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TESTIMONY OF
SUSANNAH MARSHALL
COMMISSIONER
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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

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[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.

[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.