

The Bankers' Bulletin

Regulatory and Enforcement Insights on Recent Bank Industry Developments

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 - In addition to the top-line conclusions about the state of the industry, the FDIC's Risk Review serves as a rough guide for banks as to where the agency sees the greatest credit risks, and provides insights into industry-level trends, such as sources for deposits.

Also covered in this month's edition:

- Proposed Rule:** FDIC Proposes GENIUS Act Rule for Stablecoin Issuers, Clarifying Insurance Coverage (Apr. 7)
- Guidance:** FDIC Rescinds Supervisory Guidance on Re-Presentation of NSF Fees (Apr. 10)
- Proposed Legislation:** House Members Introduce Bill Allowing Access to Fed Payment Rails (Apr. 21)
- Final Rule:** CFPB Publishes Final Rule Revising Reg. B to Eliminate Disparate Impact (Apr. 22)

INDUSTRY SNAPSHOT

month over month

- ↓ OCC Charter Applications Filed: 4
- ↓ FDIC Insurance Applications Filed: 4
- FDIC Insurance Applications Approved: 1
- ↑ Bank Enforcement Actions Announced: 3
- ↑ Bank Enforcement Actions Terminated: 13

Check out what Luse Gorman was up to last month [here](#):

[Proposed MHC Merger](#) || [Proposed Merger \(\\$142.8MM\)](#) || [Proposed Acquisition \(\\$348MM\)](#)
[Completed Merger \(\\$26MM\)](#) || [Completed Merger \(\\$243MM\)](#) || [Subordinated Debt Issuance \(\\$40MM\)](#)

Federal Agencies Propose Overhaul of BSA/AML Compliance Regime

Summary

On Apr. 7, FinCEN issued a proposed [rule](#) to fundamentally restructure its implementing regulations under the BSA, seeking to create a more effective supervisory and regulatory regime. The OCC and FDIC issued parallel [proposals](#) on the same date.

Highlights

- 1) The agencies' proposals are intended to unify the regimes of FinCEN and the federal banking agencies, eliminating divergence between them that resulted from patchwork updates over the years. The FRB has not yet signed on to the rule.
- 2) The rules will require banks to establish, maintain, and implement an effective AML/CFT program. If finalized, the program requirement will explicitly incorporate for the first time use of a formal risk assessment process, obligate banks to integrate the national AML/CFT priorities and compel banks to promptly update programs if they know of significant risk changes.
- 3) The banking agencies must provide FinCEN with written notice at least 30 days prior to taking a "significant supervisory action"—including noting deficiencies or violations or requiring remedial action—for FinCEN to review and provide input.

Practical Tips

- For banks with established AML/CFT programs, the agencies have significantly shifted the threshold for citing any violations and deficiencies, establishing remedial measures, or taking enforcement actions to a "significant or systemic failure."
- Banks will need to show they are directing their staff's attention and resources to higher-risk customers, activities, and geographies identified in their risk assessments, and demonstrate a willingness to respond to risk shifts and make updates.

Takeaway

By establishing a bar that only significant or systemic implementation failures can prompt formal, critical correspondence or lead to corrective action, banks will significantly benefit from the reduction in time, resources, and focus spent mopping up isolated or technical issues spotted by examiners. The injection of FinCEN review of AML/CFT findings and enforcement actions proposed by the banking agencies should provide a needed element of consistency, and will likely serve as a brake on novel interpretations or aggressive supervisory responses. But with reduced staff at FinCEN, the process could also get delayed.

Federal Banking Agencies Jointly Issue Revised Model Risk Guidance

Summary

On Apr. 17, the OCC, FDIC, and FRB issued joint supervisory [guidance](#) on model risk management (MRM), superseding their 2011 guidance and reiterating that every bank is responsible for adopting tailored, appropriate and effective MRM practices.

Highlights

- 1) The agencies expect the revised guidance to be most relevant to banks with over \$30B in assets, though it may be relevant to banks under \$30B due to the use and complexity of their models or their engagement in non-traditional activities.
- 2) The guidance outlines the key components of sound model development: creating a clear statement of purpose, receiving input and practical insights from model users, addressing questions raised, and testing, to be tailored to a model's impact.
- 3) The guidance leaves the determination for model validation up to institutions, with the timing, nature, and frequency dependent on a blend of model purpose, methodology, changes, and practical constraints. Banks are expected to monitor models to account for changing exposures, activities, clients, and market conditions, and to make adjustments as needed.

