May 12, 2025

The Honorable Russell T. Vought
Director
Office of Management and Budget
725 17th Street NW
Washington, DC 20503
Docket No. OMB-2025-0003

Re: *Request for Information: Deregulation*

Dear Director Vought:

In response to the Office of Management and Budget's ("OMB") Request for Information: Deregulation,[1] the Conference of State Bank Supervisors[2] ("CSBS") has attached letters outlining specific regulations that should be rescinded or modified in furtherance of Executive Orders 14219[3] and 14267.[4]

- Rescission of OCC Preemption Regulations (Attachment A)
- Rescission of CFPB Nonbank Registry Regulation (Attachment B)
- Modification of Outdated, Burdensome Community Bank Regulatory Thresholds (Attachment C)

These letters have been sent to the relevant federal financial regulatory agencies, and we submit them here to support OMB's efforts to coordinate regulatory reviews across the federal agencies.

The regulatory rescissions or modifications discussed in the attached letters will reduce unnecessary burden without compromising safety and soundness or consumer protection. CSBS is also committed to working with OMB and the federal financial regulatory agencies to advance additional reforms that achieve similar objectives.

Sincerely,

Brandon Milhorn
President and CEO

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[1] OMB, Notice of Request for Information, *Request for Information: Deregulation*, 90 Fed. Reg. 15481 (Apr. 11, 2025).
[2] CSBS is the nationwide organization of state banking and financial regulators from all 50 states, the District of Columbia, and the U.S. territories.
[3] Exec. Order No. 14219, *Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative*, 90 Fed. Reg. 10583 (Feb. 19, 2025).
[4] Exec. Order No. 14267, *Reducing Anti-Competitive Regulatory Barriers*, 90 Fed. Reg. 15629 (Apr. 9, 2025).

May 8, 2025

The Honorable Rodney Hood
Acting Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th Street SW
Washington, DC 20219

Re: *Executive Orders 14219 and 14267 – Rescission of OCC Preemption Regulations*

Dear Acting Comptroller Hood:

On behalf of the Conference of State Bank Supervisors[5] ("CSBS"), I request that the Office of the Comptroller of the Currency ("OCC") promptly rescind its rules governing National Bank Act preemption ("preemption regulations") in order to comply with Executive Orders ("EO") 14219[6] and 14267[7] issued by President Trump regarding unlawful regulations and anti-competitive regulatory barriers.

Upon rescinding the current preemption regulations, CSBS requests that the OCC swiftly propose rules to implement the National Bank Act's preemption standard and process[8] in a manner consistent with the unambiguous directives provided by Congress and affirmed by the U.S. Supreme Court.

## I. OCC Preemption Regulations and EO 14219

On Feb. 19, 2025, President Trump signed EO 14219, which directs federal agency heads to, among other things, rescind unlawful regulations. Section 2(a)(iii) of EO 14219 specifically identifies "regulations that are based on anything other than the best reading of the underlying statutory authority" as those that should be prioritized for rescission.[9] The OCC's preemption regulations must be rescinded to comply with Section 2(a)(iii) since they ignore both the plain language of, and Congressional intent embodied in,

[5] CSBS is the nationwide organization of state banking and financial regulators from all 50 states, the District of Columbia, and the U.S. territories.
[6] Exec. Order No. 14219, *Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative*, 90 Fed. Reg. 10583 (Feb. 19, 2025).
[7] Exec. Order No. 14267, *Reducing Anti-Competitive Regulatory Barriers*, 90 Fed. Reg. 15629 (Apr. 9, 2025).
[8] 12 U.S.C. § 25b.
[9] *Supra* note 2, at 10583.

