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The Bankers' Bulletin

Regulatory & Enforcement Insights on ***Recent Bank Industry Developments***

This Month's Big Number:

$1B

The asset size threshold for credit unions that would be subject to federal taxes, as proposed by the Independent Community Bankers of America.

The shift in approach to advocate for an end to the federal tax exemption for only the largest credit unions could gain traction as the Administration looks for new revenue sources.

In This Issue

1. FDIC Withdraws Group of Biden-Era Rule Proposals, Rescinds Merger Guidance

- With a newly-composed majority, the Board acted quickly to withdraw proposed rules that would have revamped restrictions on brokered deposits and prescribed corporate governance standards.
- The recission of the 2024 merger statement, which established heightened approval standards and a wider review perimeter, will be replaced by a new policy that should speed up review timelines.

2. OCC and FDIC Revise Crypto-Activity Guidance, Removing Supervisory Obstacles

- Issuances from both agencies rescind previous guidance requiring supervisory approval before engaging in digital asset-related activities, which had effectively deterred exploration by banks.
- While prior approval is no longer required, the new guidance continues to remind banks to engage with their supervisory teams, and to ensure alignment of the activities with business plans and applicable laws, including those related to consumer protection and AML.

3. Trump Nominates Governor Bowman for Fed Vice Chair of Supervision

- Gov. Bowman will have an opportunity to renovate the regulatory framework to align with her vision of tailored regulations and supervision to bank complexity and business models.
- Her knowledge of process nuances—such as the delays caused by receipt of adverse comments to an application—will be beneficial as she improves internal procedures and enhances efficiency.

4. OCC and FDIC Remove Reputational Risk from Supervisory Materials

- The agencies' public examination manuals and other guidance will be stripped of references to reputation risk as a risk category, while staff will be barred from examining for such risk.
- The follow-through could implicate the structure of the agencies' exam reports, and should reinforce the new leadership's emphasis on financial risks as the focus of supervisory work.

5. OCC Approves Fintech Bank Charter, Opening Door to Application Flood

- In another demonstration of agency leadership's "openness to innovation," the OCC announced a fintech's acquisition of a national bank charter and overhaul of its business model.
- Expect a quick succession of applicants seeking to obtain national bank charters while the window remains open. The OCC's approval order suggests that even under a more open-minded approach, the agency will continue to closely scrutinize the business plans of new entrants.

FDIC Withdraws Group of Biden-Era Rule Proposals, Rescinds Merger Guidance

Summary *On Mar. 3, the FDIC Board approved the withdrawal of outstanding proposed rules related to brokered deposits and corporate governance, and recission of the 2024 statement of policy on bank mergers.*

Key Insights

1) The brokered deposit rule threatened the viability of bank-fintech deposit arrangements established after the rule was updated in 2020, and would have invalidated prior exemptions. The corporate governance rule would have established new, highly-prescriptive governance standards.
2) Both rules, pet projects of the prior Chairman, were the subject of intense industry pushback.
3) Citing uncertainty injected by the 2024 merger statement, the FDIC will reinstate the version in effect before 2024 while reevaluating its merger review processes and preparing a new policy.

Takeaway **These actions are an early example of Acting Chair Hill fulfilling his commitments to the industry. The moves reflect the speed with which the newly constituted FDIC Board can act on his priorities. Expect a new merger policy that requires faster internal agency processing and outlines clearer approval standards.**

OCC and FDIC Revise Crypto-Activity Guidance, Removing Supervisory Obstacles

Summary *On Mar. 7, the OCC issued Interpretive Letter (IL) 1183, and on Mar. 28, the FDIC issued Financial Institution Letter (FIL) 7-2025, rescinding earlier guidance issued by the agencies that required prior regulatory approval before engaging in certain specified crypto- and digital assets-related activities.*

Key Insights

1) While IL 1183 and FIL-7-2025 reaffirmed the agencies' public views that the specified activities, such as crypto custody, holding stablecoin reserves, and acting as nodes on an independent network, are permissible, rescinding the approval barrier will spur banks' engagement in these activities.
2) Both letters illuminate the performance baseline for these activities: consistency with sound risk management, alignment with existing business strategies, and compliance with applicable law.
3) Even without a formal approval step, continued engagement with exam teams will be beneficial.

Takeaway **Rescission of the approval hurdle fulfills a pledge by the new agency leadership to foster innovation, and represents a concrete step towards implementing the Administration's embrace of the crypto industry.**

Trump Nominates Governor Bowman for Fed Vice Chair of Supervision

Summary *On Mar. 17, President Trump nominated Fed Governor Michelle Bowman for the Fed's Vice Chair of Supervision role. She will fill the vacancy in the position left by Michael Barr in February.*

Key Insights

1) Based on recent public speeches, expect Gov. Bowman to push for reformation of the regulatory framework, especially to tailor requirements to banks' size, complexity and business models.
2) She is also likely to reorient the Fed's views on innovation in the industry. With a far more hands on approach, she will engage with stakeholders and utilize feedback to reform Fed policy.
3) Following her nomination, Gov. Bowman called for the Fed to revisit its approach to handling adverse public comments, citing as an example a branch application that was significantly delayed by a single comment.

