October 23, 2025

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E–218,
Washington, DC 20219

Ann E. Misback, Secretary,
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

James P. Sheesley, Assistant Executive Secretary
Attention: Comments/Legal OES (EGRPRA)
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

RE: Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996, [Docket ID OCC-2023-0016]; [Docket No. OP-1828]; RIN 3064-ZA39

Dear Sir or Madam:

Pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996 ("EGRPRA"), the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (hereinafter collectively referred to as the "Agencies") are reviewing their regulations to identify outdated or otherwise unnecessary regulatory requirements on insured depository institutions and their holding companies. The Independent Community Bankers of America[1] (ICBA) appreciates the opportunity to comment on ways the Agencies can reduce regulatory burdens on community banks as part of the final round of the EGRPRA review process.

[1] The Independent Community Bankers of America® has one mission: to create and promote an environment where community banks flourish. We power the potential of the nation's community banks through effective advocacy, education, and innovation. As local and trusted sources of credit, America's community banks leverage their relationship-based business model and innovative offerings to channel deposits into the neighborhoods they serve, creating jobs, fostering economic prosperity, and fueling their customers' financial goals and dreams. For more information, visit ICBA's website at icba.org.

The EGRPRA Review Process

ICBA remains encouraged by the Trump Administration's swift actions to reduce regulatory burdens on community banks. We are hopeful that banking regulators, under President Trump's leadership, will continue to advance ICBA's deregulatory recommendations with urgency.

The President rightly understands that streamlining regulations empowers community banks to drive economic growth across the country. We commend the Administration's commitment to promoting sound regulatory reform, as outlined in Executive Order 14219, Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative.[2] In response to the Office of Management and Budget's Request for Information on Deregulation,[3] ICBA shared a number of recommendations for appropriately tailoring regulatory burden on community banks, reducing unnecessary compliance costs, and better enabling community banks to serve customers and communities across the country.[4] While the Agencies have taken some initial steps toward rightsizing the regulatory burden on community banks, ICBA urges further action to promote a more efficient regulatory environment for community banks and the communities and customers they serve.

While EGRPRA serves as a valuable formal mechanism for regulatory review, we urge the Agencies to remain receptive to constructive ideas whenever they are presented, and not just during designated comment periods.

In our first EGRPRA comment letter pursuant to the current review, ICBA called for (1) call report reform, (2) increasing the asset threshold under the Small Bank Holding Company Policy Statement to $10 billion, (3) reducing the regulatory requirements for de novo banks, and (4) and reforming Bank Merger Act regulations. ICBA's comments were echoed and discussed further by many community bankers during the first virtual EGRPRA outreach meeting on September 25th, 2024.

In our second EGRPRA comment letter, we recommended (1) simplifying and streamlining the flood insurance regulations, (2) changing the Fair Credit Reporting Act dispute procedures, (3) simplifying and updating Regulation O including increasing the $100,000 aggregate credit limit to executive officers under Section 215.5 to $250,000, (4) updating the money laundering regulations by increasing the SAR threshold to $10,000, and (5) increasing the CTR threshold to $30,000, and changing the regulations dealing with beneficial ownership.

In our third EGRPRA comment letter, we addressed the regulatory categories of Rules of Procedure, Safety and Soundness, and Securities, advocating for (1) increase to asset threshold

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[3] Office of Management and Budget, Request for Information: Deregulation, 90 Fed. Reg 15481 (April 11, 2025).
[4] See Appx. 1 for ICBA's deregulatory recommendations in response to the Request for Information.

for banks that are subject to 12 CFR Part 363 financial statement audit and reporting and (2) extended exam cycles for well-managed community banks.

ICBA and community banks across the country appreciate the Agencies' initial steps to implement these recommendations, such as the FDIC's rescission of its problematic 2024 Statement of Policy on Bank Merger Transactions, the FDIC's recent proposal to adjust the Part 363 thresholds, and the OCC's announcement that it is updating examination policies to reduce supervisory burden on community banks.[5]

However, much work remains to be done to rightsize the regulatory burden on community banks. ICBA urges the Agencies to accelerate the repeal of outdated and burdensome regulations and to adopt tiered, appropriately scaled rules that reflect the unique role of community banks. ICBA's "Repair, Reform, and Thrive" agenda, along with our OMB deregulatory recommendations, set forth a path for meaningful community bank representation in regulatory processes and modernizing oversight in ways that support local economic growth.[6]

ICBA's Comments Concerning Banking Operations

Availability of Funds and Collection of Checks (12 CFR part 229)

In light of the requirements of Executive Order 14247, "Modernizing Payment to and from America's Bank Account," requiring the government to cease using paper checks, ICBA urges the Board to eliminate the next-day availability provisions currently afforded to government checks under 12 CFR § 229.10(a)-(c). These expedited availability requirements are no longer necessary, as the instruments they were designed to support are being phased out.

