities across Alaska seeking local banking options. In 2005, they began offering financial services in Thorne Bay, a former logging town of 500 residents located on an island, with the support of Thorne Bay's community business association. Through local partnerships and community spaces, they have been able to expand services to include seven branches and five community "microsites" like the one in Thorne Bay. In 2019, Tongass opened another microsite in Hydaburg, a remote town on the same island that has never had local financial services or an ATM and is an hour drive from the nearest community with financial services. By partnering with a local school that provided office space and a location for the ATM, Tongass has been able to provide critical financial services in a central community gathering space. This spirit of partnership and mutual benefit is a cornerstone of the credit union model and enables credit unions to reach areas that mainstream financial institutions will not serve.

CDFI credit unions are additionally well-equipped to serve members with loan offerings that mainstream financial institutions are less likely to offer. For example, Community 1st Credit Union serves residents in counties across Iowa and Missouri with a variety of low-cost agricultural loans to cover daily operating costs, finance specialized equipment, or purchase or lease land. Ryan Stober, owner of Centerville Produce, utilized an agricultural loan from Community 1st to restart his family's 72-year livestock feed business after a pivotal turning point. Greg Hanshaw, CEO of Community 1st CU says:

> "Most folks don't have the means or the wherewithal to fund their own operations, so they need a partner. They need someone willing to work with them, stand beside them, and help them through the process. We love to take care of folks who are part of the

[1] "Rural Poverty & Well-Being." US Department of Agriculture Economic Research Service. 2022. https://www.ers.usda.gov/topics/rural-economy-population/rural-poverty-well-being/#historic.
[2] "Rural America at a Glance." US Department of Agriculture Economic Research Service. 2023. https://ers.usda.gov/sites/default/files/_laserfiche/publications/107838/EIB-261.pdf?v=83297

agricultural economy. Ag lending is one more way we can show Iowans that credit unions are different. Pretty much every deal we make has a much bigger effect. Ryan has grown his business and employment significantly over the last few years. He isn't just taking care of his own family, he's providing a way for quite a few others to take care of their families."[3]

Hanshaw takes pride in Community 1st's individualized member support and willingness to take risks that other financial institutions may avoid. When members can work with their credit union to find the loan and repayment options that work best for their needs, agricultural livelihoods are saved.

**2. CDFI Credit Unions Help Low-Income Families Build Wealth Through Homeownership**

For the past two decades, housing costs have been on the rise across the United States.[4] CDFI credit unions help more Americans achieve their goal of homeownership and build a future through first-time homebuyer programs and individualized financial coaching. They collectively hold $86 billion in community mortgage loans across the country, primarily supporting low- and moderate-income members.[5]

Clearwater Credit Union, a CDFI based in Missoula, MT, knows just how transformative it can be to empower members to own instead of rent. Clearwater is committed to being part of the housing solution by finding unique ways to help more Montanans become homeowners. For 14 residents in a Missoula manufactured home park, this meant going from rental tenants to owners; able to manage their manufactured home community through a resident-elected board of directors.

When the renters had heard that the land their homes sat on was going up for sale, they were concerned about rent increases from a new landlord. However, Clearwater stepped in to offer below market-rate financing to enable them to buy their homes, and the North Missoula Community Development Corporation was able to purchase the land and place it

[3] "Community 1st Credit Union Fosters Financial Well-Being in Rural Iowa." America's Credit Unions. 2024. https://www.americascreditunions.org/news-media/news/community-1st-credit-union-fosters-financial-well-being-rural-iowa

[4] "Rent, House Prices, and Demographics." US Department of the Treasury. 2024. https://home.treasury.gov/news/featured-stories/rent-house-prices-and-demographics.

[5] "National CDFI Credit Union Profile." Inclusiv. 2024. https://inclusiv.org/resources/state-national-cdfi-credit-union-profiles

into trust for the resident-owned community (ROC), guaranteeing much needed affordable housing in perpetuity.[6]

In Montana, nearly 24,000 manufactured homes have become a critical part of affordable housing for many residents for whom site-built homes are out of reach. Mainstream financial institutions typically only offer short-term, high-priced loans for manufactured homes, since they are titled like automobiles. However, Clearwater offers an innovative loan product at responsible pricing specifically for manufactured homeowners. Their activities are yet another example of how credit union values can make powerful changes happen in the communities they serve.[7]

### 3. CDFI Credit Unions Support Small Businesses and Create Local Jobs

CDFI credit unions play a key role in supporting small business owners, including worker-owned businesses, with both loans and technical assistance that help small businesses grow and create quality jobs in their communities. These businesses revitalize neighborhoods and help keep local dollars local. Collectively, CDFI credit unions have $29 billion in lending to local businesses across the country.

Lake Trust Credit Union serves communities across the state of Michigan, where 98% of businesses are small businesses, and small businesses employ roughly half of all Michigan workers.[8] They understand that providing a small business with the funding they need to succeed can jump start a broader impact, creating new opportunities and experiences for local residents. For example, Lake Trust member Marcus Leslie credits Lake Trust financing with helping him serve happiness to his Lansing community through his dessert business, Mr. Leslie's Cheesecakes. After a career in the automotive industry, Marcus made the leap to a Lake Trust-sponsored Incubator Kitchen program at Allen Neighborhood Center in Lansing. Renting space at the Center helped him build clientele and savings before winning first place in a local business pitch competition, which earned him additional funding to continue expanding. Today you can find Mr. Leslie's Cheesecakes in local grocery stores and Meijer locations across Michigan. He plans to open his first stand-alone location in the new Macotta Club food incubator space in downtown Lansing. To support other small business owners at the Macotta Club, Marcus

[6] "Banking on Values." Clearwater Credit Union. 2023. https://clearwatercreditunion.org//wp-content/uploads/2024/09/Clearwater_Annual_Report_2023_V7.pdf
[7] "Manufactured Homeowners in Montana." Clearwater Credit Union. 2024. https://clearwatercreditunion.org/resources/manufactured-homeowners-in-montana/
[8] "Small Business Saturday in Michigan." Small Business Association of Michigan. 2024. https://www.sbam.org/celebrate-small-business-saturday-in-michigan/.

will also act as the resident coach and consultant, and he recently launched an entrepreneurial coaching business to uplift and inspire other business owners in the community. Credit union leaders often invoke the saying "people helping people" to describe the credit union difference, but it just as often applies to members like Marcus, who is motivated to help his fellow entrepreneurs thrive.

**4. CDFI Credit Unions Offer Safe Alternatives to High-Cost, Fringe Financial Services**

The low-income and underbanked communities CDFI credit unions serve are often a target for high-cost, fringe financial services. However, CDFI credit unions are helping their members avoid these destabilizing debts with a total of $17 billion in affordable small dollar loans and alternatives to high-cost payday loans.

One of these CDFI credit unions is Resource One, a Texas-based credit union serving the Dallas and Houston areas. Texas has the highest payday lending rates in the country—Texans pay $1.1 billion in fees and interest on payday loans each year. To help members avoid exorbitant fees and interest, Resource One offers affordable small dollar loans and has adopted technology to offer rapid loan review and funding to meet members' emergency needs. Through their QuickCash loan program, they provide loans ranging from $500-$2000 with low monthly costs, so members can cover unexpected expenses without entering a costly cycle of debt. Preserving these options through CDFI credit unions helps more people build financial stability and resilience.

**5. CDFI Credit Unions Prioritize Members' Financial Well-Being**

CDFI credit unions are mission-driven, member-owned and -governed financial cooperatives. As engines of financial strength and opportunity, they provide the knowledge and coaching support members need to achieve their financial goals.

For St. Louis Community Credit Union of St. Louis, MO, financial services are more than transactions—they are part of a holistic, community-centered response to increase the standard of living of their members and the communities they serve. Of their 15 branches, 11 are located in or immediately adjacent to distressed census tracts, and 8 are within a Persistent Poverty County. The credit union works in partnership with several social service organizations to meet each community where they are—three of its branches are co-located with partner nonprofits.

St. Louis Community Credit Union, like many CDFI credit unions, offers free financial education and data-informed coaching to help members with spending plans, credit

building, loan preparedness, and money management. Through an array of financial tools, they support both short- and long-term financial planning to help families build and maintain generational wealth.

***Preserve the CDFI Fund***

For the past 30 years, CDFIs have earned bipartisan support because they have proven themselves as one of the federal government's best economic development strategies. Through the CDFI Fund, CDFIs use a small amount of public dollars to leverage private funds to restore and promote economic vitality and self-sufficiency in economically distressed, low-income, and persistent poverty communities. Since 1994, CDFIs have leveraged at least $8 in private sector investment for every $1 in public funding received, and many CDFI credit unions outperform this measure.[9] In directing at least 60% of their lending toward economically distressed people and communities, CDFIs advance financial independence, combat poverty, and fill financial service gaps in areas that mainstream financial institutions overlook.

It is vital that Congress continue to support the CDFI Fund through the appropriations process to ensure the Fund has the resources needed to operate effectively and provide critically needed grant funding to support the high-impact work of CDFI lenders in communities across the country.

***Removing Barriers for High-Impact Small Financial Institutions***

**1. Preserve the Credit Union Tax Exemption**

Credit unions have been tax-exempt for almost 90 years because of their unique mutually-owned, not-for-profit structure as financial cooperatives. Credit unions are focused on providing affordable financial services to their communities, and as such their boards are composed of member-elected volunteers. Preserving the credit union tax exemption is critical to allow these institutions to grow and continue reinvesting in their communities.

For Park Community Credit Union, which serves communities across Louisville, Lexington, Richmond, and Berea, KY, reinvesting in the local community is not only smart investing, but also a powerful way to create lasting economic opportunity. When short-term capital was needed for Adventurous Minds Produce Extraordinary Dreams (AMPED) Tech and

[9] "An Introduction to the CDFI Fund." US Department of the Treasury. 2023. https://www.occ.treas.gov/topics/supervision-and-examination/bank-management/minority-depository-institutions/cdfi-fund-09-01-2023.pdf

Learning Center in Louisville, KY, Park Community Credit Union stepped in with the help of Emergency Capital Investment Program (ECIP) funds. The over 12,600 square foot facility will be a workforce development space for the community and a hub for providing in-demand technology training for individuals in low-income communities, with graduates being placed in IT roles throughout the city. Locals anticipate that the much-needed programs through AMPED will help kickstart a revitalization of the community workforce.[10] AMPED's success highlights the transformative impact of CDFI credit unions and demonstrates the tangible outcomes supported by the CDFI Fund and credit union tax exemption.

