



2026 Washington Update

Mickey Marshall
VP and Regulatory Counsel



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Agency Heads

Travis Hill – FDIC



Michelle Bowman – FRB



Johnathan Gould – OCC



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Agency Heads

Russell Vought – OMB/CFPB



Scott Turner – HUD



Bill Pulte – FHFA



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New Fed Chairman

Kevin Warsh



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Legislative Update: Housing for the 21st Century Act (H.R. 6644)

Section 601, the Community Bank Deposit Access Act (H.R. 5317)

- Sponsored by Chairman French Hill, would allow custodial deposits to be held by community banks without being considered brokered deposits, provided the custodial deposits do not exceed 20 percent of the banks' total liabilities.
- Brokered deposits are subject to certain capital and interest-rate restrictions. The more favorable treatment would only be available to banks of less than \$10 billion in assets with a strong composite rating ("outstanding" or "good") that are well-capitalized or have obtained a waiver from the FDIC.
- Section 601 would help community banks maintain lower funding costs, expand lending opportunities, and serve their communities by attracting stable, low-cost funding.

Section 602, the Keeping Deposits Local Act (H.R. 3234)

- Sponsored by Rep. Tom Emmer, would raise the percentage threshold of reciprocal deposits that may be held by a bank without being considered brokered deposits. Reciprocal deposits are swapped among banks participating in a network and result in higher aggregate levels of deposit insurance coverage.
- Raising the percentage of reciprocal deposits allowed would assist banks approaching the current-law threshold and support lending needs.

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Legislative Update: Housing for the 21st Century Act (H.R. 6644)

Section 603, the SMART Act (H.R. 4437)

- Sponsored by Representatives William Timmons and Bill Foster, provides well-managed and well-capitalized financial institutions under \$6 billion in assets with regulatory relief, such as alternating limited-scope examinations and a combined safety-and-soundness exam and consumer compliance exam. We believe these reforms provide exam relief without compromising safety and soundness.

Section 604, the TRUST Act (H.R. 4478),

- sponsored by Representatives Tim Moore and Ritchie Torres, would allow banks with up to \$6 billion in assets to qualify for an 18-month exam cycle. As with the SMART Act, this section would allow more community banks to direct more resources toward serving their communities.

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Legislative Update: Housing for the 21st Century Act (H.R. 6644)

Section 609, the Advancing the Mentor-Protégé Program for Small Financial Institutions Act (H.R. 3709),

- Sponsored by Rep. Joyce Beatty, would establish a Treasury Financial Agent program enabling partnerships between Minority Depository Institutions (MDIs), rural community banks, and other financial institutions.
- This legislation reinforces and supports the critical role MDIs and rural community banks serve as a lifeline in their communities, providing tailored financial products, and fostering greater economic growth

- **Section 610, the American Access to Banking Act (H.R. 4544)**, sponsored by Ranking Member Maxine Waters, would promote the formation of de novo community banks by streamlining the application process and provide for review of capital raising.
- **Section 611, based on Chairman Barr's Promoting New Bank Formation Act**, would create a two-year pilot program to promote the creation of de novo banks, especially in rural areas, by providing more regulatory, capital and lending flexibility for these banks.
- **Section 612, the Rural Depositories Revitalization Study Act (H.R. 6536)**, sponsored by Rep. Ralph Norman, would require the Federal banking agencies to study improving the growth, capital adequacy, and profitability of rural depository institutions.

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Legislative Update: Crypto Market Structure

Clarity Act

- Grants the CFTC authority over digital commodities, while the SEC retains jurisdiction over securities and certain investment contract assets.
- Defines digital commodities as fungible assets that transfer peer-to-peer without intermediaries, excluding stablecoins and tokenized securities.
- Requires platforms, brokers, and custodians to register with the CFTC, imposing new rules for risk management and operational transparency, requires compliance with BSA/AML.

Interest on Stablecoins

- The GENIUS Act, passed last year, prohibits stablecoin issuers from offering interest on stablecoin reserves.
- However, other intermediaries like exchanges are permitted to offer "rewards" for stablecoin balances on their platform.
- Prohibiting intermediaries from offering rewards or yield equivalents is our key priority in the crypto market structure debate.

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Legislative Update: Credit Card Bills



Credit Card Competition Act

- This bill would require banks above \$100b in assets to offer two unaffiliated credit card networks on each card.
- We argue that this could increase fraud and reduce credit card rewards as networks compete to cut expenses.

10% Rate Cap

- Legislation has been introduced that would temporarily limit credit card interest rates to 10%.
- This idea has bipartisan support, including from President Trump.
- We believe this bill would cause banks to stop issuing credit cards in most cases.