This recommendation aligns with recent revisions to 31 CFR Part 240, Indorsement and Payment of Checks Drawn on the United States Treasury, which in 2023 were projected to save the federal government approximately $100 million annually. Removing the special availability treatment for Treasury checks would also enhance fraud prevention efforts by allowing financial institutions additional time to detect and respond to potentially fraudulent items. Importantly, consumers, financial institutions, and government entities would continue to benefit from the protections embedded in Regulation CC.

Check fraud has become a growing concern for community banks in recent years. ICBA believes that further amendments to Regulation CC could strengthen fraud mitigation efforts,

[5] FDIC, Statement of Policy on Bank Merger Transactions, 90 FR 29413 (July 3, 2025); FDIC, Notice of Proposed Rulemaking: Adjusting and Indexing Certain Regulatory Thresholds, 90 FR 35449 (July 28, 2025); OCC, Bulletin 2025-24 - Examinations: Frequency and Scope for Community Banks (Oct. 6, 2025), https://www.occ.treas.gov/news-issuances/bulletins/2025/bulletin-2025-24.html.

[6] ICBA, Repair, Reform, Thrive: ICBA's Plan for Powering Local Economies, https://www.icba.org/our-positions-a-z/current-policies/powering-local-economies/.

particularly for non-government checks. While Regulation CC appropriately seeks to balance prompt funds availability with the risk of returned items, evolving fraud tactics necessitate greater flexibility.

ICBA recommends that the Board consider permitting extended hold periods for mobile deposits and other high-risk scenarios, such as new accounts or accounts exhibiting suspicious activity patterns. Enhanced discretion in these cases would provide community banks with critical time to identify and investigate potentially fraudulent transactions.

Additionally, ICBA urges the Board to clarify the "reasonable cause to doubt collectability" exception. The current standard is ambiguous and creates operational uncertainty for community banks. Clearer guidance and the establishment of a safe harbor, which is triggered when specific, objective criteria are met, would empower banks to invoke this exception with greater confidence and consistency.

While technological advancements have accelerated funds availability, fraudsters have simultaneously developed sophisticated methods to alter checks in ways that are increasingly difficult to detect. Consequently, financial institutions require more, and not less time to verify the authenticity of checks.

Finally, ICBA recommends that Regulation CC explicitly address liability allocation in cases involving altered checks and forged endorsements. Funds availability holds remain a vital tool for community banks to combat payments fraud. Delaying availability enables banks to scrutinize checks for signs of tampering and take appropriate action before fraudulent items impact customers or enter the broader payments system.

Debit Card interchange 12 CFR part 235 (Reg II)

Although not subject to review under the current EGRPRA process as it remains a proposed, not final rule, ICBA wishes to comment on the Federal Reserve Board's late 2023 proposal to amend Regulation II, which implements the Durbin Amendment's requirements on debit card interchange fees for covered issuers. Covered issuers are banks with assets of $10 billion or more. The proposed formula, which is $0.144 + 0.04% of the purchase price + $0.013 would establish a new interchange fee cap for covered issuers, subject to biennial review and adjustment.

ICBA continues to view the Durbin Amendment as codified in Regulation II as a flawed policy that functions as a government-imposed price control. We remain hopeful that the courts will ultimately recognize the adverse implications of this framework, but in the interim, ICBA urges the Federal Reserve to withdraw the 2023 proposal.

The proposed rule is based on incomplete and potentially misleading data that fails to accurately capture the impact on both covered and exempt community banks. To ensure a more comprehensive and representative analysis, ICBA recommends that the Board improve its data collection methodology for covered issuers and incorporate research that reflects the experiences of exempt community banks and the broader small business card acceptance environment.

While the rulemaking negatively affects all debit card issuers, it is particularly detrimental to smaller covered institutions. The Board's quantitative analysis incorrectly dismisses critical data limitations as statistically insignificant when viewed across aggregate transaction volumes. This approach obscures the disproportionate harm to smaller issuers and undermines the integrity of the rulemaking process.