Section 5136C of the National Bank Act ("Section 5136C").[10] The OCC's preemption regulations are clearly unlawful, inconsistent with Supreme Court rulings,[11] and contrary to the public interest.[12]

*a. OCC Preemption Regulations Ignore the Text and Intent of the National Bank Act*

In the wake of the financial crisis, Congress sought to curtail the OCC's longstanding pattern and practice of broadly preempting state consumer financial laws for national banks. In particular, wholesale preemption of state mortgage laws had been a key contributor to the mortgage crisis that morphed into a global financial crisis. To address the risks that OCC preemption posed to consumers and financial stability, Congress enacted Section 5136C to explicitly "undo [the] broader standards adopted by rules, orders, and interpretations issued by the OCC in 2004"[13] by "revis[ing] the standard the OCC will use to preempt State consumer protection laws."[14]

To limit the OCC's preemption powers, Congress established an unambiguous standard as to when the OCC may preempt a state consumer financial law. Specifically, a state consumer financial law is preempted *only if*:

> …in accordance with the legal standard for preemption in the decision of the Supreme Court of the United States in *Barnett Bank of Marion County, N.A. v. Nelson, Florida Insurance Commissioner, et al.*, 517 U.S. 25 (1996), the State consumer financial law **prevents or significantly interferes** with the exercise by the national bank of its powers[.][15]

In addition to directing the OCC to use the *Barnett Bank* "prevents or significantly interferes" standard, Congress established a clear process that the OCC must follow to preempt a state consumer financial law. The OCC must make preemption determinations according to the *Barnett Bank* standard on a *case-by-case basis*.[16]

Notwithstanding the National Bank Act and clear Congressional intent, the OCC subsequently finalized preemption regulations in 2011 that wholly ignored the clear directive in Section 5136C.[17] Instead of

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[10] National Bank Act § 5136C, as added and amended July 21, 2010, P. L. 111-203, Title X, Subtitle D, §§ 1044(a), 1045, 1047(a)(codified at 12 U.S.C. § 25b).
[11] These include rulings that: (i) reject *Chevron* deference (which had already been denied to the OCC in Sec. 5136C of the National Bank Act) and require a federal agency to adopt regulations that meet the "single, best meaning" of the statute authorizing it; and (ii) reject the OCC's flawed preemption standard and analysis. *See Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024) (overturning *Chevron*); *Cantero v. Bank of America, N.A.,* 144 S. Ct. 1290 (2024) (overturning a *per se* preemption standard advocated by national banks and the OCC by reaffirming the codified standard for National Bank Act preemption of state consumer financial laws).
[12] Presidential Memorandum, *Directing the Repeal of Unlawful Regulations* (Apr. 9, 2025).
[13] 111th Cong., 2d Sess., Senate Report 111-176 (Apr. 30, 2010).
[14] H.R. Rep. No. 111-517, at 875 (2010) (Conf. Rep.).
[15] 12 U.S.C. § 25b(b)(1)(B) (emphasis added).
[16] 12 U.S.C. § 25b(b)(3)(A) (defining "case-by-case" basis as "a determination pursuant to this section made by the Comptroller concerning the impact of a particular State consumer financial law on any national bank that is subject to that law, or the law of any other State with substantively equivalent terms.")
[17] OCC, Final Rule, *Office of Thrift Supervision Integration; Dodd-Frank Act Implementation*, 76 Fed. Reg. 43549 (July 21, 2011).

creating a process where preemption is considered on a case-by-case basis[18] subject to a substantial evidence requirement that must be made on the record,[19] the OCC simply repromulgated its already broad preemptive regulations from 2004. The OCC's 2011 preemption rule preserved the status quo that Congress went to great lengths to reverse only a year before in Section 5136C. By reissuing the 2004 regulations that preempted more than 30 broad categories of state laws,[20] the OCC ignored both the plain language and best reading of the National Bank Act.

*b. Proper Preemption Regulations Would Negate Costly, Unnecessary Litigation*

In the absence of regulations that faithfully implement the preemption provisions of the National Bank Act, the Supreme Court nonetheless reaffirmed Section 5136C's preemption standard and process in *Cantero v. Bank of America, N.A.* The Court ruled that preempting a state consumer financial law requires "a practical assessment of the nature and degree of interference caused by a state law"[21] through a "nuanced comparative analysis."[22]

The preemption standard and accompanying process outlined in the National Bank Act are designed to implement the "nuanced comparative analysis" by requiring a case-by-case decision that includes substantial evidence on the record. Unfortunately, courts have had to step in to perform this process because, as noted by Supreme Court Justice Gorsuch, the OCC has not put the statutorily-mandated framework in place.[23] Rescinding the current preemption regulations and crafting a process that complies with the plain meaning of the law will enable banks and regulators to move forward from an issue that Congress thought it had settled legislatively 15 years ago.