**2. Tailor Regulation and Supervision to the Size and Complexity of Institutions**

Given the varying size and complexity of credit unions, regulation and supervision should be tailored to ensure that small credit unions, which are often minority depository institutions (MDIs), can continue to operate successfully without undue burden. With tailored oversight, these institutions can remain independent and continue serving the communities they know, rather than being urged by regulators to merge with larger institutions that may not share their mission, local knowledge, or commitment to community development.

FOGCE Federal Credit Union has served the residents of Greene County, AL since 1975, growing from $25,000 at its opening to $1.67 million in assets today. While the credit union may be labeled "small" at this asset size and just over 800 members, they have nearly 10% market share of the county's total population and serve as the lifeblood for so many in the county. As longstanding community members, FOGCE staff know what resonates with their members, always reminding them that the money they're borrowing is from the community—that this money comes from their neighbors' savings. This ethos has served both the credit union and the community well, driving home the importance of supporting these strong and committed "hyper-local" financial institutions.

**3. Increase the Deposit Insurance Limit to Boost Community Lending**

Because community lenders typically serve lower-income areas, raising deposits can be more challenging. Increasing the deposit insurance limit would encourage institutional

[10] "Park Community Credit Union Celebrates New AMPED Facility." CUInsight. 2024. https://www.cuinsight.com/press-release/park-community-credit-union-celebrates-ecip-funds-at-work-with-groundbreaking-for-new-amped-facility/

investors to place larger deposits in community lenders, expanding their capacity to lend in low-income areas where members have limited savings.

Engage Federal Credit Union in Natchitoches, LA recently received an investment via the David and Lucile Packard Foundation and Inclusiv's Impact Deposits Fund. Kathy Deloney, CEO of Engage FCU emphasized the significance of the investment, saying:

> "As a community development financial institution, Engage FCU is always looking for ways to further support our neighbors. This social impact deposit from the Packard Foundation will give us additional loan capital to help our members and their families thrive. The deposit will support micro-enterprise loans for entrepreneurs, payday alternative loans to help families avoid predatory lenders, and other forms of credit to empower our community to succeed."

Increasing the deposit insurance limit would unlock more opportunities for similar investments, helping community lenders expand access to fair and affordable financial services in the areas that need them most.

Further, raising the deposit insurance limit would help protect small business accounts that may exceed the insured limit. To keep community lenders as viable options for business accounts, small business owners should be able to bank confidently knowing they will be able to continue to cover operational expenses and pay employees in the event that their depository institution fails. Without such coverage, they may be compelled to move their funds to larger banks, weakening community lenders that drive local economic growth. Expanding deposit insurance for business accounts supports local banking options while ensuring that small business owners are protected from unexpected bank or credit union failure.

**Closing**

In closing, community development credit unions play an essential role in expanding economic opportunity across the nation, including areas that are hardest to reach. By providing safe and affordable financial services, these mission-driven institutions promote homeownership, small businesses, and quality jobs, helping individuals and families build financial independence and resilience.

We urge the House Financial Services Committee to continue its strong support for community lenders by preserving the CDFI Fund, protecting the credit union tax exemption, tailoring oversight to ensure the sustainability of small credit unions, and addressing barriers to growth by increasing the deposit insurance limit. These

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interventions can enable CDFI credit unions to continue their vital work and ensure that more communities have access to the financial resources they need to thrive.

Thank you again for the opportunity to submit testimony on community banking. We look forward to working with Congress to continue to empower community lenders and the people they serve.

Statement of Nicole Elam

President and CEO of the National Bankers Association

For the House Financial Services Committee Hearing:

"Making Community Banks Great Again"

February 5, 2025

Chairman Hill, Ranking Member Waters and members of the Committee, thank you for the opportunity to submit a statement in support of this hearing's focus on the importance of the nation's community banks. It gives me great hope that one of this Committee's first hearings of the new year is aimed at shining a light on this critical issue.

My name is Nicole Elam, and I am President and CEO of the National Bankers Association (NBA). The NBA is the leading trade association for the country's Minority Depository Institutions ("MDIs"). A critical part of our mission is to serve as an advocate for the nation's MDIs on all legislative and regulatory matters concerning and affecting our member institutions as well as the communities they serve.

Many of our member institutions are also Community Development Financial Institutions ("CDFIs") and have become banks of last resort for consumers and businesses who are underserved by traditional banks and financial service providers. Members of our association are on the front lines, trying to reduce the economic hardship faced by the communities we serve, which are historically the most vulnerable during good and bad times. We believe our banks are best positioned to help our communities recover and overcome many of the economic and systemic issues that have placed them at a disadvantage.

MDIs and CDFIs have traditionally served as a source of strength and engines of economic development due to their relative concentration in low-income communities as well as their established relationships created over decades of mission driven service. Our banks provide basic banking services to communities that are more likely to be unbanked or underbanked according to a Federal Reserve Report on the Economic Well-Being of U.S. Households in 2020.

Unfortunately, CDFIs' smaller size has not allowed them to respond as quickly or with as much scale as the current economic situation in LMI communities demands. Given the important role these institutions play in the communities they serve; we need to do more to preserve and promote them. Our obligation in this regard is not just morally justified but required by federal statute. Passed into law in 1989, Section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act, or FIRREA, requires the Treasury, Federal Reserve, OCC, and FDIC to preserve and promote MDIs in a variety of ways, including preserving the number of MDIs. This statutory obligation should be considered a part of Treasury and the regulators' overall mission to maintain stability and public confidence in the nation's financial

system. The Treasury and bank supervisory agencies across Administration's have, unfortunately, failed to preserve and promote these institutions.

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. CDFIs have historically lacked access to capital markets that would allow them to scale. Without sufficient Tier 1 Capital, not only are banks limited in the number of deposits they can take in, but they are also hampered in their ability to withstand loan losses. Without access to capital markets or large pools of high-net-worth investors, many CFDIs are forced to exhaust their capital reserves, failing as a result.

The House Financial Services Committee has been very supportive of several provisions over the past few years that ensure that CDFIs and the small businesses and individuals we serve are not forgotten. The creation and implementation of the Emergency Capital Investment Program and the $3 billion increase in funding the CDFI Fund can help banks like those within the NBA scale up and provide more access to credit for individuals and small businesses in low- and moderate-income communities. The legislation included as a part of today's hearing aligns with the Committee's goal of preserving and protecting our institutions. The measures, taken together will provided opportunities for these institutions to not only survive but thrive.

The NBA applauds the Committee for its consideration of these important measures and looks forward to continuing to work with you on additional legislation to ensure that our communities, hardest hit by economic and systemic inequity, experience lasting, material changes that will support broad and deep economic growth that will benefit all Americans. We believe additional legislation that will allow CDFIs to continue to augment their capital bases, include our banks and communities in opportunities and addresses a regulatory process that can hamper our banks' ability to bring the underserved into the financial mainstream continues to be needed.

The NBA again applauds the Committee for holding this important hearing and for its ongoing efforts to launch a new era for traditionally underserved communities and ensuring equity for all businesses in the country. We very much look forward to working with the Committee, Congress and the Administration on policies that support the CDFI sector as we respond to the credit needs of the communities and small businesses that our member institutions serve that disproportionately shoulder the burden in most instances. Thank you again for the opportunity to submit this statement.

February 4, 2025

The Hon. French Hill, Chairman
The Hon. Maxine Waters, Ranking Member
U.S. House Committee on Financial Services
Washington, DC 20515

**Re: Statement submitted for the hearing titled "Make Community Banking Great Again," scheduled for Feb. 5, 2025**

Dear Chairman Hill, Ranking Member Waters, and Members of the Financial Services Committee:

The National Association of Consumer Advocates (NACA), a national nonprofit organization actively engaged in promoting a fair and open marketplace that forcefully protects the rights of all consumers, particularly those of modest means, writes in response to the committee's memorandum announcing the hearing titled "Make Community Banking Great Again." Specifically, we urge the committee to oppose H.J. Res.__, the resolution of disapproval of the Consumer Financial Protection Bureau's (CFPB) overdraft fee rule[1] referenced in the memorandum.

The committee should consider three important factors as it weighs the CFPB's overdraft lending rule for very large institutions and the resolution seeking to overturn it. **First,** the rule will save targeted American families $5 billion/year in overdraft fees, amounting to $225/year per household that pays overdraft fees.[2] **Second,** the rule will remedy a known cause of the growing number of unbanked consumers. Unbanked people have cited high fees as a reason and millions are "debanked" when their deposit accounts are closed due to excessive overdraft fees.[3] **Third,** the rule only applies to the largest financial institutions with more than $10 billion in assets, "in light of the different circumstances smaller financial institutions may face in adapting to the...regulatory framework."[4] Only the 175 largest financial institutions, who already dominate the deposit and overdraft market, meet this threshold. Community banks, which the committee seeks to strengthen "and ensure regulation is properly tailored" for, would not be impacted by the rule.

The CFPB's overdraft fee rule for very large financial institutions, closes a paper-check era loophole, which exempted overdraft fees as a finance charge under the Truth in Lending Act. It was a convenience to prevent paper checks from bouncing. In the rule, the CFPB rightly ends the loophole, which had facilitated predatory practices, allowing the largest banks to hike their fees and earn billions in profits off of working families. The straightforward rule gives the largest

[1] Final Rule, *Overdraft Lending: Very Large Financial Institutions*, 89 Fed Reg. 106768, Dec. 30, 2024.
[2] *CFPB Closes Overdraft Loophole to Save Americans Billions in Fees*, Dec. 12, 2024, https://www.consumerfinance.gov/about-us/newsroom/cfpb-closes-overdraft-loophole-to-save-americans-billions-in-fees/
[3] Dennis Campbell, et al., *Bouncing out of the banking system: an empirical analysis of involuntary bank account closures*, April 2012, available at https://www.sciencedirect.com/science/article/abs/pii/S0378426611003256.
[4] 89 Fed Reg. at 106778.

banks three options. They can (a) cap their overdraft fee from the typical $35 to $5, the estimated level at which most banks would be able to cover their costs associated with overdraft transactions; (b) set their own overdraft fee at an amount that covers actual costs and losses, and not used as a profit tool, or (c) disclose the terms of their overdraft charge, and treat it like other loans with transparent pricing, time to pay, and compliance with other lending requirements.