Regulation S – Reimbursements for Providing Financial Records

The Board's Regulation S[7] sets rates and conditions for reimbursement of costs directly incurred by financial institutions in assembling or providing financial records to a government authority. For instance, under the schedule included within the regulation, banks are reimbursed $.25 a copy for reproduction of records, $22 per hour for clerical and technical work, and $30 for computer support or manager/supervisory work. There are also numerous exceptions under Regulation S so that a bank is not reimbursed if, for example, they receive an IRS summons, an administrative agency subpoena regarding a matter to which a customer is a party, or in relation to General Accounting Office requests.[8]

ICBA recommends that the reimbursement schedule in Regulation S be updated to reflect the true costs of complying with a request from a governmental authority, including bank personnel and overhead costs. These amounts were last updated in 2009,[9] and the Bureau of Labor Statistic's CPI Inflation Calculator shows that inflation has increased by 50 percent since that time.[10] Payroll and other costs incurred by community banks have increased substantially, and the reimbursement schedule should be adjusted accordingly and indexed for inflation to prevent it from falling so far behind true costs in the future. Additionally, the reimbursement exceptions should be narrowed so that community banks can be adequately reimbursed for the work associated with complying with burdensome governmental requests for documents. Updating the reimbursement schedule and narrowing the exceptions would help alleviate the regulatory burden associated with complying with Regulation S.

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[7] 12 C.F.R. part 219.
[8] 12 C.F.R. 219.4.
[9] Board, Final Rule: Reimbursement for Providing Financial Records; Recordkeeping Requirements for Certain Financial Records, 74 Fed. Reg. 50105, 50108 (Sept. 30, 2009).
[10] U.S. Bureau of Labor Statistics, CPI Inflation Calculator, https://www.bls.gov/data/inflation_calculator.htm.

ICBA's Comments Concerning the Community Reinvestment Act

ICBA supports the proposal of the OCC, the Board, and the FDIC to rescind the Community Reinvestment Act ("CRA") final rule issued on October 24, 2023. [11]We further support the agencies' decision to replace the CRA final rule with the regulations previously adopted by the agencies in 1995, which banks are currently being evaluated under today.

The agencies' intent in finalizing the 2023 rule was to create a more quantitative rule that would provide the banking industry with greater transparency into how CRA ratings are calculated. In principle, the goal of creating a quantitative framework to provide clarity and certainty made sense. In practice, however, the 2023 rule was overly complicated and burdensome. Rather than increasing transparency, it would have required any bank subject to its new retail lending test to be evaluated in each assessment area using a variety of formulas and benchmarks that only increased the complexity of CRA examinations without providing meaningfully better evaluation of how well the bank was meeting the needs of its community. The rule would have also evaluated banks outside of their local communities which exceeded the authority given to the agencies by the CRA statute.

While it is not perfect, the 1995 CRA framework is well-understood by the industry and provides sufficient insight into how well banks are meeting the needs of their communities, including Low- and Moderate- Income ("LMI") individuals and small businesses. We believe that the 1995 rule could be improved by a series of minor changes at the margin, rather than with a comprehensive overhaul, as attempted by the agencies in 2023. These changes include:

1) Higher Asset Thresholds for Small and Intermediate Small Banks: In the 2023 rule, the agencies acknowledged that it was appropriate to raise the small bank asset thresholds to a level beyond a simple inflation adjustment of the 1995 rule's thresholds. We believe that higher asset thresholds continue to be appropriate. Specifically, we recommend raising the small bank asset threshold to $850 million, which is the Small Business Administration's ("SBA") current threshold for a commercial bank to be defined as a small business.[12] We further recommend that the intermediate small bank threshold be raised to $3 billion, which is the current level that the FRB uses to define a small bank holding company.[13]

2) Promulgate and Illustrative List of Qualifying Activities: The agencies should create an illustrative, non-exhaustive list of qualifying activities that are eligible for CRA consideration. The illustrative list has been consistently popular with community bankers because it will serve as a source of inspiration for new types of qualifying loans and investments that have been made by other banks that they, in turn, can implement in their communities. In addition, the agencies

[11] 90 Fed. Reg. 34086, available at: https://www.fdic.gov/board/community-reinvestment-act-regulations-notice-proposed-rulemaking.pdf.
[12] 13 C.F.R. 121.201.
[13] 12 C.F.R. Appendix C to Part 225.

should consider creating a process for banks to submit proposed activities to their examiners to receive confirmation or denial of whether the proposed activity is eligible for CRA credit within a defined period – such as 30 or 60 days.