Regulatory Update: De Novo Banks

New Applications

- There have been 14 new applications for deposit insurance since the start of 2025.
- Only 5 have been made by traditional community banks.
- Prior to the 2008 Financial Crisis, it was common to see 100+ community bank applications per year.

Efforts to Reverse the Trend

- Encouraging the formation of new de novo banks is a priority issue for ICBA during this administration.
- ICBA has had ongoing engagement between our de novo working group, the FDIC, OCC, and FRB.
- ICBA bankers testified before Congress in a hearing entitled: Enhancing Competition: Shaping the Future of Bank Mergers and De Novo Formation



Regulatory Update: Industrial Loan Companies

Influx of New Applicants

- Ford, GM, Nissan, Stellantis, Affirm, PayPal, and others have recently applied for the ILC charter, which exploits a loophole in the Bank Holding Company Act that allows commercial firms to own FDIC-insured banks.
- The FDIC has approved Ford and GM's applications, despite the previous collapse of GMAC, an ILC formerly owned by GM.
- Additional approvals appear likely.

Close the Shadow Banking Loophole Act

- Sens. John Kennedy (R-La.) and Andy Kim (D-N.J.) have introduced the ICBA-supported Close the Shadow Banking Loophole act which would amend the BHCA to permanently close the ILC loophole.
- We have also asked the FDIC to engage in a rulemaking to set clear guidelines for the review of ILC applications that accounts for their outsized risk to the Deposit Insurance Fund.

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Regulatory Update: National Trust Banks

Everybody Wants to be a Bank...

- There has also been an influx of applicants for the OCC National Trust Bank Charter. Crypto companies like Circle, Coinbase, Ripple Labs, and others have applied. Several applicants have received conditional approval.
- National Trust Banks cannot make loans or obtain FDIC insurance, but the charter can be used to facilitate payments and offer custodial services.
- This mimics the deposit-taking function of a bank.

Without Becoming a Bank

- The explosion of interest in the charter was fueled by Interpretive Letter 1176, which gave National Trust Banks the ability to offer non-fiduciary custody. The OCC is in the process of codifying this change through rulemaking.
- NTBs are an attractive option for stablecoin issuers as they can be used to custody the reserves of the stablecoin.
- ICBA is advocating a moratorium on charter approvals at least until a rulemaking is finalized.

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Regulatory Update: Check Fraud

- Banks and their customers continue to be challenged by a rise in fraud and scams across payment types. Most significantly, check fraud has emerged over the past several years as a leading concern.
- In March 2025, an executive order directed the federal government to stop issuing paper checks, shifting government payments to electronic payment mechanisms. ICBA supported this executive order and was the only non-federal participant in a meeting of the interagency Financial Literacy and Education Commission that explored the impact of the executive order.
- In June 2025, the OCC, Federal Reserve, and FDIC jointly issued an RFI on payments fraud, with a particular focus on check fraud. ICBA's response advocated for a variety of changes to the regulatory framework to support community bank efforts to prevent, detect, and mitigate check fraud. ICBA also led a grassroots campaign that led to more than 100 community banks writing individual letters highlighting their experiences with fraud and scams.
- In December 2025, the Federal Reserve issued an RFI on the future of check services. While they are exploring a variety of potential scenarios, one scenario could result in greater investment in value-added services like check fraud detection tools.
- ICBA and its Fraud and Scams Task Force, a group of more than 60 community banks and state associations originally convened to address check fraud, continue to advocate for community bank priorities, build relationships across the ecosystem, and develop community bank-specific fraud prevention resources.

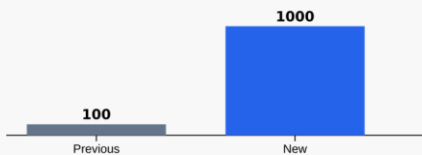
Regulatory Update: Section 1071



Increased Origination Threshold

Previous: Financial institutions required to report if they originated **100** covered transactions annually

New: Must originate **1,000** covered transactions in each of the two preceding calendar years



Exclusion of Farm Credit System

FCS lenders are now explicitly excluded from the definition of a "covered financial institution"



Farm Credit System Lenders

EXCLUDED

Agricultural Lending

Transactions intended to fund crop production, livestock, or capital assets like farmland would be excluded.

Regulatory Update: Section 1071

Streamlined Data Collection Requirements

The CFPB proposes to remove several discretionary data points to reduce complexity and compliance burden.

Removed Data Points

Application Method
How applications were submitted (in-person, phone, online, mail)

Application Recipient
Whether application was submitted directly or via third party

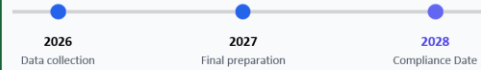
Denial Reasons
Specific reasons for credit application denials

Pricing Information
Interest rate, origination charges, broker fees, etc.