The rule follows years of market research on overdraft fees conducted by the agency and others.[5] This research found that many consumers treat overdraft fees as credit, that they do not have a full understanding of overdraft programs, that consumers believed the fees are disproportionate, and that the most financially at-risk people are the most negatively impacted by such fees.[6] The rule also comes during an ongoing shift away from overdraft fees. Big banks, including Capital One, Citibank, and Ally have eliminated their overdraft fees while Bank of America has reduced its fee from $35 to $10.[7] The overdraft rule will help make the market safer and more competitive.

Excessive overdraft charges also impact servicemembers and veterans. Recently, the CFPB ordered Navy Federal Credit Union, which serves active-duty military members, veterans, and Department of Defense civilian employees, to refund more than $80 million to consumers charged wrongful overdraft fees.[8] Navy Federal was found to have charged surprise overdraft fees to consumers whose accounts showed sufficient funds and failed to disclose that certain funds from peer-to-peer payments would not be available to spend until the next business day.

The CFPB also has rightly taken action against Wells Fargo and other entities for conduct that included charging surprise overdraft fees, pressuring consumers into signing up for overdraft protection, charging fees to consumers who had not opted in to overdraft protection, and more.[9] The overdraft rule will eliminate the incentive for these exploitative practices while allowing banks to offer overdraft credit in a transparent and fair manner.

To help lower costs, spur growth, and increase competition, we urge you to reject any resolution of disapproval that would overturn the CFPB's final rule on overdraft lending and fees. Thank you for considering our views. Please contact me at christine @ consumeradvocates.org with any questions or concerns.

Sincerely,

Christine Hines
Senior Policy Director

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[5] Pew, *Overdraft, The Need for New Rules*, https://www.pewtrusts.org/en/research-and-analysis/articles/2015/04/overdraft-the-need-for-new-rules; Consumer Fin. Protection Bur., *Data Point: Overdraft/NSF Fee Reliance Since 2015 – Evidence From Bank Call Reports*, Dec. 2021, https://files.consumerfinance.gov/f/documents/cfpb_overdraft-call_report_2021-12.pdf.

[6] *See e.g.* Consumer Fin. Protection Bur., *Overdraft and Nonsufficient fund fees: Insights from the Making Ends Meet Survey and Consumer Credit Panel*, Dec. 2023, https://files.consumerfinance.gov/f/documents/cfpb_overdraft-nsf-report_2023-12.pdf.

[7] Aaron Klein, *Getting over overdraft*, Nov. 7, 2022, https://www.brookings.edu/articles/getting-over-overdraft/.

[8] *CFPB Orders Navy Federal Credit Union to Pay More Than $95 Million for Illegal Surprise Overdraft Fees*, Nov. 7, 2024, https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-navy-federal-credit-union-to-pay-more-than-95-million-for-illegal-surprise-overdraft-fees/.

[9] Consumer Fin. Protection Bur., *FACT SHEET: The CFPB's Proposed Rule To Curb Excessive Fees On Overdraft Loans By Very Large Banks And Close A Decades-Old Loophole*, Jan. 2024, https://files.consumerfinance.gov/f/documents/cfpb_overdraft-credit-very-large-financial-institutions_fact-sheet_2024-01.pdf.

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January 30, 2025

The Honorable Congressman Zach Nunn
1410 Longworth House Office Building
Washington, DC 20515

The Honorable Chairman French Hill
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

**RE: Iowa Bankers Association Priorities to "Make Community Banking Great Again"**

Dear Congressman Nunn, Chairman Hill, and Members of the House Committee on Financial Services:

Thank you for the opportunity to provide a letter for the record on behalf of the 259 member banks of the Iowa Bankers Association, and the thousands of bankers that we represent. Our Iowa community banks are a vital part of the economic fabric of our state. Iowa's small businesses, farms, and rural homeowners rely on their local banks for credit, capital, and charitable contributions. We are excited about the committee's focus on "Making Community Banking Great Again," and we appreciate the opportunity to help shape that agenda by sharing our federal legislative priorities.

There are several tax-related provisions that impact Iowa banks. As Congress considers the reconciliation package for tax reform, we ask that you keep the following priorities in mind:

- **Access to Credit for our Rural Economy (ACRE) Act** – This legislation would exempt from taxation income derived from interest on loans backed by agricultural real estate and mortgages provided in rural communities, among other things. This legislation would provide an important boost to rural America, and consumers would benefit from a more balanced competition between banks and their tax-advantaged competitors in the marketplace, including our nation's only retail government sponsored enterprise – the Farm Credit System.

- **Qualified business income (Section 199A) deduction** – A significant number of Iowa banks are S-corporations and benefit from this deduction. These are the community banks this committee is seeking to make great again! The 199A deduction helps ensure that S-corporations see similar benefits to the corporate tax cuts included in the original Tax Cut and Jobs Act.

- **Credit union taxation** – As Congress considers potential revenue-generating provisions to further its other targeted tax reduction priorities, it should consider subjecting credit unions to similar taxation as banks. At the state level in Iowa, we are on a path to tax parity between banks and credit unions, which helps to provide a more even playing field. However, the credit union tax exemption exists at the federal level, keeping the playing field uneven. It is estimated that ending the credit union tax exemption would generate $30 billion in revenue over ten years. Today's large credit unions are sophisticated financial institutions, sponsoring NFL stadiums and purchasing community banks with tax-free dollars. Taxpayers should rightly ask why they should continue to subsidize these activities. Simply put, similar activities should be taxed and regulated in a similar manner, and the reconciliation package provides an important opportunity to fix this inequity.

There are also many policy provisions the committee should consider. One of the biggest challenges identified by Iowa bank leaders is the tsunami of regulations they saw during the Biden administration. Banking is already one of the most highly regulated industries. Small-town community banks simply do not have the resources to deal with onerous regulations, many of which are targeted at larger institutions. This regulatory burden drives consolidation in the banking industry and negatively impacts community bankers and their customers.

This committee can address these burdens in several ways. First, we encourage a continued emphasis on tiering regulations to certain asset sizes. Institutions of different sizes and business models present fundamentally different risks, which justify differing regulatory treatment. These tiers should also be consistent across regulations – a large bank for one purpose should be considered a large bank for other regulatory purposes. Additionally, those regulatory tiers should be indexed to inflation, so they adjust meaningfully over time. What was a $1 billion bank or a $10 billion bank in 2010 are much different than banks of that same size today. Had those tiers been indexed to inflation, fewer Iowa banks would have to be artificially restraining their growth to stay under the next tier (and thereby avoid the burdens that come with the increased regulation).

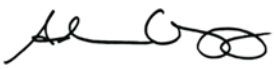
There are some specific regulations that Congress can work to repeal. The Section 1071 Small Business Data Collection rule is a clear example. Substantively, the rule is an unnecessary violation of privacy for small businesses. Additionally, many Iowa banks have reached out seeking guidance – they're on the brink of making six-figure technology purchases to track 1071 compliance. Congress can take this unnecessary expense away and allow banks to deploy capital in their communities rather than toward their compliance burden.

Congress also has the extraordinary tool of the Congressional Review Act to unwind many of the misguided actions that occurred in the final days of the Biden administration. Iowa banks encourage you to consider using this process to unwind wrongheaded recent actions by the Consumer Financial Protection Bureau regarding overdraft fees, and open banking rules under Section 1033.

We also encourage the committee to consider reviewing the very complex issue of deposit insurance. While the industry is actively working to develop a unified approach to reform, it is clear the status quo is not sustainable or fair. Any reform has tradeoffs which should be carefully considered, but the time to examine these difficult issues is not during a future crisis – it is now, when these policy issues can be considered with clear eyes.

Thank you for your work to Make Community Banking Great Again. We stand ready to assist your committee to accomplish these priorities.

Sincerely,



Adam Gregg
President & CEO
Iowa Bankers Association

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IowaCreditUnions.com

**To:** Congressman Zach Nunn
**From:** Iowa Credit Union League
**Date:** January 29, 2025
**Subject:** Make Community Banking Great Again Hearing

Below is the requested information regarding credit unions in Iowa and their key federal priorities for this Congress.

**Model Credit Unions in Iowa**
Two exemplary credit unions in the Congressman's district that serve as strong models for community financial institutions are:

- Veridian Credit Union – Veridian has demonstrated a strong commitment to serving Iowans with accessible financial services and innovative community engagement.

- Community 1st Credit Union – A member-focused institution dedicated to financial empowerment, Community 1st has been a leader in expanding financial access and promoting economic growth in Iowa.

**Iowa Credit Union Federal Priorities**
For submission to the record, the following federal priorities represent key issues for Iowa Credit Unions in the current Congress:

- Regulatory Relief
  - Repealing the use of mortgage trigger leads (Homebuyers Privacy Protection Act).
  - Nullifying burdensome CFPB rules, including regulations on overdraft fees, credit card late fees, and medical debt.
  - Modernizing the Federal Credit Union Act to update loan maturities, expand investment options, and adjust interest rate caps.
  - Passing the Credit Union Board Modernization Act.
- CFPB Reforms
  - Enhancing board governance and transparency through the CFPB Transparency & Accountability Reform Act (establishing a five-member board and subjecting the bureau to the appropriations process).
  - Improving access and accountability within the Community Development Financial Institution (CDFI) Fund through the CDFI Transparency Act.
- Consumer Protection
  - Advancing protections against fraud and scams, including Rep. Nunn's financial fraud legislation.
- Preserving Credit Union Tax Status
  - Ensuring continued recognition of credit unions' tax-exempt status to support member-driven services and community reinvestment.

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- Opposing Harmful Interchange Fee Legislation
    - Preventing policies that would negatively impact credit and debit card transaction systems, ensuring fair and efficient financial services for consumers.

Please let us know if you need any modifications or additional details.

ICBA
One Mission. Community Banks.