Practical Tips

- Banks should build into their MRM the concept of "effective challenge," defined as critical analysis from objective experts who evaluate the entire model lifecycle, from development to monitoring, and who have influence within the organization.
- Although the agencies note that non-compliance with the guidance will not result in examiner criticism, banks should be aware that supervisory action can result from inadequate MRM that leads to violations of law or unsafe or unsound practices.

Takeaway

The revised guidance is a marked shift away from the overly-prescriptive approach that spurred industry complaints of the prior iteration, and it continues a trend by the agencies to emphasize a risk-based approach that defers implementation largely to the supervised institutions themselves. A clearer expectation around the size and complexity of the banks predominantly subject to the guidance should also provide relief for smaller banks focused on more traditional activities. The agencies explicitly carved out generative AI and agentic AI models from the applicability of this guidance, signaling future action governing these areas.

This month's big number:

1,155

The number of Level 3 and Level 2 consumer compliance violations cited by the FDIC in 2025, according to the agency's *Spring 2026 Consumer Compliance Supervisory Highlights* report. The total number of violations is down nearly 9.5% year-over-year, and represents the lowest total since 2019. TILA violations accounted for 40% of the total citations, followed by EFTA violations (12%) and FDPA violations (11%).

OCC Issues Pair of Rules to Preempt State Interchange Fee Prohibitions

Summary

On Apr. 24, the OCC issued an interim final [order](#) to preempt the Illinois Interchange Fee Prohibition Act (IFPA) and a concurrent interim final [rule](#) clarifying national banks' power to charge non-interest fees, including interchange fees.

Highlights

- 1) The OCC issued the order to head off national banks' imminent expenditure of significant resources to reconfigure policies, disclosures, and systems to comply with the IFPA's July 1 effective date. The OCC pointed to the likelihood of customer and merchant confusion from the changes in concluding its banks are not required to comply with the IFPA.
- 2) The corresponding rule, which the OCC issued in final form before receiving public input because the IFPA's deadline made notice and comment procedures "impracticable," revises an existing regulation on national bank fee authority to make explicit that banks can assess fees indirectly through third parties, and that card interchange fees are permissible.
- 3) The revised regulation states that a national bank's choices regarding charging fees, including whether to do so in conjunction with third parties such as card networks, are business decisions to be made by banks in their own judgment.

Practical Tips

- National banks continuing their current fee practices appear to be on firmer ground with the OCC's twin actions bolstering their authority. But both rules may be subject to court challenge, and with courts freed from the obligation to defer to OCC conclusions following the 2024 *Loper Bright* decision, the regulatory underpinning could be weakened by litigation.
- Unless the OCC tries to preempt every copycat bill, like Colorado's, with a preemption order, a patchwork could still result.

Takeaway

Comptroller Gould and the OCC's Chief Counsel have consistently articulated a plan to promote federal preemption, and issuance of two final rules that skip the public comment period is the strongest demonstration yet of that commitment. While the potential impacts from the IFPA make these circumstances particularly ripe for an aggressive regulatory response to codify the agency's preemption decisions, expect similar efforts by the OCC to update aspects of existing regulations in other areas beyond fees to address modern banking practices, especially if no credible challenges are lodged against these twin actions.

Federal Banking Agencies Finalize Rule to Lower CBLR to 8%

Summary

On Apr. 23, the OCC, FDIC, and FRB adopted a final [rule](#) lowering the community bank leverage ratio (CBLR) requirement from 9% to 8%, effective July 1, 2026. The agencies finalized the rule without any revisions, after receiving public comment.

