Testimony of

Cathy Owen

On Behalf of the

Eagle Bank & Trust Company,

Arkansas Bankers Association & American Bankers Association

Before the

House Financial Services Committee

February 5, 2025

American Bankers Association®

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Chairman Hill, Ranking Member Waters, and members of the Committee, thank you for the opportunity to offer testimony for today's Hearing: "Making Community Banking Great Again." My name is Cathy Owen, and I am Chair, President & CEO of State Holding Company and Executive Chair of Eagle Bank & Trust Company in Little Rock, Arkansas. In 2025, I will celebrate my 51st year in banking and this hearing could not be any timelier given the changes underway in our industry.

My family entered banking in 1967 when my father chartered First State Bank of Sherwood, because he observed a need for a bank in this unbanked community. He wanted me to learn about banking, which I did, and in 1984 I led the formation of State Holding Company as well as the purchase of the Heber Springs State Bank (Chartered 1919), which was scheduled to be closed the next day by regulators. I became the President of the bank and worked with the staff to rebuild a healthy bank. Later, the two banks were merged under what is now Eagle Bank & Trust Company.

Today, Eagle Bank & Trust is a 104 years old, $485 million state bank, with 13 branches in central Arkansas, and Mortgage Loan Offices in Arkansas, Idaho, Louisiana, Mississippi, and Tennessee. Our Mortgage Division has continuously been one of the top three originators in Arkansas. I am very proud of Eagle Bank's commitment to the communities we serve, which we fulfill by lending to small businesses and underserved communities, as well as providing financial education, stocking food pantries, and paying for school scoreboards.

Banks of all sizes and business models are drivers of healthy growth across our economy. Community banks are a very important part of this ecosystem and play a crucial role in both our local communities and national economy. Community banks help local businesses thrive by providing them with credit, and by becoming trusted advisors that help small businesses make good financial decisions and manage their capital.[1] One of the many examples of this commitment is a commercial loan we made recently for a small business to purchase and

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[1] See, ABA Banking Journal at: https://bankingjournal.aba.com/2019/04/measuring-what-community-banks-bring-to-the-table/

renovate a retail center that helped stabilize a moderate-income census tract that created new businesses and jobs for low-to-moderate income individuals.

I am very pleased to speak on behalf of my community bank, the Arkansas Bankers Association, and as the Vice Chair of the American Bankers Association (ABA).[2]

Committee Priorities and ABA's Blueprint for Growth

I am deeply grateful for this hearing and the fast start by Chairman Hill on his robust agenda to repair the current regulatory environment and strengthen community banks. For the last few years, the banking industry has faced a "tsunami" of new rules and regulations from the financial regulators. ABA President and CEO Rob Nichols said in a December 19, 2023, letter to President Biden that "ABA is concerned about the cumulative impact of uncoordinated regulatory initiatives that have the potential to significantly disrupt retail and commercial banking in ways that will negatively impact the economy, and the customers banks serve." Unfortunately, not only did the avalanche of regulation continue, but it also actually increased, and we have been forced to take the unprecedented action of bringing six lawsuits against the CFPB and other federal regulatory agencies challenging rulemakings that have overreached or exceeded the agency's statutory authority.

Disturbingly, a host of new initiatives were pushed through the door in the waning days of the former administration by the CFPB that if not overturned by Congress or by the regulatory agencies could have profound and lasting negative effects on the industry, consumers and our economy.

That is why we appreciate and strongly support the goals of the Chairman Hill's "Principles to Make Banking Great Again." In that regard, we submitted detailed feedback on the Chairman's plan, and many of the Chairman's principles align closely with our policy priorities described in ABA's "Blueprint for Growth in 2025 and Beyond."[3] In the Blueprint, we outline several legislative and regulatory actions Congress, the administration and other policymakers can take to help banks, including community banks, drive a healthy economy, pursue rational regulation to preserve Main Street access to credit and capital, and foster a competitive and innovative financial services market.

My testimony will address several of these proposed actions, as well as a number of bills we support that have already or are likely to be introduced in this Congress.

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[2] The American Bankers Association is the voice of the nation's $23.9 trillion banking industry, which is composed of small, regional and large banks that together employ approximately 2.1 million people, safeguard $18 trillion in deposits and extend $12.5 trillion in loans.