Lucas White, Chairman
Jack E. Hopkins, Chairman-Elect
Alice P. Frazier, Vice Chairman
Quentin Leighty, Treasurer
James H. Sills, III, Secretary
Derek B. Williams, Immediate Past Chairman
Rebeca Romero Rainey, President and CEO

January 7, 2025

United States House of Representatives
Washington, D.C. 20515

Dear Representative:

On behalf of ICBA and community banks with more than 50,000 branches across the country, I write to congratulate you on being sworn in as a Member of the 119th Congress!

Community bankers are enthusiastic about the opportunity presented by the new Congress and the incoming Administration to transform the regulatory environment for financial services and community banks and unlock our nation's potential for rapid economic growth in all rural, suburban, and urban markets.

We look forward to meeting all newly elected Members in the coming weeks to discuss the unique and extraordinary value community banks bring to local economies and how it can be amplified to greater potential. A thriving community banking industry is critical to creating prosperity and realizing our economic promise as a nation.

A unique feature of the American economy, community banks have deep roots in the communities they serve, often for many generations. Community banks provide customized financial products and services and reinvest deposits back into local credit. They are, according to the FDIC, the only physical banking presence in one in three U.S. counties. Community banks are responsible for the majority of Main Street small business loans and 70 percent of bank agricultural loans. ICBA advocates for policies that promote a vibrant community banking sector to support the prosperity of local communities.

**Transforming Regulation for Growth: The Community Bank Legislative Agenda**

A framework of streamlined regulation and low taxation for community banks and their customers will drive economic growth and job creation. In the 119th Congress, we seek to repeal counterproductive and destructive regulations to foster and strengthen community banks and their customers as engines of local growth.

With input from community bankers nationwide, ICBA has created a set of policy priorities for the 119th Congress that fall into four categories.

- **Fixing Destructive Regulatory Burden**. Inefficient and prescriptive regulations continue to encumber community bank lending, drive industry consolidation, and inhibit local economic growth. ICBA's recommendations include updating regulatory thresholds to appropriately tier regulation for

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systemic and consumer risk and a community bank exemption from intrusive and costly small business loan data collection requirements.

- **Ensuring a Competitive Financial Landscape**. Community banks embrace innovation that enables them to reach more consumers and expand products and services to small businesses. To continue their important role in local economies, community banks must not be put at a regulatory disadvantage though regulation, guidance, and supervisory expectations that do not apply to entities engaged in the same activities. Only a balanced, competitive landscape will promote true innovation. ICBA's recommendations include permanent tax relief for all Americans, closure of the industrial loan company (ILC) loophole that threatens to undermine safety and soundness, and opposition to credit card routing mandates that would be costly to consumers.
- **Revitalizing Rural America**. America's farmers and ranchers are critical to creating sound rural prosperity and a stronger nation. ICBA's recommendations include passage of a Farm Bill with a robust safety net, the Access to Credit for Rural Economies (ACRE) Act to provide interest rate relief for farmers, ranchers, and rural homeowners, and oversight of the Farm Credit System, which leverages its unfair advantages to crowd out community banks.
- **Strengthening Financial Consumers**. Policy changes are needed to protect and strengthen American consumers. ICBA's recommendations include measures to eliminate check fraud and to better secure consumer data and privacy.

The attachment below sets forth our full legislative agenda.

ICBA believes that these policy recommendations will play a critical role in creating a robust economy and a more competitive financial landscape to better serve small businesses and consumers. We look forward to meeting with you soon to discuss these recommendations in more detail.

Thank you for your consideration.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

**Attachment: ICBA's Transforming Regulation for Growth: The Community Bank Legislative Agenda**

ICBA
One Mission. Community Banks.

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# Transforming Regulation for Growth: The Community Bank Agenda

ICBA's legislative agenda would create a framework of streamlined regulation and low taxation for community banks and their customers. Community bank credit fuels local economic growth in thousands of communities across America.

ICBA and community bankers look forward to working with policymakers to advance this agenda.

## Fix Destructive Regulatory Burden

Overly prescriptive regulations continue to encumber community bank lending and inhibit economic growth. Excessive regulation of community banks drives industry consolidation that will directly harm consumers and small businesses. Community bank regulatory relief will promote the flow of credit and economic opportunity for households and small businesses.

Simple, transparent, and streamlined regulations can be administered more efficiently and reduce government cost, saving taxpayer dollars.

ICBA recommendations include:

**Update Regulatory Thresholds for Community Banks**. Congress and the regulatory agencies should comprehensively review and update the many thresholds used to tier bank regulation and supervision. Tiered regulation recognizes the significant differences between community banks and large, complex institutions in terms of the risks they pose to consumers and to the financial system. To work as originally intended and remain aligned with an evolving financial services landscape, thresholds for regulatory accommodations and exemptions based on asset size, risk profile, and transaction volume should be continually reviewed and adjusted upward as community banks consolidate and the average asset size of banks increases.

**Relief from Intrusive Small Business Data Collection Rule**. The CFPB's rule under DoddFrank Section 1071 requires community banks and other financial institutions to collect and

report 81 pieces of data on every small business loan application, well beyond what is required by statute. Intrusive data collection will compromise the privacy of small business applicants, effectively "commoditize" small business lending, and increase the cost of credit.

The 118th Congress demonstrated its staunch opposition to the CFPB rule by passing bipartisan House and Senate legislation to repeal it, only to be vetoed. In addition, legislative fixes were advanced that would exempt more community banks and more small business borrowers.

ICBA urges the 119th Congress to promptly repeal or substantially revise Section 1071 to limit the implementation of a destructive rule.

**The Supreme Court's Chevron Reversal Should Lead Policymakers to Reconsider More Harmful and Inefficient Rules**. In June 2024, a Supreme Court ruling effectively curbed *Chevron* deference, which gave agencies discretion to interpret ambiguous laws through rulemaking. This ruling creates an opportunity for a comprehensive review of regulations with the goal of cost cutting and more efficient government.

**Modernizing the Bank Secrecy Act**. ICBA recommends raising the currency transaction report (CTR) threshold from $10,000 to $30,000 and indexing future increases on an annual basis. The current threshold, set in 1970, is significantly outdated and captures far more transactions than originally intended. A higher threshold would produce more targeted, useful information for law enforcement. ICBA calls for the implementation of Section 6204 of the Anti-Money Laundering Act of 2020, which requires the Treasury secretary to review the efficacy of the current BSAreporting thresholds.

**Strengthening Accountability in Bank Exams: A Workable Appeals Process**. An independent body should be created to receive, investigate, and resolve material exam complaints from banks in a timely and confidential manner. This would create much-needed checks and balances in the current system, which grants examiners almost unfettered and unassailable authority. A workable appeals process would hold examiners accountable and prevent retribution against banks that file complaints.

**Relief from Internal Control Mandates**. An exemption from SEC-mandated internal control audit requirements should be created for publicly traded banks with a market capitalization of at least $350 million or less regardless of revenue. This should be paired with an equivalent exemption from FDIC-mandated internal control audit (Part 363) for banks with assets of less than $5 billion. Under current law, any company with market capitalization of $75 million or less or a company with less than $700 million in market capitalization with annual revenue less than $100 million is exempt from the SEC mandate. Any bank with assets of less than $1 billion is exempt from the FDIC mandate. Because community bank internal control systems are monitored continually by bank examiners, they should not have to sustain the unnecessary annual expense of paying an outside audit firm. This provision would substantially lower unnecessary accounting costs for small banks without creating more risk for investors or the deposit insurance fund. It would allow these banks to redirect resources toward community lending.

**Facilitate New Capital Investment Through Private Offerings.** SEC Regulation D should be reformed so that anyone with a net worth of more than $1 million, including the value of their primary residence, would qualify as an "accredited investor." The number of non-accredited investors permitted to purchase stock under a private offering should be increased from 35 to 70.

## Ensuring a Competitive Financial Landscape

The separation of banking and commerce is a longstanding principle of American financial policy and has been critical to our nation's economic success. Community banks embrace innovation in financial technology, which offers the promise of reaching more consumers and expanding products and services.

As Congress continues to review and reform the legal and regulatory framework of financial services, we urge them to ensure that it promotes community bank innovation. Congress should create a level playing field and ensure frameworks do not harm consumers, distort competition, or provide regulatory advantages to new entrants in the marketplace over current providers, such as community banks.

The competitive advantages enjoyed by tax-exempt credit unions and Farm Credit System lenders warrant special scrutiny.

**Preserve and Enhance a Competitive Tax Environment.**

ICBA advocates for pro-growth tax relief for America's small businesses, families, and community banks. Expiring provisions of the Tax Cuts and Jobs Act should be permanently extended to provide long-term certainty for business planning, including:

- The 20-percent deduction for pass-through income (Section 199A).
- The structure of individual rates and brackets that allows Americans to keep more of their hard-earned dollars.
- The higher deduction under the alternative minimum tax (AMT).
- An estate tax exemption that does not force sales of family-owned businesses.

Full expensing for equipment purchases and the deductibility of business interest are pro-growth policies and must be restored. Further, we urge Congress to build on the success of the TCJA by an additional reduction in corporate rate. The 21 percent corporate has proven one of the most impactful components of that legislation, increasing corporate investments and job creation. Additional relief would accelerate American economic growth.

Comprehensive tax legislation must include the Access to Credit for Rural Economies (ACRE) Act to promote rural economic development. The ACRE Act would create a tax exclusion for interest received on qualifying loans to farmers, ranchers, and rural homeowners and thereby reduce interest rates for these borrowers.

Tax reform should include a review of the tax exemption enjoyed by today's multi-billion-dollar credit unions. These institutions have outstripped their public mission and tax-exempt purpose and are now leveraging their tax exemption to purchase tax-paying community banks. The pace of these acquisitions in recent years is driving the consolidation of financial services across all markets, to the harm of consumers and small businesses.

These tax policies are important to creating economic growth and jobs for American workers.

**Close ILC Loophole to Limit Big Tech Overreach**. Industrial loan companies (ILCs) are the functional equivalent of full-service banks without regulation by the Bank Holding Company Act. This exemption invites risk into the financial system. ILCs owned by non-financial companies, including Big Tech, violate the longstanding separation of banking and commerce by allowing commercial entities to own banks. New ILC charters controlled by dominant social media and e-commerce conglomerates would give these companies yet more economic power and reach into the lives of Americans. ICBA supports statutory closure of the ILC loophole.