Highlights

- 1) Although the OCC has used the \$30B asset mark as the relevant threshold for a "community bank" in its most recent guidance and regulations, this final rule defines a qualifying community banking organization as one with less than \$10B.
- 2) The agencies note that although 84% of community banks qualified to use the CBLR framework as of 2Q 2025, only 48% had adopted it; this rate has stayed constant since 2020. Smaller banks (under \$1B) have adopted at a higher rate. With the 8% threshold, an additional 477 banks qualify to opt into the framework, with 95% of banks under \$10B now eligible.
- 3) As the agencies explain in the final rule, even a lowered 8% CBLR requirement remains substantially higher than the 5% tier 1 leverage ratio required to be considered well capitalized under the Prompt Corrective Action (PCA) framework.

Practical Tips

- By extending the grace period from 2 to 4 quarters, banks can utilize the extra time to ensure that short-term volatility in capital will not prompt a hurried reversion to the tracking and reporting mechanisms needed when using risk-based ratios.
- The agencies caution that an organization that plans to grow or materially expand activities due to M&A should develop systems to calculate and report risk-based capital, as it cannot use the grace period during the quarter the M&A occurs.

Takeaway

Lowering the CBLR and extending the grace period provide meaningful regulatory relief for community banks, fulfilling a pledge made by the leaders of each of the agencies during their tenures. Even the Fed Board, which has splintered in recent rulemakings, adopted the proposal without dissent. Unlike changes in supervisory priorities or implementation of heightened standards for enforcement actions, the CBLR changes should prove durable into future Administrations, given the positive benefit for smaller institutions and the fact that the new threshold remains well above the existing PCA line.



In line with the Bureau's revised 2025 Supervision and Enforcement priorities, and consistent with [Dodd-Frank], Bureau leadership has determined that Enforcement matters should be significantly reduced, enabling the Bureau [to] focus on performing its core statutory requirements and concentrating on pursuing priority cases. . . . Considering that the number of enforcement staff was inflated by 100 due to the hiring spree by the former Director Chopra, the FY25 authorized number was not representative of even prior Enforcement staffing. Given the additional changes by this leadership, the proposed reductions [from 254 to 50 staff members] are consistent with leadership's enforcement priorities."

The Consumer Financial Protection Bureau,

explaining the rationale behind its proposal to reduce the size of its Enforcement Division, in its Workforce Restructuring Plan submitted to the D.C. Circuit Court of Appeals (Mar. 31)

FDIC Outlines Risks Facing Banking Industry in its 2026 Risk Review Report

Summary

On Apr. 23, the FDIC published its annual [Risk Review](#) report summarizing the agency's assessment of economic and market conditions affecting the banking industry. The FDIC concluded the industry's performance in 2025 was "steady."

Highlights

- 1) Among the key risks analyzed in the report, the FDIC found that interest rate risks remained elevated—while net interest margins modestly improved, unrealized securities losses remained elevated, while liquidity remained merely stable.
- 2) The report details deposit portfolio trends in 2025, especially at community banks, noting that banks are rapidly increasing uninsured deposits levels, decreasing FHLB advances and brokered deposits, and taking in more municipal deposits.
- 3) CRE loan delinquency and charge-offs continued to remain higher for some banks, and presents the primary area of credit risk the FDIC monitors. The highest CRE concentrations were found in banks with \$1B-\$10B in assets, then \$10-\$100B.
- 4) The FDIC noted that the number of problem banks (60) remained within the normal range (1-2%) during non-crisis periods.

Practical Tips

- While the largest banks engage in the vast majority of lending to nondepository financial institutions (NDFIs), the Risk Report details the agency's growing awareness of the risks posed by NDFI lending, spurred in part by the sector's rapid growth. The FDIC observes that rather than direct credit risk, exposure stems from loans pledged as collateral and NDFI credit line drawdowns, which create liquidity pressures. Banks engaged in NDFI lending should dig into these indirect risks.

Takeaway

Beyond the broad conclusions on the industry's performance in 2025, which was favorable, the Risk Review's value can be found in observing where in the hierarchy of credit risk the FDIC places lending to certain sectors or segments. CRE and NDFI lending hold the primary positions, while consumer lending and residential real estate lending appear further down the list, at least for now. The report also provides insight into the depth of the risks posed for banks of varying asset sizes: for example, community banks in the South have higher past due mortgage rates than other community banks, but lower than the industry.

Other Developments You May Have Missed Last Month . . .