[3] See, ABA Blueprint, https://www.aba.com/advocacy/what-we-stand-for/blueprint-for-growth

I. Initiatives for a Healthy Banking System, to Grow the Economy and Inject Needed Capital into Local Communities

Banks of all sizes and business models play important roles in driving healthy growth across all corners of the economy. Our diverse banking ecosystem is comprised of more than two million dedicated employees partnering with policymakers to grow our economy and provide needed capital to communities, including rural and underserved areas. To help accomplish this, we recommend Congress take the following actions:

Enact Legislation to Encourage Formation of De Novo Banks. Bank consolidation is a long-term trend. In fact, there are 4,316 fewer banks in the U.S. today than in 2005. Of the banks active today, only 79 were established after 2010.[4]

We believe that consolidation could be tempered by robust de novo bank creation, and our industry has always welcomed competition. New entrants into any industry are a sign of growth and economic opportunity, bringing new vitality to the industry and to the people and communities that they serve. Additionally, new banks stimulate enhanced product offerings and services for businesses and consumers, which translates into greater economic activity and growth in local communities.

That is why we endorse legislation to spur the creation of new banks by easing federal capital requirements during their first few years of existence. The "Promoting New Bank Formation Act" (H.R. 478/S. 113) would establish a three-year phase-in period for new banks to comply with federal capital standards and make other changes to ease the regulatory hurdles for recently formed institutions. The bill was reintroduced in the House by Rep. Andy Barr (R- KY) and in the Senate by Sen. Cindy Hyde-Smith (R-MS).

Enact Pro-Growth Tax Policy. Enact pro-growth tax policy that encourages investment and expands opportunity for all Americans by ensuring a competitive corporate tax rate. For example, the Section 199A pass-through deduction should be continued because it enables many community banks to play a vital role in local economic development. We strongly support the Main Street Tax Certainty Act (H.R. 703/S. 213), led by Rep. Lloyd Smucker (R-PA) and Sen. Steve Daines (R-MT), which would make the tax deduction for qualified business income permanent.

Enact ACRE. Enact the Access to Credit for our Rural Economy Act (ACRE). It will sustain and grow rural America by lowering the cost of credit and making credit more widely available for farmers and ranchers financing agricultural real estate as well as the cost of homeownership in 17,000 rural communities. The ACRE Act is a bi-partisan tax-based solution to lowering costs for farmers, ranchers, and rural communities. We are looking forward to its reintroduction this Congress.

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[4] See, ABA letter in support of de novo legislation at: https://www.aba.com/advocacy/policy-analysis/Promoting-New-Bank-Formation-Act

Support Mission-Driven Banks. Support the work of Minority Depository Institutions (MDIs) and Community Development Financial Institutions (CDFIs) – banks that are uniquely focused on serving communities of color and low-to-moderate income communities – by ensuring robust funding for the CDFI Fund within the U.S. Treasury Dept. and creating a CDFI investment tax credit that would incentivize long-term capital investment in these vital institutions.

Support Affordable and Sustainable Housing. Approach housing policy holistically by supporting initiatives that create affordable and sustainable housing opportunities across all communities while ensuring liquidity to primary and secondary markets, including through government-sponsored enterprises (GSEs) and the Federal Home Loan Banks.

Combat Fraud. Combating fraud is a critical issue for our members and their customers, but the banking industry cannot win this fight on its own. Congress and the regulatory agencies should pursue an "all of government" approach to combatting financial fraud to protect consumers and reduce the number of Americans who fall victim to scams. Specifically, the administration should establish a White House office to develop and coordinate a National Scam and Fraud Prevention Strategy, the Federal Communications Commission should establish a database of reported spam text messages, and Congress should work to create a Financial Crimes Intelligence Center in every state, modeled after the FCIC located in Texas. We were very pleased that Chairman Hill included combatting fraud in his Principles to Make Banking Great Again and have provided detailed suggestions on a multi-faceted approach to help combat fraud. We would be very pleased to elaborate on these suggestions at your convenience.

Inflation-Proof Regulatory Tailoring. The banking industry is a strong proponent of regulatory tailoring and was supportive of 2018's bipartisan banking legislation (S. 2155) and its related rulemakings. However, like many rules, the S. 2155 rulemakings used static asset thresholds as a metric. Fixed dollar thresholds can become outdated over time, particularly in higher inflationary environments, leading to application of regulatory requirements that may not accurately represent an institution's risk profile or potential systemic impact. As a result, these thresholds should be indexed to the Consumer Price Index (CPI) or to total assets within the banking industry. This approach would maintain consistency and fairness and avoid "regulatory creep," ensuring that regulatory categories remain appropriately tailored as institutions grow alongside the broader economy.