**Promoting De Novo Community Banks.** De novo community bank formation is needed to offset the loss of smaller community banks through consolidation and help ensure a robust community bank landscape serving small businesses and households. ICBA supports a flexible and tailored supervisory policy for de novo banking applicants.

**Ensuring Effective Digital Assets Regulation.** Effective and comprehensive regulation is needed to recognize and balance the risks and benefits of emerging technologies. ICBA strongly opposes efforts to grant nonbank stablecoin issuers access to the Federal Reserve master account or payment rails and special-purpose charters that do not subject nonbank stablecoin issuers to the standards of safety, soundness, and fairness that apply to insured depository institutions.

**Credit Card Routing Mandates.** ICBA will continue to strongly oppose controversial legislation that would create complex new credit card routing mandates. Such mandates would force an overhaul of the payments landscape at significant systemic cost. This cost would ultimately be borne by consumers and the community banks that serve them. Credit card routing mandates would only benefit the largest "big-box" merchants including Amazon, Walmart, and others at the expense of consumers.

**Curb or Eliminate Tax Subsidies for Rapid-Growth, Bank-Like Credit Unions.** The outmoded subsidization of credit unions is an inefficient use of taxpayer dollars and ripe for repeal. Today's multi-billion-dollar credit unions are leveraging their tax subsidy to purchase

tax-paying community banks. This trend is reducing consumer choice and eroding the tax base of states, localities, and the federal government. ICBA urges Congress to restore balance to the American financial services marketplace and help close the growing budget deficit by reexamining the 100-year-old credit union tax subsidy.

## Revitalize Rural America

The recent elections reaffirmed the critical voice of rural Americans, who have earned a place at the center of our policy agenda. The vital interests of rural economies must be prioritized in the 119th Congress. Rural communities are poised for growth and prosperity with the right combination of thoughtful policies. Community banks, funding nearly 80 percent of bankoriginated agricultural loans, play a critical role in creating and sustaining rural economic prosperity. The following provisions will help rural America and strengthen community banks.

**Farm Bill.** ICBA advocates for a robust Farm Bill in 2025 that raises USDA guaranteed loan limits in addition to providing a strong farm safety net that includes robust commodity price supports and enhanced crop insurance options for producers.

**Farm Credit System Crowding Out Rural Community Bank Lending**. The Farm Credit System (FCS) is a government-sponsored enterprise (GSE), and FSC lenders enjoy unfair tax and funding advantages over rural community banks. These advantages allow FCS to cherrypick the best customers and loans from taxpaying community banks by underpricing local markets. In recent years, the FCS has sought expansive non-farm lending powers in an effort to compete directly with commercial banks for non-farm customers. Congress should block further expanded lending powers and hold hearings on the FCS given their rapid consolidation and questionable non-farm lending pursuits.

**Tax Incentives for Community Bank Agriculture and Home Loans.** ICBA strongly supports the Access to Credit for Rural Economies (ACRE) Act, which has enjoyed broad bipartisan support. ACRE would create lower interest rates for farmers, ranchers, and rural homeowners by creating a tax exclusion for interest income on loans secured by agricultural land and residential mortgages in rural communities. The ACRE Act should be included in any comprehensive tax legislation in the 119th Congress.

## Strengthening Financial Consumers

As the financial landscape evolves, new threats emerge to America's financial consumers. Policy changes are needed to keep pace with technological developments and more sophisticated fraud.

**End "Trigger Leads" Harassment.** Legislation is needed that would restrict credit reporting agencies from the sale of consumers' contact information when they apply for a residential mortgage. These "trigger leads" compromise consumer privacy and create a flood of unwanted solicitations and confusion for community bank customers. ICBA urges Congress to resume work on the Homebuyers Privacy Protection Act, bipartisan legislation advanced in the 118th Congress.

**Eliminate Check Fraud**. The administrative agencies must play a stronger role in combatting the alarming rise in check fraud, which has surged by 385% since the pandemic and costs Americans and small businesses billions of dollars every year. A coordinated effort is needed by the federal banking agencies, the National Credit Union Administration, the U.S. Postal Service, the Financial Crimes Enforcement Network, and other agencies. Congressional oversight of this critical effort will ensure it is effective.

**Protecting Customer Data**. The CFPB recently finalized a rule under Section 1033 of the Dodd-Frank Act that requires banks to create and maintain an API-enabled "developer portal" which non-bank fintechs and other third parties could use to access customer data. The rule creates a threat to consumer data security and privacy. Banks cannot ensure the security protocols of potentially thousands of fintechs seeking access to their customers' data. In addition, banks must be permitted to charge reasonable fees to third parties – who will financially benefit from access to customer data – in order to offset the significant costs of compliance with this rule.

Questions for the Record

Full Committee Hearing, entitled "Make Community Banking Great Again"

February 05, 2025

Ranking Member Maxine Waters:

Mr. Patrick J. Kennedy Jr.

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)

Arkansas State
Bank Department

Hugh McDonald
Secretary of Commerce
Susannah T. Marshall
Bank Commissioner
Arkansas State Bank Department

March 26, 2025

Mr. Svent Bossart
Clerk
House Financial Services Committee
Chairman French Hill
2129 Rayburn House Office Building
Washington, DC 20515

Re: Questions for the Record – Susannah Marshall Testimony – February 5, 2025

Dear Mr. Bossart:

Attached, please find the responses to the request for Questions for the Record per your February 18, 2025, email communication. As requested, I have included two attachments, one for questions from Ranking Member Waters and one for questions from Representative Casten.

Please let me know if further information is needed or if I may assist you or the House Financial Services Committee in any way.

Sincerely,

Susannah T. Marshall
Bank Commissioner

STM/es

**Questions for the Record**
**Full Committee Hearing, entitled "Make Community Banking Great Again"**
**February 5, 2025**

**Responses for Ranking Member Maxine Waters:**

1. Which of the following options best describes your self-identified race?
    - **a. White or Caucasian**

2. Which of the following options best describes your gender identity?
    - **a. Woman**

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Quentin Leighty, Treasurer
Douglas E. Parrott, Secretary
Lucas White, Immediate Past Chairman
Rebeca Romero Rainey, President and CEO

March 31, 2025

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

**Re: Response to Questions for the Record from February 5th, 2025 Hearing**

Dear Ranking Member Waters:

Thank you for your question for the record from the February 5th hearing titled "Make Community Banking Great Again."

My responses to your questions are below.

1. Which of the following options best describes your self-identified race?

   I identify as Hispanic/Latinx.

2. Which of the following options best describes your gender identity?

   I identify as a Woman.

Please let me know if you have additional questions. I look forward to working with you and your staff in the 119th Congress.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

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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

**Questions for the Record**
**Full Committee Hearing, entitled "Make Community Banking Great Again"**
**February 05, 2025**

**Ranking Member Maxine Waters:**

Ms. Mitria Spotser

1. Which of the following options best describes your self-identified race? (you may choose more than one) African American
    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? Woman
    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)

Questions for the Record

Full Committee Hearing, entitled "Make Community Banking Great Again"

February 05, 2025

Rep. Mike Flood:

Mr. Patrick J. Kennedy Jr.

Community banks are the lifeblood of many small communities across the country and especially in my home state of Nebraska. They know best what their communities need and how to support them. While the largest multifamily lenders build massive buildings in large cities, smaller communities, like those in my state of Nebraska, may have an interest in different types of housing.

Fannie Mae's Delegated Underwriting Servicing (DUS) lender program, and Freddie Mac's equivalent lender program, Optigo, are major sources of financing for the multifamily market, and I'm interested in looking at all avenues to build out housing supply, whether that be through multifamily, single family or manufactured housing investment.

1. Would you support the creation of a new form of the DUS and Optigo licenses that allow for community banks and other small lenders to participate in these multifamily lending programs?

   Response: I would most definitely support the creation of a new form of DUS and Optigo program that would allow smaller banks to participate. Any form of government guaranty program to encourage housing expansion, refinancing and renovation would be very beneficial. The current program seems only to work for a large bank with lots of volume and scale, which does not address the needs of smaller or rural communities with low income or other forms of multi-family housing.

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March 31, 2025

The Honorable Mike Flood
U.S. House of Representatives
Washington, D.C. 20515

**Re: Response to Question for the Record from February 5, 2025 Hearing**

Dear Representative Flood:

Thank you for your question for the record from the February 5th hearing titled "Make Community Banking Great Again."

My response to your question is below.

**Your Question:**

Community banks are the lifeblood of many small communities across the country and especially in my home state of Nebraska. They know best what their communities need and how to support them. While the largest multifamily lenders build massive buildings in large cities, smaller communities, like those in my state of Nebraska, may have an interest in different types of housing.

Fannie Mae's Delegated Underwriting Servicing (DUS) lender program, and Freddie Mac's equivalent lender program, Optigo, are major sources of financing for the multifamily market, and I'm interested in looking at all avenues to build out housing supply, whether that be through multifamily, single family or manufactured housing investment.

Would you support the creation of a new form of the DUS and Optigo licenses that allow for community banks and other small lenders to participate in these multifamily lending programs?

**My Response:**

The lack of housing stock remains a nationwide issue with estimates of a shortfall in supply ranging between 5 to 7 million units.

I understand that the DUS and Optigo programs have traditionally been used mostly by large banks and REITs to finance multi-family projects at a large scale. Typically, our members finance multi-family

projects at a smaller scale with maximum loan sizes of around $2 million to $3 million.

However, we are happy to work with your office on solutions to the limited housing supply in smaller communities in Nebraska and across the country. What's more, we will consult with our member banks to determine whether there is interest in being incorporated in the DUS and Optigo programs.