Takeaway **Gov. Bowman and the other agency heads will likely coordinate on both reforming the regulatory framework and transforming the agencies' approach to supervision, given their philosophical alignment. Her focus on removing roadblocks within the Fed's application process should improve processing timelines.**

They Said It:

"Our financial regulatory agenda must start with a fundamental refocusing of supervisors' priorities. . . . We need our financial regulators singing in unison from the same song sheet. To be clear, this does not mean consolidation of agencies, but coordination via Treasury, such that our regulators work in parallel with each other and industry."

Scott Bessent, Secretary of the Treasury
to the Economic Club of New York (Mar. 6, 2025)

OCC and FDIC Remove Reputational Risk from Supervisory Materials

Summary *On Mar. 20, the OCC issued Bulletin 2025-4, announcing it was removing references to reputation risk from its guidance. On Mar. 24, FDIC Acting Chair Hill issued a letter to Dan Meuser, Chair of the House Subcommittee on Oversight and Investigations, confirming the FDIC was taking the same steps.*

Key Insights

1) In addition to removing references from examination manuals and policy documents, both agencies also announced they would instruct their examiners not to examine for reputation risk.
2) Hill's letter announced the agency is working on a new rule to prevent examiners from criticizing actions due to reputational risks posed; the rule's scope could alter existing exam report structure.
3) Although the Fed has not formally announced planned revisions, the FIRM Act, introduced by Sen. Scott (R-S.C.) on Mar. 6, would bar all federal banking agencies from utilizing the concept as a basis for criticism of action.

Takeaway **The removal should address political concerns of de-banking of targeted industries while also reinforcing agency leadership's planned refocus on financial risks. Congress may further restrain the agencies via legislation.**

OCC Approves Fintech Bank Charter, Opening Door to Application Flood

Summary *On Mar. 17, the OCC announced the conditional approval of an application by a fintech company, SmartBiz Loans, to acquire a national bank in Illinois, rename it, and revise its business model.*

Key Insights

1) Acting Comptroller Hood's announcement outlined that a "safe, sound and fair" fintech business model— here, nationwide small business lending— "has a place" in the federal banking system.
2) For applicants seeking to follow in SmartBiz's footsteps, the OCC's public approval order demonstrates the complex series of corporate steps and approvals required for the acquisition.
3) While not detailing specifics regarding the proposed business plan, the order evidences the applicant set capital and loan concentration thresholds, among others, to guide the bank's early years.

Takeaway **The approval, coupled with the Acting Comptroller's express support for innovative business models, should spur a range of fintechs to submit charter applications to the OCC. A thorough, compelling, and realistic business plan will still be required for approval however, and deviations will require agency blessing.**

Other Developments You May Have Missed . . .

Bill Proposed to Raise SAR and CTR Thresholds. On Mar. 3, Rep. Loudermilk (R-Ga.) introduced the Financial Reporting Threshold Modernization Act, which would increase the threshold for SAR filings from $5K to $10K, and for CTR filings from $10K to $30K, with the latter updated continuously for inflation.

Bottom Line: Any increase to these twin thresholds under the BSA would be welcome news to the industry, as the costs of AML/CFT compliance have increased exponentially in recent years. A legislative solution—especially if tacked onto a larger reform package—would push the regulators to act more quickly to raise these thresholds.

Mass. AG Proposes Regulations to Combat "Junk Fees." On Mar. 3, AG Campbell announced implementation of regulations prohibiting so-called "junk fees," effective beginning September 2, 2025 and applicable to businesses operating in MA. The broad language encompasses financial services.

Bottom Line: While the regulations deem compliance with existing credit-related state or federal law, such as TILA, sufficient, other aspects related to financial products or services will require fresh analysis and monitoring. The AG has quickly followed New York's lead in filling the gap created by the pause at the CFPB.

Federal Court Blocks Signature Bank Shareholders from Recovery. On Mar. 21, after the FDIC intervened, a federal court in New York granted the FDIC's motion to dismiss a lawsuit filed by shareholders against the former auditor of Signature Bank as well as the Bank's former directors and officers.

Bottom Line: The court concluded the shareholders lacked standing in the case, as the FDIC—receiver for the failed bank—owned the claims they made after succeeding to them under federal law. The court determined it could not disturb the prioritization of depositors under federal law, despite acknowledging the shareholders had been harmed.

CFPB Drops Enforcement Case and Seeks to Unwind Separate Settlement. On Mar. 4, the CFPB voluntarily dismissed its federal suit against three large banks related to the Zelle payment service, and on Mar. 26, it moved to relieve a nonbank lender of a fine it had imposed through a court settlement it had previously reached.

Bottom Line: The CFPB's move to terminate the Zelle case ends its legal pursuit of a theory seeking to hold banks liable for payments authorized by consumers who were victims of scams; the decision likely signals that theory is dead, at least at the federal level. In its separate case against the nonbank lender, the Bureau may have established a precedent to revisit its own concluded actions and retroactively unwind its punishments.

About Us

Luse Gorman, PC is a Washington DC-based law firm that specializes in representing regional and community banks across the country. Our attorneys have served with the major federal banking and securities agencies and regularly engage with these agencies on a broad range of complex and novel compliance, regulatory, enforcement, and application issues. Our firm also specializes in mergers, acquisitions, and capital raising transactions, as well as general corporate and securities issues, tax law, executive compensation and employee benefits.

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