II. Implement Rational Regulation for a Dynamic Banking Industry.

Bank regulations have significant real-world consequences that stretch far beyond the regulated entities themselves - affecting the stability of the financial system, growth in underserved communities, and the cost and availability of financial products and services for consumers and businesses. Over the past several years, bank regulators have proposed and finalized regulations that will reduce access to affordable credit and undermine the dynamism and diversity of our banking system. We urge Congress and regulators to help mitigate the effects of such proposals by taking the following actions:

Enact a Congressional Review Act Resolution Disapproving of the Final CFPB Overdraft Rule. On December 12, 2024, the CFPB finalized a rule that goes beyond the agency's statutory authority and, if allowed to take effect, will lead banks to restrict, if not eliminate, access to overdraft. If not invalidated, the rule would effectively bring an end to overdraft services for millions of consumers who – following receipt of a consumer-tested disclosure – choose to use the product to cover emergency expenses and other liquidity shortfalls, all to advance the prior administration's political campaign against so-called "junk fees."

The overdraft rule defines overdraft services offered by financial institutions with assets of $10 billion or more as "credit" subject to the Truth in Lending Act (TILA) and Regulation Z unless the overdraft fee charged to a consumer is at or below the institution's cost of providing the overdraft service, or (2) the overdraft fee charged to a consumer is set at or below a benchmark fee to be set by the CFPB. The final rule will impact banks of all sizes – including banks with $10 billion or less in assets – because they will face market pressure to conform their overdraft practices to the rule's requirements.

We urge Congress to use the Congressional Review Act procedure to disapprove of the rule so that TILA cannot be used by a future administration to regulate overdraft services—a product that is valued by many consumers.

Repeal the Small Business Lending Data Collection Rule (Section 1071). Section 1071 of the Dodd Frank Act requires lenders to report 13 data fields on applications for credit by minority-owned, women-owned, and small businesses. It also requires the CFPB to publish the data annually with certain redactions.

In 2023, the CFPB finalized a rule that far exceeds Congress' statutory grant of authority; it requires lenders that originate at least 100 small business loans annually to collect 81 data fields on each application to a business with gross annual revenue (GAR) of $5 million or less. ABA has challenged the rule and will urge new leadership at the CFPB to freeze implementation and repropose a rule that is consistent with the statute. We applaud the work of Chairman French Hill, Chairman Blaine Luetkemeyer, and Chairman Roger Williams for leading legislative efforts in the 118th Congress to create relief from the 1071 rule through introduction of the Small LENDER Act, Bank Loan Privacy Act, and the Congressional Review Act challenge to the 1071 rule, respectively.

Oppose New Credit Card Routing Mandates and Interchange Caps. Oppose new government mandates on credit card routing such as the so-called Credit Card Competition Act (CCCA), and urge the Federal Reserve to put low- and moderate-income consumers before the needs of large retailers by withdrawing its proposal to impose misguided debit card interchange price controls that will raise the cost of basic checking accounts.

Repeal the Community Reinvestment Act Final Rule (CRA). In February 2024 ABA and co-plaintiffs challenged the 2023 interagency final rule on the grounds that it exceeds the CRA statute. The court granted ABA's request for a preliminary injunction, concluding that ABA demonstrated a substantial likelihood of success on the merits, but the banking agencies have appealed that decision. ABA urges the banking agencies to issue a proposed rule that would repeal the 2023 CRA rule and replace it with the 1995 CRA rule, which remains in effect pending the resolution of ABA's legal challenge. Then the agencies should repropose updates to the 1995 CRA rule that are consistent with the agencies' authority under the statute.

Enact the SAFE Banking Legislation. Enact the SAFE Banking Act to get state-sanctioned cannabis cash off the street and into regulated financial institutions, making our communities safer and the cannabis industry more transparent to regulators, tax authorities and law enforcement.

Delay Implementation of CFPB Section 1033 Open Banking Rules. Delay implementation of rules to implement Section 1033 of the Dodd-Frank Act and finalize a pending CFPB rule to supervise data aggregators before significantly overhauling the 1033 rule to address scope, liability, and cost.