Thank you again for your question. I hope that we can work together on this and other issues of common interest.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

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Answers of Ms. Cathy Owen to Written Questions by Rep. Gregory Meeks

Hearing on "Making Community Banking Great Again"

House Financial Services Committee

February 5, 2025

**Rep. Gregory Meeks:**

**1. Ms. Owen, I was pleased to learn that ABA's 2025 Blueprint for Growth reaffirms the organization's support for Minority Depository Institutions (MDIs) and Community Development Financial Institutions (CDFIs). I have long been an advocate for these institutions and am encouraged that, despite the current political climate, ABA recognizes the unique and essential role they play in our banking ecosystem. As the blueprint states, "these banks are uniquely focused on serving communities of color and low-to-moderate income communities." I understand that ABA believes one way to support MDIs and CDFIs is by creating a CDFI investment tax credit to incentivize long-term capital investment.**

Answer by Ms. Owen. Yes, private capital investments are demonstrating the profitability and essential role of Minority Depository Institutions (MDIs) and Community Development Financial Institutions (CDFIs) in serving underserved communities. The *Community Development Investment Tax Credit Act of 2023* (H.R. 6650/S. 2963), which was introduced in the 118th Congress by Rep. Thandedar (D-MI) and Sen. Warner (D-VA),was intended to increase private sector investment in CDFIs and MDIs by offering tax credits to individuals and businesses that invest in these mission-driven financial institutions. By incentivizing private capital flow into CDFIs, the bill acknowledges the critical role these banks play in fostering economic revitalization, job creation, and financial inclusion in disadvantaged areas.

**a. I believe we need to continue to invest federal dollars into CDFIs alongside private sector capital into CDFIs and MDIs. Could you speak to the private capital investments we are seeing flow to these institutions? And how do these investments illustrate that MDIs and CDFIs are profitable and serving an important purpose in their communities?**

Answer by Ms. Owen. The growing private investment in CDFIs illustrates their financial viability and attractiveness to investors. Although we are not a CDFI, I have added some helpful statistics from the CDFI Coalition, which works closely with the ABA, that summarizes the 47 CDFIs headquartered in Arkansas and their investment activities in our local communities (attached).

These institutions are not only capable of generating returns but are also instrumental in addressing economic inequality and expanding access to financial resources. They bridge gaps in traditional banking services, ensuring that communities historically overlooked by mainstream financial institutions have access to capital for small businesses, affordable housing, and community development projects.

Additionally, the tax credit legislative framework mentioned above would enhance the sustainability and scalability of CDFIs and MDIs, these institutions are essential financial engines driving local economic growth. The inclusion of provisions to support emerging CDFIs would further solidify the importance of these institutions, helping them expand their reach and impact.

# CDFI COALITION STATE FACT SHEET

## ARKANSAS

An Annual Snapshot of CDFI Program Awardee Activity in Arkansas (FY 2022)

### TOTAL INVESTMENT

14.7k originations totaling $1.9 billion

### JOBS

18.6k permanent FTE jobs
16.4k construction jobs

### BUSINESS INVESTMENT

Of that activity, 11.6k loans and investments totaling $844.5 million went to Arkansas businesses, nonprofits, and community facilities, with the balance going to individuals and families.

### REAL ESTATE

35.7 million sq. ft. of commerical real estate constructed or rehabilitated

### CONSUMER LOANS

2.9k consumer loans totaling $804.6k

### HOUSING

1.1k home purchase and improvement loans totaling $225.7 million, including $3.7 million to 35 first-time homeowners

438 affordable housing units financed

### OTHER FACTS AND FIGURES (AS OF FEBRUARY 2025)

- There are 47 certified CDFIs headquartered in Arkansas, including 37 banks, 5 credit unions, 5 loan funds.
- There are 186 CDFI branches in Arkansas.
- The CDFI Fund has awarded a total of $187.9 million in financial assistance to Arkansas-headquartered CDFIs along with $570 million in NMTC allocation and CDFI Bond awards to CDFIs and CDEs headquartered in Arkansas.

CDFI
State Fact Sheet

## The following 47 CDFIs are headquartered in Arkansas:

- Southern Bancorp Bank, Arkadelphia
- Southern Bancorp Inc, Arkadelphia
- FNBC Bancorp, Inc., Ash Flat
- FNBC Bank, Ash Flat
- Farmers Bancorp, Inc., Blytheville
- Farmers Bank and Trust Company, Blytheville
- Clarendon Holding Co., Clarendon
- Merchants and Planters Bank, Clarendon
- Communities Unlimited, Inc., Fayetteville
- Priority Bank, Fayetteville
- Priority One Holding Company, Fayetteville
- FBT Bancshares, Inc., Fordyce
- FBT Bank & Mortgage (Fordyce Bank & Trust Company), Fordyce
- Anstaff Bank, Green Forest
- First National Bancorp, Inc., Green Forest
- Helena Bancshares, Inc., Helena
- Partners Bank, Helena
- FORGE, Inc., Huntsville
- Arkansas Federal Credit Union, Jacksonville
- Bank of Lake Village, Lake Village
- Southeast Arkansas Bank Corporation, Lake Village
- Arkansas Capital Corporation, Little Rock
- People Trust, Little Rock
- Southern Bancorp Capital Partners, Little Rock
- TruService Community Federal Credit Union, Little Rock
- Diamond Lakes Federal Credit Union, Malvern
- First National Financial Corporation, McGehee
- First NaturalState Bank, McGehee
- McGehee Bank, McGehee
- Southeast Financial Bankstock Corporation, McGehee
- Commercial Bank & Trust Company, Monticello
- Drew Bancshares, Inc., Monticello
- First Union Financial Corporation, Monticello
- Union Bank & Trust Company, Monticello
- UP Arkansas Federal Credit Union, North Little Rock
- Piggott Bankstock, Inc., Piggott
- Piggott State Bank, Piggott
- Pine Bluff Cotton Belt FCU, Pine Bluff
- First State Bank, Russellville
- First State Banking Corp, Russellville
- Connect Bank, Star City
- Star City Bancshares, Inc., Star City
- First National Bank of Commerce, Walnut Ridge
- First National Capital Corporation, Walnut Ridge
- Bradley Bancshares, Inc., Warren
- Carlson Bancshares, Inc., West Memphis
- Fidelity Bank, West Memphis

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March 31, 2025

The Honorable Gregory Meeks
U.S. House of Representatives
Washington, D.C. 20515

**Re: Response to Question for the Record from February 5, 2025 Hearing**

Dear Representative Meeks:

Thank you for your question for the record from the February 5th hearing titled "Make Community Banking Great Again."

My response to your question is below.

**Your Question:**

I appreciate ICBA's support of my bill, the Ensuring Diversity in Community Banking Act, which previously passed the House by voice vote. I'd like to ask you specifically about the "Impact Bank" designation the bill would establish. This designation would be for banks with under $1 billion total assets who provide over 50% of loans to LMI borrowers. How could this designation help facilitate loans to LMI borrowers, in both rural and urban communities?

**My Response:**

ICBA is pleased to support this legislation which would create programs to promote investments, technical assistance, and collaborative relationships between minority banks and community banks at large. Additionally, this bill would create a new "Impact Designation" for community banks with a specified percentage of loans extended to low-to-moderate income borrowers. This designation would ensure that assistance is directed to those institutions that are having the greatest impact in low-to-moderate income communities.

Minority depository institutions play a critical role in providing credit, capital and financial services to low-to-moderate income and minority communities in urban, rural and suburban areas that are economically distressed and have historically been underserved by the financial industry.

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Sauk Centre, MN 56378

Please let me know if you have additional questions. I look forward to working with you and your staff in the 119th Congress to ensure that U.S. communities of all demographics and income levels have access to credit and other essential banking services to support their growth, employment, and prosperity.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

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March 26, 2025

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Please let me know if further information is needed or if I may assist you or the House Financial Services Committee in any way.

Sincerely,

Susannah T. Marshall

Susannah T. Marshall
Bank Commissioner

STM/es

**Questions for the Record**
**Full Committee Hearing, entitled "Make Community Banking Great Again"**
**February 5, 2025**

**Responses for Representative Casten:**

1. One of the banks you oversee, Evolve Bank & Trust, has been involved in litigation related to the loss of customer funds because of the bankruptcy of Synapse. Thousands of people have lost their savings and Evolve Bank and Synapse continue to shift blame between each other. Notably, other banks that worked with Synapse were able to return customer funds.

    a. Have you had contact with Evolve Bank about the loss of customer funds in the Synapse bankruptcy?

    **Evolve Bank & Trust (Evolve), West Memphis, Arkansas is an Arkansas state-chartered bank. The Arkansas State Bank Department is the chartering and regulatory authority for this institution and Evolve is also a Federal Reserve member bank regulated by the Federal Reserve Bank of St. Louis. We are aware of the Synapse bankruptcy proceedings and the bank's business relationship with Synapse. I know many of Synapse's customers have suffered greatly and they have been negatively impacted due to the lack of access to their funds. We are in frequent contact with Evolve regarding these customers.**

    b. Is there a plan to work with Evolve Bank to help recover customer funds?

    **Unfortunately, I cannot provide comment on an operating, state-chartered bank or ongoing supervisory activities. However, I would like to reiterate that we understand the harm that has resulted in customers being denied access to their funds.**

**[DISCUSSION DRAFT]**

119TH CONGRESS
1ST SESSION

# H. J. RES. _____

Disapproving the rule submitted by the Bureau of Consumer Financial Protection relating to "Overdraft Lending: Very Large Financial Institutions".

---

IN THE HOUSE OF REPRESENTATIVES

M__. _____ introduced the following joint resolution; which was referred to the Committee on _____

---

# JOINT RESOLUTION

Disapproving the rule submitted by the Bureau of Consumer Financial Protection relating to "Overdraft Lending: Very Large Financial Institutions".

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That Congress disapproves the final rule submitted by the Bureau of Consumer Financial Protection relating to "Overdraft Lending: Very Large Financial Institutions" (89 Fed. Reg. 106768 (December 30, 2024)), and such rule shall have no force or effect.

G:\M\19\BARR\BARR_001.XML

[118H758RH]

.....
(Original Signature of Member)

119TH CONGRESS
1ST SESSION

# H. R. _____

To require the appropriate Federal banking agencies to establish a 3-year phase-in period for de novo financial institutions to comply with Federal capital standards, to provide relief for de novo rural community banks, and for other purposes.

---

IN THE HOUSE OF REPRESENTATIVES

Mr. BARR introduced the following bill; which was referred to the Committee on _____

---

# A BILL

To require the appropriate Federal banking agencies to establish a 3-year phase-in period for de novo financial institutions to comply with Federal capital standards, to provide relief for de novo rural community banks, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Promoting New Bank Formation Act".