3) Allow MDIs to Receive CRA Credit for Partnerships with other MDIs: Currently, most banks receive CRA credit for supporting Women's and Minority Depository Institutions (MDIs) because of a provision of the CRA statute.[14] However, MDIs themselves have historically not been able to receive CRA credit for supporting other MDIs, which is contrary to public policy and Congress's likely intent. Therefore, we support clarifying that MDIs may also receive CRA credit for activities and partnerships with other MDIs, in the same manner as other banks.

With the exception of these changes, ICBA supports a recission of the 2023 rule and a return to the 1995 framework. The 2023 rule introduced significant changes, including new performance tests, expanded data collection, and assessment areas based on deposit-taking rather than physical branch locations. These changes were overly complex and burdensome, particularly for smaller community banks with limited resources. By reverting to the 1995 framework, community banks will be able to avoid costly new compliance measures and refocus their resources on lending and community investment.

ICBA's Comments on Capital

ICBA strongly supports capital rules that are proportionate, risk-based, and reflective of the community bank model. Currently, community banks face capital pressures that are out of proportion to their low-risk and relationship-based business models. Applying broad or overly conservative requirements forces community banks to hold excessive capital that could otherwise support lending in local communities. Therefore, ICBA urges the agencies to take a more balanced approach that reflects the unique risk characteristics of community banks, and to reduce unnecessary capital burdens on community banks so they can focus on serving their communities.

Additionally, regulatory changes to the capital rule that impact systemic risk and competitive dynamics in the banking sector should be informed by thorough studies and be presented as part of a cohesive framework that allows stakeholders and the public to assess the overall impact and have a meaningful opportunity to provide informed comments.

[14] 12 U.S.C. 2907.

Capital Adequacy & Basel III

Community Bank Leverage Ratio

ICBA supports the Community Bank Leverage Ratio (CBLR) and efforts by the banking agencies to simplify capital requirements and reporting frameworks for community banks. However, the CBLR should be adjusted from 9 percent to 8 percent.

This adjustment is within the agencies' discretion, as Congress granted the agencies the authority to set the CBLR within the range of 8 percent to ten percent. Taking this step would also bring the CBLR closer to current risk-based capital requirements for well-capitalized banks including the common equity tier 1 ratio of 6.5 percent and the tier 1 risk-based capital ratio of 8 percent, and the current 5 percent leverage requirement for well-capitalized banks. Finally, it has already been tried and proven to be effective. The agencies temporarily adjusted the CBLR to 8 percent during the height of the COVID-19 pandemic, which gave community banks additional room on their balance sheets to meet credit needs in their local economies. The agencies should return the CBLR to 8 percent, making it a more practical alternative for community banks that execute a straightforward lending business model.

Basel III

ICBA supports strong capital requirements for all banks and their respective holding companies. However, international capital rules should not apply to U.S. community banks. Applying Basel III requirements to community banks imposes unnecessary complexity and costs. The current capital rule inhibits lending by community banks that do not elect or do not qualify for the CBLR. Therefore, ICBA supports a full exemption from Basel III for non-systemically important financial institutions, particularly community banks that pose the lowest risk to the banking and financial systems.

Mortgage Servicing

Basel III has also severely curtailed a community bank's ability to service mortgage loans when those loans are sold to GSEs and third parties. Bank regulators have yet to prove that mortgage loans serviced by community banks played any part in the financial crisis. In fact, mortgage servicing by community banks moves servicing to a customized, high-quality, effective servicing function from the commoditized, low-touch function performed by the largest banks and the non-bank mortgage servicers. Regulators should encourage more community bank mortgage servicing, not less. Prudential regulators took the Basel III mortgage servicing asset (MSA) cap that was intended for the world's largest systemic banks holding MSAs and applied it to all banks regardless of size, including banks that have adopted the CBLR. ICBA supports a community bank exemption from the Basel III treatment of MSAs and adding much needed regulatory relief to banks that have adopted the CBLR.

The current rule places a 25 percent cap on mortgage servicing assets that can be included in regulatory capital. This applies to community banks that use the CBLR to satisfy their capital requirements. These limits on well-managed purchased mortgage servicing programs are overly punitive and harmful to community banks. Regulators have failed to demonstrate how these limits result in safety and soundness protections for impacted institutions and stakeholders of the deposit insurance fund. Mortgage servicing is a scale business, making it challenging for small banks with limited capital to compete and make a profit when harmful and unnecessary limitations are imposed. Prudential bank regulators should attempt to retain and grow mortgage servicing operations inside the regulated banking system, especially in small community banking organizations. The threshold for mortgage servicing assets should be raised from 25 percent of common equity tier 1 capital to at least 50 percent of tier 1 capital. Additionally, for mortgage servicing assets that are not deducted, the risk weight should be restored to 100 percent from the overly punitive 250 percent.