Delay Implementation and Withdraw CFPB Late Fee Rule. Delay implementation and withdraw the CFPB's rule on credit card late fees to preserve access to credit for low-and moderate-income borrowers as litigation remains active.

Reform of Merger Rules. The Department of Justice and the Federal banking agencies should move forward with their plans to revise the current bank merger guidelines, which date from 1995. The data and information traditionally examined in assessing a proposed merger's competitive impact often fail to reflect the true competitive landscape in which the banks operate. Merger analysis should include financial services available in the market beyond just those delivered through bank branches, including online delivery of financial services (by banks, mortgage companies, and other online lenders), money-market funds, Farm Credit System institutions, thrift institutions, credit unions, and fintechs and other nonbank firms. Recent actions by some of the agencies have confused the regulatory landscape and should be reconsidered, but the modernization process should continue.

Stop Regulatory "Operation Choke Point" Initiatives. As noted in our feedback to Chairman Hill regarding the Principles for Making Banking Great Again, we have expressed concerns regarding initiatives like Operation Choke Point, emphasizing that banks should not be compelled by regulators to terminate customer accounts without substantial justification. We advocate for clear guidelines to prevent the politicization of banking services. Further, the federal prudential regulators must be transparent as to the policies they apply through the supervisory process. In addition, they should develop those policies in accordance with the Administrative Procedure Act process, including feedback from industry as appropriate. Above all, a bank's decision to onboard, serve, and terminate a customer relationship should be based on their established risk appetite, not regulators or policymakers putting their fingers on the scale. This longstanding, free market approach has allowed us to reduce the number of unbanked in the country to its lowest level ever.[5]

Enact CFPB Reforms. Since its inception, the flawed leadership structure of the CFPB has led to large and counterproductive policy swings driven by electoral outcomes. These policy swings create uncertainty that discourages innovation and requires resources to be redirected to regulatory compliance and away from serving customers. To minimize these policy swings and to bring greater stability and balance to the CFPB, ABA urges Congress to support legislation establishing a Senate-confirmed, bipartisan commission at the Bureau. Further, we strongly

[5] See, https://www.fdic.gov/household-survey

support the Taking Account of Bureaucrats' Spending Act (H.R. 654), which would place the CFPB under the annual Congressional appropriations process.

Stop Regulator Misuse of UDAAP. The CFPB through guidance, enforcement and supervision has strayed from the limits Congress set for conduct that is "unfair" or "abusive." That is why ABA supported the Rectifying Undefined Descriptions of Abusive Acts and Practices Act (H.R. 6789) during the 118th Congress. The legislation would have set limits on what is considered "abusive" and support consumer choice and competition. We look forward to supporting this and similar legislation in the 119th Congress.

III. Initiatives to Foster a Competitive Financial Services Market and Like-Kind Regulation

Government oversight of the financial services sector is critical to maintaining a safe and sound banking system, but regulations must be applied evenly across all financial services providers to protect consumers, businesses and the stability of the financial system. Applying like-kind regulation to like-kind activity and avoiding unnecessary distortions within the financial services marketplace – whether through price controls, unevenly applied regulations or subsidies – will ensure a level playing field and minimize migration of financial products to less regulated entities. Congress and policymakers should take the following actions:

Enact Deposit Insurance Reform. At a minimum, Congress should give the FDIC the authority and flexibility it needs to enable a timely response to crises, ensuring fair treatment across banks of all sizes and reducing reliance on the systemic risk exemption.

Support National Bank Preemption. Defend the dual banking system, a pillar of economic strength that spurs innovation and empowers banks to serve every market in the United States, from states' efforts to assert authority over basic operations of national banks.

Conclusion

The banking industry is the lifeblood of the U.S. economy, and banks of all sizes are poised to assist consumers and businesses across the country achieve financial success. Despite challenges, we believe that the future of banking is bright, provided the policymakers make thoughtful changes to support growth and close gaps that promote regulatory arbitrage and put the financial system and consumers at risk.

At Eagle Bank & Trust, we have a long history of service to our local communities in Arkansas and our commitment to community development loans and investments is shared by the thousands of community banks across the country. Mr. Chairman and Members of the Committee, the American Bankers Association and Arkansas Bankers Association support your ambitious agenda to provide needed regulatory and other relief for community banking and we hope that you will consider the many ideas presented in this testimony and the Blueprint for Growth as you move forward with your agenda this year.

Thank you once again for the opportunity to testify. I look forward to answering your questions.