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

March 28, 2025

The Honorable Travis Hill
Acting Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, D.C. 20429

Dear Acting Chairman Hill:

We write to commend the Federal Deposit Insurance Corporation (FDIC) on its recent actions to undo harmful rules proposed and promulgated by the previous administration and to recommend that the FDIC withdraw or modify, as soon as practical, several other flawed final and proposed rules, letters, and guidance issued under the previous administration. These actions were advanced on a partisan basis, lack robust cost-benefit analysis, and offer misguided solutions in search of problems.

We were pleased by the FDIC's recent announcements:

- Beginning the process of rescinding its 2024 statement of policy on bank merger transactions;
- Withdrawing the proposed rule on brokered deposits;
- Withdrawing the proposed rule related to its filing requirements under the Change in Bank Control Act;
- Withdrawing the proposed rule on corporate governance standards;
- Withdrawing the proposed rule on incentive-based compensation arrangements; and
- Extending the compliance date for FDIC signage rule updates.

We look forward to working with the FDIC's new leadership on changes, where appropriate, to the bank regulatory framework that address outstanding concerns and modernize bank regulation for the contemporary financial ecosystem and broader economy.

Since the 1980s, the number of banks in the United States has steadily declined from over 18,000 banks to fewer than 5,000 banks operating today.[1] Furthermore, the number of bank branches has also declined from nearly 100,000 in 2008 to 77,500 at the start of 2024.[2] This reduction is largely due to the significant and growing regulatory burden under which banks are forced to operate. Rather than seek to streamline regulations and reduce burdens, the FDIC, under the previous

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[1] Andrew P. Scott, *De Novo Banks: Policy Issues for the 118th Congress*, Congressional Research Service (June 27, 2024), https://crsreports.congress.gov/product/pdf/IF/IF12697.
[2] Jim Dobbs, *Why Banks Are Closing Branches Faster as M&A Returns*, American Banker (Dec. 6, 2024), www.americanbanker.com/news/why-banks-are-closing-so-many-branches.

administration, took several actions that increased compliance costs. These actions have motivated further bank consolidation, reduced banks' ability to innovate, and undermined banks' efforts to serve new and existing customers. The result is fewer banking products and services available for American families, farmers, and small businesses. The FDIC, under then-Chair Gruenberg, proposed or finalized the following rules that should be rescinded or, at the very least, significantly modified:

- On June 20, 2024, the FDIC finalized a rule to reinstate a 2012 rule on resolution plans, which requires insured depository institutions (IDIs) with $100 billion or more in assets to periodically submit resolution plans to the FDIC and IDIs with $50 billion or more in assets to make periodic informational filings.[3] The final rule, though stemming from the FDIC's role as the receiver for failed depository institutions and founded in authorities conferred by the Federal Deposit Insurance Act and the Dodd-Frank Act, proposes an onerous solution to the problem it is attempting to address. Instead of collecting information on banks' assets, liabilities, corporate-affiliate structuring, and other pertinent information, as the FDIC's initial approach intended when it first considered revisions in 2021, the final rule morphed into a voluminous information collection and a forced exercise of crafting hypothetical failure scenarios. It is unclear whether the costs of developing these plans justifies their expected benefits. Rather than requiring plan submissions with endless details of unforeseen events, the FDIC should shift its focus towards working with covered IDIs to develop prudent resolution plans that are fitted to a broad range of potential events that could trigger failure and should modify the final rule to that effect.

- On September 17, 2024, the FDIC promulgated a rule to rewrite recordkeeping standards for bank deposits received from nonbank third parties.[4] The FDIC's rule is overly broad and misguided. We are supportive of clear recordkeeping standards for banks' custodial deposit accounts kept on behalf of nonbank third parties and urge the FDIC to seek comment on the best approach from concerned stakeholders.

- On July 30, 2024, the FDIC proposed amendments to regulations governing parent companies of industrial banks and industrial loan companies.[5] The proposed rule does nothing to provide transparency to the FDIC's approach to industrial loan company (ILC) applicants. The FDIC has considered ILC applications in piecemeal fashion, further adding to confusion among current and prospective applicants. Rather than conducting a comprehensive review and analysis of the problems the rule purports to address, the rule continues to avoid implementing clear rules of the road for ILC applicants.

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[3] Fed. Deposit Insurance Corp., *FDIC Board of Directors Approves Final Revised Rule to Strengthen Resolution Planning for Large Banks* (June 20, 2024), https://www.fdic.gov/news/press-releases/2024/fdic-board-directors-approves-final-revised-rule-strengthen-resolution.

[4] Fed. Deposit Insurance Corp., *FDIC Proposes Deposit Insurance Recordkeeping Rule for Banks' Third-Party Accounts* (Sept. 17, 2024), https://www.fdic.gov/news/press-releases/2024/fdic-proposes-deposit-insurance-recordkeeping-rule-banks-third-party.

[5] Fed. Deposit Insurance Corp., *Proposed Amendments to Part 354, Parent Companies of Industrial Banks and Industrial Loan Companies* (July 30, 2024), https://www.fdic.gov/news/financial-institution-letters/2024/proposed-amendments-part-354-parent-companies-industrial.

Additionally, the FDIC promulgated several policy statements and guidance that may have violated the Administrative Procedure Act (APA) by subverting the notice-and-comment process to impose new legally binding requirements for financial institutions.

- On July 30, 2024, the FDIC approved final guidance to enhance resolution planning for certain large banks.[6] The rule fails to adequately respect the amount of time and resources that financial institutions use in developing their living wills. The FDIC has failed to explain how requirements imposed under the guidance will lead to safer and more resilient banks.

- On August 22, 2022, the FDIC updated its supervisory guidance on Non-Sufficient Funds (NSF) Fees that arise from the re-presentment of the same unpaid transaction.[7] The guidance concluded that most customer agreement contracts are "deceptive" in their language regarding NSF fees and recommended the elimination of such fees or that institutions should decline to charge more than one fee for the same transaction. The guidance likely violated the APA by issuing a legislative rule, including new obligations, without the proper notice-and-comment process. Specifically, the guidance defines unfair or deceptive acts and practices, of which the primary authority to do so was granted to the CFPB and the FTC.

Federal bank regulation is most effective when regulators actively engage with industry stakeholders to collaboratively develop rules and policies. We appreciate your attention to these important matters and look forward to your efforts to create an FDIC that works for all Americans.

Sincerely,

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[6] Fed. Deposit Insurance Corp., *FDIC Approves Final Guidance to Enhance Resolution Planning at Large Banks* (July 30, 2024). https://www.fdic.gov/news/press-releases/2024/fdic-approves-final-guidance-enhance-resolution-planning-large-banks.

[7] Fed. Deposit Insurance Corp*, Supervisory Guidance on Multiple Re-Presentment NSF Fees* (June 2023), https://www.fdic.gov/news/financial-institution-letters/2023/fil23032a.pdf.

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cc: Representative Maxine Waters, Ranking Member, Committee on Financial Services
Kevin Hassett, Director of the National Economic Council