## II. OCC Preemption Regulations and EO 14267

On April 9, 2025, President Trump signed EO 14267, which requires agency heads to eliminate regulations that are anti-competitive, including those that "have the effect of limiting competition between competing entities."[24] The OCC's preemption regulations limit competition by granting national banks and federal thrifts a competitive advantage over similarly situated state-chartered banks and state-licensed nonbank firms.

Indeed, by insulating national banks from broad categories of state consumer financial laws, in contravention of the law and process outlined in Section 5136C, the OCC has sought to thwart competition by *attracting* additional national bank charters at the expense of state bank charters. This is not idle speculation, but a fact acknowledged by former Comptroller John Hawke during Congressional

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[18] 12 U.S.C. § 25b(b)(3).
[19] 12 U.S.C. § 25b(c).
[20] OCC, Final Rule, *Bank Activities and Operations; Real Estate Lending and Appraisals*, 69 Fed. Reg. 1904 (Jan. 13, 2004).
[21] *Cantero*, *supra* note 7, at 1300.
[22] *Id.* at 1301.
[23] Remarking on the OCC's intransigence, Justice Gorsuch asked, "is the OCC ever going to get around to doing that which Dodd-Frank directs it to do?" *Id.* (Transcript of Oral Argument at 53, question from Justice Gorsuch to Deputy Solicitor General Steward).
[24] *Supra* note 3, at 15629.

testimony.[25] The OCC provides national banks with a competitive advantage via broad preemption not authorized by the National Bank Act and not available to similarly situated state-chartered banks. Thus, the OCC's preemption regulations also violate the directive in EO 14267 that "[f]ederal regulations should not predetermine economic winners and losers."[26]

**Conclusion**

Executive Orders 14219 and 14267 compel the OCC to promptly rescind its preemption regulations codified through its 2011 final rule. These regulations are in clear contravention of the plain language and intent of 12 U.S.C. § 25b. Moreover, the preemption regulations are anti-competitive by inappropriately shielding national banks from state consumer financial laws that apply to similarly situated state-chartered banks and state-licensed nonbank firms.

Sincerely,

Brandon Milhorn
President and CEO

[25] *Review of the National Bank Preemption Rules: Hearing Before the S. Comm. on Banking, Housing, and Urban Affairs*, 108th Cong., 2nd Sess. (Apr. 7, 2004) (exchange between Senator Sarbanes and Comptroller Hawke: "Senator SARBANES. The Wall Street Journal has an article in which they say, speaking about you, "Still, [Comptroller Hawke] does not apologize for using the OCC's power to override State and local laws designed to protect consumers. Enjoying this aid provides an incentive banks to sign up with the OCC. He says it is one of the advantages of a national charter, 'and I am not the least bit ashamed to promote it.'" Actually, they put that part of it in quotation marks. Comptroller HAWKE. Yes. There is no question, Senator, that preemption is an important attribute of the national bank charter, and I am a strong believer in the quality of the national bank charter.").
[26] *Supra* note 3, at 15629.

May 12, 2025

The Honorable Russell Vought
Acting Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: *Executive Order 14219 – Rescission of CFPB Nonbank Registry Regulation*

Dear Acting Director Vought:

In furtherance of Executive Order ("EO") 14219,[27] the Conference of State Bank Supervisors[28] ("CSBS") recommends formal rescission of the Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders[29] ("Nonbank Registry").