FDIC Proposes GENIUS Act Rule for Stablecoin Issuers, Clarifying Insurance Coverage Issues. On Apr. 7, the FDIC issued a proposed [rule](#) to implement the GENIUS Act that would apply to FDIC-supervised permitted payment stablecoin issuers (PPSIs), setting out requirements for reserve assets, capital, liquidity, and risk management. The agency tried to align in many areas with the OCC's proposed rule, issued in March.

Bottom Line: The proposed rule seeks to clarify the treatment of reserve assets backing payment stablecoins for deposit insurance purposes. The FDIC would amend its existing regulations to provide that deposits held as reserves for a payment stablecoin would be insured to the PPSI under the rules for corporate deposits, but would not be insured to payment stablecoin holders on a pass-through basis. The agency's approach rejects the idea that stablecoin holders should be treated as depositors, aligning with the GENIUS Act prohibition of a federal guarantee of stablecoins.

FDIC Rescinds Supervisory Guidance on Re-Presentation of NSF Fees. On Apr. 10, the FDIC [rescinded](#) FIL-32-2023, titled "FDIC Clarifying Supervisory Approach Regarding Supervisory Guidance on Multiple Re-Presentation NSF Fees," that outlined the agency's policy to pursue supervisory or enforcement actions for related violations of law that were not self-identified and fully corrected prior to an FDIC examination.

Bottom Line: The FDIC's release stated that the agency concluded its prior guidance was "overly broad in scope" and caused uncertainty around when re-presentments could result in an "unfair" practice. During the Biden Administration, the FDIC used various means, including MRAs and enforcement actions, to drive lookbacks and customer remediation related to NSF fee practices, pursuing this area more vigorously than its sister agencies. This move signals the FDIC is abandoning the outsized prioritization accorded to these issues in its consumer compliance supervision.

House Members Introduce Bill Allowing Access to Fed Payment Rails. On Apr. 21, Representatives Young Kim (R-CA) and Sam Liccardo (D-CA) introduced a bipartisan [bill](#) in the House called the Payments Access and Consumer Efficiency Act, or PACE Act. The proposed legislation would allow a "covered provider," a term defined to include an entity with 40+ active money transmitter licenses (MTLs), to apply to the OCC and if approved, to apply to the FRB for access to a payments reserve account co-extensive with the account of an insured depository institution.

Bottom Line: Beyond opening up a pathway for nonbanks to obtain by statute access to federal payment systems like FedWire, FedNow and FedACH, the proposed Act would also allow covered providers who meet the MTL threshold to provide payment services "in any State." This language could be construed to grant these entities preemption, or an ability to drop existing MTLs, potentially giving a competitive edge to those companies seeking to get some business benefits of a bank charter without filing an application or complying with the full range of bank regs.

CFPB Publishes Final Rule Revising Reg. B to Eliminate Disparate Impact. On Apr. 22, the CFPB issued its final [rule](#) to amend Regulation B, implementing the Equal Credit Opportunity Act (ECOA), effective July 21. The Bureau adopted the proposal with only minor, non-substantive revisions, choosing not to incorporate modifications from nearly 65,000 comments, including from consumer advocates, state AGs, and Congress.

Bottom Line: The CFPB's change to the text of Reg. B at this stage is largely perfunctory, as the agency, along with the OCC and FDIC, already took action to remove references to disparate impact liability from their supervisory procedures, complementing a general move away from the more traditional approach fair lending enforcement. Expect aggressive states such as NY to continue to pursue state-chartered banks using disparate impact theories under their own laws, which could set the stage for a jurisdictional and policy dispute between federal and state supervisors.

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 federal banking and securities agencies and regularly engage with these agencies on a broad range of complex and novel compliance, regulatory, enforcement, transactional, application, and licensing issues. Our firm also specializes in mergers and acquisitions, capital raising transactions, general corporate and securities issues, and tax, executive compensation and employee benefits matters.



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Keeler represents financial institutions in a range of corporate, transactional, and regulatory matters, including mergers, acquisitions, mutual-to-stock conversions, reorganizations, and enforcement cases, and prepares regulatory filings and assesses compliance with state and federal laws and regulations.



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