Number of workers
FTE and part-time

Implementation Timeline and Cost Impact

Implementation Timeline



Compliance Requirements

- Single compliance date: January 1, 2028
- Applies to institutions with 1,000+ covered transactions (2026-2027)
- Early collection permitted up to 12 months prior

Judicial Stay: ICBA members still have an indefinite stay on compliance with 1071 until and unless the court removes it.

One-time Cost Savings

For institutions no longer covered:

- One-time savings: \$87.7-95.9 million
- Annualized savings: \$12.5-13.7 million

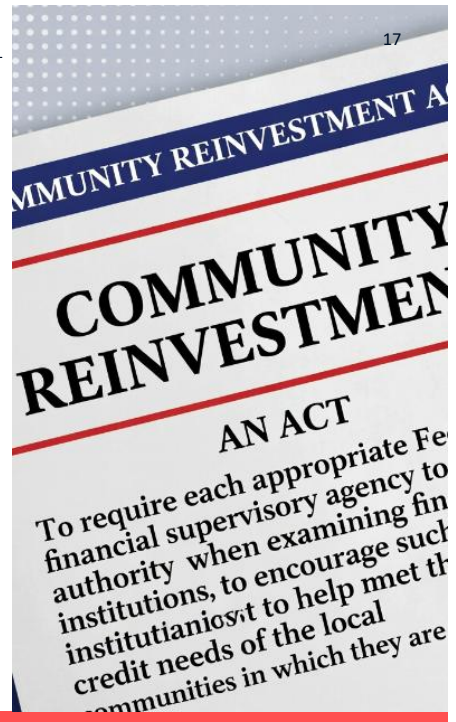
Regulatory Update: Section 1033

- Section 1033 of the Dodd-Frank Act deals with a consumer's ability to access and share their personal financial data with third-parties through an API-enabled developer interface.
- The rule finalized by the Biden administration would have exempted all banks below \$850 million in assets from creating a developer interface, as advocated by ICBA.
- However, covered banks were not permitted to charge any fee associated with the creation or maintenance of the portal.
- In addition, challenges remain with ensuring third-parties adequately protect customer data.
- In 2025, the CFPB issued an ANPR on seeking information about who banks are required to share data with, consumer privacy, and the ability to charge fees for data access.
- The Bureau may now engage in a SBREFA process to gather feedback from small entities or issue a proposed rule.

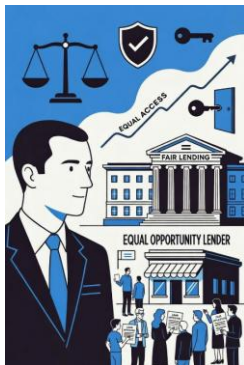
Regulatory Update: CRA Modernization

Our long national nightmare is over

- The agencies have proposed to fully rescind the 2023 CRA rule and return to the 1995 standard.
- Separately, the OCC has proposed a modified CRA strategic plan application for banks below \$30b in assets.
- The Trump administration is unlikely to take up CRA modernization, but it remains a possibility for future administrations.



Regulatory Update: Fair Lending



- The OCC and FDIC have removed references to disparate impact liability in their Examiner's Manuals. The FRB has not.
- HUD has proposed to rescind the Biden disparate impact rule under the FHA, which would leave the Supreme Courts "robust causality" test from *Inclusive Communities* as the standard.
- This issue tends to be a political pendulum, and banks would be wise to continue to monitor their performance.

Regulatory Update: Credit Unions

2025 Successes

West Virginia

Passage of HB 2963
Requires the purchaser of any WV state-chartered bank to be insured by the Federal Deposit Insurance Corporation (FDIC).

South Carolina

Thwarted organized credit union effort to allow credit unions to take public deposits.

Colorado

Stopped credit union efforts to allow the sale of community banks to credit unions. The effort spanned the 2024 and 2025 legislative sessions, and the governor was a strong proponent of the credit union effort.

Washington

Bill repeals credit union's B&O tax exemption for state-chartered CUs that acquire a community bank was enacted into law.

Strategy

- **Two Pronged**
 - State association support
 - National media and campaigns
- **Media Coverage**
 - Broad Awareness: Coverage in major outlets (CNBC, Bloomberg Law, Financial Times) spotlighting CU activity and reg landscape.
 - Narrative Shaping: ICBA quoted in/interacting with influential press (NYT, Axios, Punchbowl) framing specific policy concerns.

Legislative

- "Look back: As we reported last month, Republicans on the House Budget Committee [floated an end](#) to credit unions' tax-exempt status in a much larger menu of pay-for options in a reconciliation package." Punchbowl, January 17, 2025
- *"It's not an unfair issue to raise," when you have billion dollar credit unions buying up banks, said Sen. James Lankford (R-Okla.)*