Subchapter S Banks and the Capital Conservation Buffer

Shareholders of a Subchapter S corporation are responsible for paying taxes on their pro-rata of the bank's net income, regardless of whether that income is distributed. However, under certain circumstances the Basel III capital conservation buffer prevents banks organized as Subchapter S corporations from paying dividends. As a result, these institutions may have difficulty in raising new capital as potential investors will be concerned by the risk of having to pay federal income taxes on earnings that cannot be remitted to the investor. The capital conservation buffer should be modified to allow community banks to distribute no less than 35% of their reported net income for a reporting period.

Stress Testing, Total Loss-Absorbing Capacity, and Long-Term Debt

ICBA encourages the agencies to ensure that capital planning and stress testing requirements are appropriately tailored to address the outsized risk posed by large banks. It is critical that the Agencies' modifications to capital requirements bolster, not weaken, financial stability and maintain the safety and soundness of the largest, Too Big to Fail institutions.

ICBA cautions against making changes to the stress testing framework that would transform this important tool into a mere compliance exercise that the largest banks would be able to manipulate. Such an outcome would have significant negative implications for the safety and soundness of the banking system.

Additionally, the Agencies must not loosen critical safeguards in a manner that would increase the systemic risks posed by the largest, too big to fail global systemically important bank holding companies (GSIBs) and their subsidiary insured depository institutions (GSIB IDIs). ICBA remains concerned about the recent proposal to modify the enhanced supplementary leverage ratio and adjust the total loss-absorbing capacity and long-term debt framework. The Agencies must carefully consider how changes to the capital rule at the holding company and bank level might undermine the resiliency of GSIBs and their IDIs during a crisis, undercutting the single point of entry strategy the firms have proposed and increasing resolution risks.

Further entrenching the benefits enjoyed by Too Big to Fail GSIBs increases systemic risk and puts the deposit insurance fund and the banking system at risk. As demonstrated by the 2008 financial crisis, American taxpayers, small businesses, and community banks will be left to pay the price.

Mutual Capital Certificates

Mutual Capital Certificates (MCCs) present a unique opportunity for mutual banks to raise capital from purpose driven investors to strengthen their balance sheets, fund acquisitions, or fuel organic growth without compromising their mutual ownership structure. MCCs can also be used to fund the formation of de novo mutual banks to address unmet needs in their communities. However, until recently, there has been a lack of awareness surrounding these instruments and the process of drafting and obtaining regulatory approval to issue an MCC has been time consuming and costly.

We believe that the FDIC, OCC, and FRB, in partnership with state banking regulators, could simplify this process by creating clear guidelines on the characteristics that an MCC instrument should contain in order to be eligible for treatment as Common Equity Tier 1 (CET 1) or Tier 1 capital. By creating clear guidelines or a model instrument the agencies could reduce the legal costs associated with drafting an MCC and increase the certainty around the capital treatment that an MCC would receive. The legal authority to issue MCCs already exists but the current regulatory approval process is so bespoke that it can deter smaller mutual banks from engaging with it.[15][1]

The agencies should amend their regulations so that MCCs with limited voting rights that leave control of the institution with depositors, are subordinated to the interests of all depositors and creditors, and that offer dividends that may be cumulative or non-cumulative which may be variable based on earnings should count as CET 1 or Additional Tier 1 Capital and should not require prior regulatory approval. This rule change would allow mutual banks and Mutual Holding Companies greater flexibility to raise additional capital to reinvest in their communities.

Conclusion

We are encouraged by President Trump's commitment to deregulation and intend to annually report the Agencies' progress in implementing deregulatory changes ICBA has recommended through the EGRPRA process, formal rulemakings, and other channels. Importantly, we emphasize that the EGRPRA process itself can become a regulatory burden if not approached with genuine intent and urgency by the Agencies.

[15] *See* 12 U.S.C. 1464(b)(4); 12 C.F.R. 163.73.

ICBA appreciates the opportunity to comment on this fourth and final notice published by the banking agencies under EGRPRA. We value the Agencies' efforts to identify regulations that are outdated, unnecessary, or unduly burdensome, and to engage in meaningful dialogue about the regulatory challenges facing community banks. If you have any questions or would like additional information, please contact me at Lilly.Thomas@icba.org.

Sincerely,

/s/

Lilly Thomas
EVP, Regulatory Relations