**SEC. 2. PHASE-IN OF CAPITAL STANDARDS.**

The Federal banking agencies shall issue rules that provide for a 3-year phase-in period for a depository institution or depository institution holding company to meet any Federal capital requirements that would otherwise be applicable to the depository institution or depository institution holding company, beginning on—

(1) the date on which the depository institution became an insured depository institution; or

(2) in the case of a depository institution holding company, the date on which the depository institution subsidiary of the depository institution holding company became an insured depository institution.

**SEC. 3. CHANGES TO BUSINESS PLANS.**

(a) IN GENERAL.—During the 3-year period beginning on the date on which a depository institution became an insured depository institution, the insured depository institution or its depository institution holding company may request to deviate from a business plan that has been approved by the appropriate Federal banking agency by submitting a request to such agency pursuant to this section.

(b) REVIEW OF CHANGES.—An appropriate Federal banking agency shall, not later than the end of the 30-

day period beginning on the receipt of a request under subsection (a)—

(1) approve, conditionally approve, or deny such request; and

(2) notify the applicant of such decision and, if the agency denies the request—

(A) provide the applicant with the reason for such denial; and

(B) suggest changes to the request that, if adopted, would allow the agency to approve such request.

(c) RESULT OF FAILURE TO ACT.—If an appropriate Federal banking agency fails to approve or deny a request within the 30-day period required under subsection (b), such request shall be deemed to be approved.

**SEC. 4. RURAL COMMUNITY DEPOSITORY INSTITUTION LEVERAGE RATIO.**

(a) IN GENERAL.—During the 3-year period beginning on the date on which a rural depository institution became an insured depository institution, the Community Bank Leverage Ratio for the rural community bank shall be 8 percent.

(b) PHASE-IN AUTHORITY.—The Federal banking agencies shall issue rules to phase-in the Community Bank Leverage Ratio described under subsection (a) with re-

spect to a rural depository institution by setting lower Community Bank Leverage Ratio percentages during the first 2 years of the 3-year period described under subsection (a).

(c) DEFINITIONS.—In this section:

(1) COMMUNITY BANK LEVERAGE RATIO.—The term "Community Bank Leverage Ratio" has the meaning given that term under section 201(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (12 U.S.C. 5371 note).

(2) RURAL DEPOSITORY INSTITUTION.—The term "rural depository institution" means a depository institution—

(A) with total consolidated assets of less than $10,000,000,000; and

(B) located in a rural area, as defined under section 1026.35(b)(iv)(A) of title 12, Code of Federal Regulations.

**SEC. 5. AGRICULTURAL LOAN AUTHORITY FOR FEDERAL SAVINGS ASSOCIATIONS.**

Section 5(c) of the Home Owners' Loan Act (12 U.S.C. 1464(c)) is amended—

(1) in paragraph (1), by adding at the end the following:

"(V) AGRICULTURAL LOANS.—Secured or unsecured loans for agricultural purposes."; and

(2) in paragraph (2)(A), by striking "business, or agricultural" and inserting "or business".

**SEC. 6. STUDY ON DE NOVO INSURED DEPOSITORY INSTITUTIONS.**

(a) STUDY.—The Federal banking agencies shall, jointly, carry out a study on—

(1) the principal causes for the low number of de novo insured depository institutions in the 10-year period ending on the date of enactment of this Act; and

(2) ways to promote more de novo insured depository institutions in areas currently underserved by insured depository institutions.

(b) REPORT TO CONGRESS.—Not later than the end of the 1-year period beginning on the date of enactment of this Act, the Federal banking agencies shall, jointly, issue a report to Congress containing all findings and determinations made in carrying out the study required under subsection (a).

**SEC. 7. DEFINITIONS.**

In this Act, the terms "appropriate Federal banking agency", "depository institution", "depository institution holding company", "Federal banking agency", and "in-

sured depository institution'' have the meaning given those terms, respectively, under section 3 of the Federal Deposit Insurance Act.

.....

(Original Signature of Member)

119TH CONGRESS
1ST SESSION

# H. R. _____

To amend the Equal Credit Opportunity Act to provide for an effective date and a temporary safe harbor for compliance with certain small business lending data collection rules, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. HILL of Arkansas introduced the following bill; which was referred to the Committee on _____

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# A BILL

To amend the Equal Credit Opportunity Act to provide for an effective date and a temporary safe harbor for compliance with certain small business lending data collection rules, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Small Lenders Exempt from New Data and Excessive Reporting Act" or the "Small LENDER Act".

**SEC. 2. SMALL BUSINESS LOAN DATA COLLECTION.**

Section 704B of the Equal Credit Opportunity Act (15 U.S.C. 1691c–2) is amended—

(1) in subsection (g), by adding at the end the following:

"(4) COMPLIANCE WITH COVERED RULE.—

"(A) IN GENERAL.—With respect to the covered rule, the Bureau shall provide a financial institution a 3-year period beginning on the date the covered rule was issued to comply with the rule.

"(B) SAFE HARBOR.—After the end of the 3-year period described under subparagraph (A), the Bureau shall provide a 2-year safe harbor to a financial institution during which the financial institution is required to comply with the covered rule but is not subject to any penalties for failure to comply with the covered rule.

"(C) COVERED RULE DEFINED.—In this paragraph, the term 'covered rule' means the final rule of the Bureau titled 'Small Business Lending Under the Equal Credit Opportunity Act (Regulation B)' (88 Fed. Reg. 35150, published May 31, 2023).''; and

(2) in subsection (h)—

(A) by striking paragraph (1) and inserting the following:

"(1) FINANCIAL INSTITUTION.—The term 'financial institution' means—

"(A) any partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity that engages in any financial activity; and

"(B) in each of the previous 2 calendar years originated not less than 500 credit transactions for small businesses."; and

(B) by striking paragraph (2) and inserting the following:

"(2) SMALL BUSINESS.—The term 'small business' means any entity with gross annual revenues of $1,000,000 or less in the most recently completed fiscal year.".

**[DISCUSSION DRAFT]**

119TH CONGRESS
1ST SESSION

# H. R. _____

To repeal the small business loan data collection requirements under the Equal Credit Opportunity Act.

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IN THE HOUSE OF REPRESENTATIVES

Mr. WILLIAMS of Texas introduced the following bill; which was referred to the Committee on _____

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# A BILL

To repeal the small business loan data collection requirements under the Equal Credit Opportunity Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "1071 Repeal to Protect Small Business Lending Act".

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) Section 704B of the Equal Credit Opportunity Act, as added by section 1071 of the Dodd-

Frank Wall Street Reform and Consumer Protection Act, imposes data collection and reporting requirements on financial institutions regarding small business loans.

(2) These requirements have resulted in increased compliance costs for financial institutions, potentially reducing access to credit for small businesses.

(3) The regulatory burdens created by these requirements disproportionately impact smaller financial institutions, such as community banks and credit unions, which are critical to small business lending.

(4) Repealing these requirements will reduce regulatory barriers and support greater access to credit for small businesses.

**SEC. 3. REPEAL OF THE SMALL BUSINESS LOAN DATA COLLECTION REQUIREMENTS.**

(a) IN GENERAL.—Section 704B of the Equal Credit Opportunity Act (15 U.S.C. 1691c–2) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT.—The Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5301 et seq.) is amended—

(A) in the table of contents in section 1(b) of such Act, by striking the item relating to section 1071; and

(B) by striking section 1071.

(2) EQUAL CREDIT OPPORTUNITY ACT.—The Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) is amended—

(A) in the table of contents for such Act, by striking the item relating to section 704B; and

(B) in section 701(b)—

(i) in paragraph (3), by adding "or" at the end;

(ii) in paragraph (4), by striking "; or" and inserting a period; and

(iii) by striking paragraph (5).

.....

(Original Signature of Member)

119TH CONGRESS
1ST SESSION

# H. R. _____

To amend the Equal Credit Opportunity Act to require the Bureau of Consumer Financial Protection to issue a rule describing how the deletion or modification of certain publicly-available small business loan data will advance a privacy interest.

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IN THE HOUSE OF REPRESENTATIVES

Mr. ROSE introduced the following bill; which was referred to the Committee on _____

---

# A BILL

To amend the Equal Credit Opportunity Act to require the Bureau of Consumer Financial Protection to issue a rule describing how the deletion or modification of certain publicly-available small business loan data will advance a privacy interest.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Bank Loan Privacy Act".

**SEC. 2. RULEMAKING REQUIREMENT.**

Section 704B(e)(4) of the Equal Credit Opportunity Act (15 U.S.C. 1691c–2(e)(4)) is amended—

(1) by striking "The Bureau may," and inserting:

"(A) IN GENERAL.—The Bureau may,"; and

(2) by adding at the end the following:

"(B) RULEMAKING REQUIREMENT.—The Bureau shall, before deleting or modifying data under this paragraph, issue, through advance notice and comment, a rule that includes a description of what modifications and deletions the Bureau intends to make to the data and how such modifications and deletions will advance a privacy interest.".

.....

(Original Signature of Member)

119TH CONGRESS
1ST SESSION

# H. R. _____

To amend the Federal Financial Institutions Examination Council Act of 1978 to improve the examination of depository institutions, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. HILL of Arkansas introduced the following bill; which was referred to the Committee on _____

---

# A BILL

To amend the Federal Financial Institutions Examination Council Act of 1978 to improve the examination of depository institutions, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Fair Audits and Inspections for Regulators' Exams Act" or the "FAIR Exams Act".

**SEC. 2. TIMELINESS OF EXAMINATION REPORTS.**

The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.) is amended by adding at the end the following:

**"SEC. 1012. TIMELINESS OF EXAMINATION REPORTS.**

"(a) IN GENERAL.—

"(1) FINAL EXAMINATION REPORT.—A Federal financial institutions regulatory agency shall provide a final examination report to a financial institution not later than 60 days after the later of—

"(A) the exit interview for an examination of the institution; or

"(B) the provision of additional material information by the institution relating to the examination.

"(2) EXIT INTERVIEW.—If a financial institution is not subject to a resident examiner program, the exit interview shall occur not later than the end of the 9-month period beginning on the commencement of the examination, except that such period may be extended by the Federal financial institutions regulatory agency by providing written notice to the institution and the Director describing with particularity the reasons that a longer period is needed to complete the examination.

"(b) EXAMINATION MATERIALS.—Upon the request of a financial institution, the Federal financial institutions regulatory agency shall include with the final report an appendix listing all examination or other factual information relied upon by the agency in support of a material supervisory determination.".

**SEC. 3. INDEPENDENT EXAMINATION REVIEW DIRECTOR.**

(a) IN GENERAL.—The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.), as amended by section 2 of this Act, is further amended by adding at the end the following:

**"SEC. 1013. OFFICE OF INDEPENDENT EXAMINATION REVIEW.**

"(a) ESTABLISHMENT.—There is established in the Council an Office of Independent Examination Review.

"(b) HEAD OF OFFICE.—There is established the position of the Independent Examination Review Director, as the head of the Office of Independent Examination Review. The Director shall be appointed by the President, by and with the advice and consent of the Senate.

"(c) STAFFING.—The Director is authorized to hire staff to support the activities of the Office of Independent Examination Review. One-fifth of the costs and expenses of the Office, including the salaries of its employees, shall be paid by each of the Federal financial institutions regu-

latory agencies. Annual assessments for such share shall be levied by the Council based upon its projected budget for the year, and additional assessments may be made during the year if necessary.

"(d) DUTIES.—The Director shall—

"(1) receive and, at the discretion of the Director, investigate complaints from financial institutions, their representatives, or another entity acting on behalf of such institutions, concerning examinations, examination practices, or examination reports;

"(2) hold meetings, at least once every three months and in locations designed to encourage participation from all sections of the United States, with financial institutions, their representatives, or another entity acting on behalf of such institutions, to discuss examination procedures, examination practices, or examination policies;

"(3) review examination procedures of the Federal financial institutions regulatory agencies to ensure that the written examination policies of those agencies are being followed in practice and adhere to the standards for consistency, which shall be established, after notice and opportunity for comment, by the Council not later than 90 days after the date of enactment of this section;

"(4) conduct a continuing and regular program of examination quality assurance for all examination types conducted by the Federal financial institutions regulatory agencies;

"(5) carry out an independent review of any supervisory appeal initiated under section 1014; and

"(6) report annually to the Committee on Financial Services of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Council, on the reviews carried out pursuant to paragraphs (3) and (5), including compliance with the requirements set forth in section 1012 regarding timeliness of examination reports, and the Council's recommendations for improvements in examination procedures, practices, and policies.

"(e) CONFIDENTIALITY.—The Director shall keep confidential all meetings, discussions, and information provided by financial institutions. The Council shall keep confidential all information and communications exchanged by a financial institution and the Office of Independent Examination Review.".

(b) DEFINITION.—Section 1003 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3302) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by adding "and" at the end; and

(3) by adding at the end the following:

"(4) the term 'Director' means the Independent Examination Review Director established under section 1013(b).".

**SEC. 4. RIGHT TO INDEPENDENT REVIEW OF MATERIAL SUPERVISORY DETERMINATIONS.**

The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.), as amended by sections 2 and 3 of this Act, is further amended by adding at the end the following:

**"SEC. 1014. RIGHT TO INDEPENDENT REVIEW OF MATERIAL SUPERVISORY DETERMINATIONS.**

"(a) IN GENERAL.—A financial institution shall have the right to obtain an independent review of a material supervisory determination contained in a final report of examination.

"(b) NOTICE.—

"(1) TIMING.—A financial institution seeking review of a material supervisory determination under this section shall file a written notice with the Direc-

tor within 60 days after receiving the final report of examination that is the subject of such review.

"(2) IDENTIFICATION OF DETERMINATION.—The written notice shall identify the material supervisory determination that is the subject of the independent examination review, and a statement of the reasons why the institution believes that the determination is incorrect or should otherwise be modified.

"(3) INFORMATION TO BE PROVIDED TO INSTITUTION.—Any information relied upon by the agency in the final report that is not in the possession of the financial institution may be requested by the financial institution and shall be delivered promptly by the agency to the financial institution.

"(c) RIGHT TO HEARING.—

"(1) IN GENERAL.—The Director shall—

"(A) determine the merits of the appeal on the record; or

"(B) at the election of the financial institution, refer the appeal to an administrative law judge appointed by the Director to conduct a hearing pursuant to the procedures set forth under sections 556 and 557 of title 5, United States Code, which shall take place not later

than 60 days after the petition for review is received by the Director.

"(2) TIMING OF DECISION.—An administrative law judge conducting a hearing under paragraph (1)(B) shall issue a proposed decision to the Director based upon the record established at the hearing.

"(3) STANDARD OF REVIEW.—In any hearing under this subsection, neither the administrative law judge nor the Director shall defer to the opinions of the examiner or agency, but shall independently determine the appropriateness of the agency's decision based upon the relevant statutes, regulations, other appropriate guidance, and evidence presented at the hearing.

"(d) FINAL RECOMMENDATION.—With respect to an independent review under this section, the Director shall make a final recommendation to the head of the agency whose supervisory determination was the subject of the review not later than 60 days after the record has been closed.

"(e) FINAL AGENCY DETERMINATION.—Upon receipt of a final recommendation of the Director under subsection (d), the head of an agency shall make a final determination of the agency with respect to the material supervisory determination not later than the 60 days after re-

ceiving the recommendation of the Director. In making such final determination, the head of the agency shall give deference to the recommendation of the Director.

"(f) RIGHT TO JUDICIAL REVIEW.—A financial institution shall have the right to petition for review of a final agency determination made under subsection (e) by filing a petition for review not later than 60 days after the date on which the decision is made in the United States Court of Appeals for the District of Columbia Circuit or the Circuit in which the financial institution is located.

"(g) REPORT.—The Director shall report annually to the Committee on Financial Services of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Council on actions taken under this section, including the types of issues that the Director has reviewed and the results of those reviews. In no case shall such a report contain information about individual financial institutions or any confidential or privileged information shared by financial institutions.

"(h) RETALIATION PROHIBITED.—

"(1) IN GENERAL.—A Federal financial institutions regulatory agency may not—

"(A) retaliate against a financial institution, including service providers, or any institu-

tion-affiliated party, for exercising appellate rights under this section; or

"(B) delay or deny any agency action that would benefit a financial institution or any institution-affiliated party on the basis that an appeal under this section is pending under this section.

"(2) RETALIATION.—For purposes of this subsection, retaliation includes delaying consideration of, or withholding approval of, any request, notice, or application that otherwise would have been approved, but for the exercise of a financial institution's rights under this section.".

**SEC. 5. ADDITIONAL AMENDMENTS.**

(a) REGULATOR APPEALS PROCESS, OMBUDSMAN, AND ALTERNATIVE DISPUTE RESOLUTION.—

(1) IN GENERAL.—Section 309 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4806) is amended—

(A) in the heading, by striking "**REGULATORY APPEALS PROCESS, OMBUDSMAN,**" and inserting "**OMBUDSMAN**";

(B) by striking subsections (a), (b), and (c);

(C) by redesignating subsections (d), (e), (f), and (g) as subsections (a), (b), (c), and (d), respectively; and

(D) in subsection (b), as so redesignated—

(i) in paragraph (2)—

(I) in subparagraph (B), by striking "and" at the end;

(II) in subparagraph (C), by striking the period and inserting "; and"; and

(III) by adding at the end the following:

"(D) ensure that appropriate safeguards exist for protecting any party from retaliation by any agency for exercising rights under this subsection."; and

(ii) by adding at the end the following:

"(6) RETALIATION.—For purposes of this subsection, retaliation includes delaying consideration of, or withholding approval of, any request, notice, or application that otherwise would have been approved, but for the exercise of a financial institution's rights under this section.".

(E) in paragraph (1)(A) of subsection (c), as so redesignated—

(i) in clause (ii), by striking "; and" and inserting a semicolon;

(ii) in clause (iii), by striking "; and" and inserting a semicolon; and

(iii) by adding at the end the following:

"(iv) any issue specifically listed in an exam report as a matter requiring attention by the institution's management or board of directors; and

"(v) any suspension or removal of an institution's status as eligible for expedited processing of applications, requests, notices, or filings on the grounds of a supervisory or compliance concern, regardless of whether that concern has been cited as a basis for a material supervisory determination or matter requiring attention in an examination report, provided that the conduct at issue did not involve violation of any criminal law; and".

(2) EFFECT.—Nothing in this subsection affects the authority of an appropriate Federal bank-

ing agency or the National Credit Union Administration Board to take enforcement or other supervisory action.

(b) FEDERAL CREDIT UNION ACT.—Section 205(j) of the Federal Credit Union Act (12 U.S.C. 1785(j)) is amended by inserting "the Bureau of Consumer Financial Protection," before "the Administration" each place that term appears.

(c) FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL ACT.—The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.), as amended by sections 2 through 4 of this Act, is further amended—

(1) in section 1003 (12 U.S.C. 3302) by striking paragraph (1) and inserting the following:

"(1) the term 'Federal financial institutions regulatory agencies'—

"(A) means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the National Credit Union Administration; and

"(B) includes the Bureau of Consumer Financial Protection for purposes of sections 1012 through 1014;";

(2) in section 1004(a)(4) (12 U.S.C. 3303), by striking "Consumer Financial Protection Bureau" and inserting "Bureau of Consumer Financial Protection"; and

(3) in section 1005 (12 U.S.C. 3304)—

(A) by striking "One-fifth" and inserting "One-fourth"; and

(B) by inserting "described under section 1003(1)(A)" after "agencies".

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[118H4346]

**[DISCUSSION DRAFT]**

119TH CONGRESS
1ST SESSION

# H. R. _____

To raise the consolidated assets threshold under the small bank holding company policy statement, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. DONALDS introduced the following bill; which was referred to the Committee on _____

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# A BILL

To raise the consolidated assets threshold under the small bank holding company policy statement, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Small Bank Holding Company Relief Act".

**SEC. 2. CHANGES REQUIRED TO THE SMALL BANK HOLDING COMPANY AND SAVINGS AND LOAN HOLDING COMPANY POLICY STATEMENT.**

Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall revise appendix C to part 225 of title 12, Code of Federal Regulations (commonly known as the "Small Bank Holding Company and Savings and Loan Holding Company Policy Statement"), to raise the consolidated asset threshold under that appendix to $10,000,000,000 for any bank holding company or savings and loan holding company.