**The Nonbank Registry is unnecessary, unlawful, and unduly burdensome and should be rescinded.[30] The Nonbank Registry:**

I. **Constitutes government waste.**
II. **Fails the necessary cost-benefit analysis as required by statute.**
III. **Unlawfully encroaches on state authority.**
IV. **Is unnecessary to address potential "repeat offenders."**

CSBS supports the measures you have already taken to limit further regulatory burden and confusion from this misguided rule.[31]

## I. The Nonbank Registry constitutes government waste.

Since its inception, the CFPB has utilized the Nationwide Multistate Licensing System and Registry[32] ("NMLS") for various recordkeeping purposes, including publishing CFPB orders pertaining to nonbank entities, at no cost to the Agency. In 2010, state regulators launched NMLS Consumer Access, a fully searchable website that allows consumers to view company information and regulatory orders for state-licensed nonbank entities. Despite this fact, the CFPB has spent millions of dollars to construct a

[27] Exec. Order No. 14219, *Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative*, 90 Fed. Reg. 10583 (Feb. 19, 2025).
[28] CSBS is the nationwide organization of state banking and financial regulators from all 50 states, the District of Columbia, and the U.S. territories.
[29] CFPB, Final Rule, *Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders*, 89 Fed. Reg. 56028 (July 8, 2024).
[30] CSBS, AARMR, NACCA, NACARA, and MTRA, Joint Comment Letter re: *Proposed Rulemaking – Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders*, (Mar. 31, 2023).
[31] CFPB, Press Release, *CFPB Offers Regulatory Relief from Registration Requirements for Small Loan Providers* (Apr. 11, 2025).
[32] NMLS serves as the licensing and registration system for nonbank entities subject to state supervisory authority. Congress codified the use of NMLS as a comprehensive licensing and supervisory database with the passage of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008. P.L. 110-289, Title V (2008) (codified at 12 U.S.C. § 5101 et seq.).

functionally similar nonbank registration system of its own and populate it with publicly available information that is easily accessed through other sources.[33] The Nonbank Registry is therefore unnecessary, duplicative of existing resources available to consumers, and a waste of federal funds.

## II. The CFPB failed to perform the necessary cost-benefit analysis as required by statute.

The CFPB is required to consider the costs of regulations on small entities under the Regulatory Flexibility Act ("RFA"). This includes requirements to conduct an initial and final regulatory flexibility analysis and convene a panel of small business representatives ("SBREFA panel") for any federal rule subject to notice-and-comment rulemaking.[34] The only exception to this requirement is if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.[35] However, such certification must have a factual basis,[36] which the CFPB never provided in either the proposed or final Nonbank Registry rule,[37] thus violating RFA requirements.

As a result of forgoing the required RFA analysis, the CFPB's cost estimates for the Nonbank Registry were unrealistically low. For example, the CFPB estimated that registering and reporting a covered order would cost about $350 per firm,[38] a drastic underestimate that ignores the resources needed to develop new reporting processes, procedures, and internal controls; enhance technological systems; or engage outside counsel for a rule that mandates a 10-year registration and compliance requirement.[39] An accurate estimate of costs, coupled with the negligible benefits of replicating an already existing registration system and republishing already available public information, suggests that the Nonbank Registry would likely violate the statutory cost-benefit analysis requirement.

## III. The Nonbank Registry unlawfully encroaches on state authority.

The Nonbank Registry regulation is an explicit infringement on the basic tenets of federalism. Monitoring for, and reporting on, compliance with orders based on state law is *exclusively* the authority and responsibility of states, not the federal government. Congress did not give the CFPB any authority over

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[33] The CFPB budgeted $2.4 million to develop its nonbank registration system, which would facilitate the Registry rule, as well as a proposed rule regarding contract terms and conditions. CFPB, *FY 2023 Annual Performance Plan and Report, and Budget Overview* (Feb. 2023); *see also* CFPB, Proposed Rule, *Registry of Supervised Nonbanks that Use Form Contracts to Impose Terms and Conditions that Seek to Waive or Limit Consumer Legal Protections*, 88 Fed. Reg. 6906 (Feb. 1, 2023).

[34] 5 U.S.C. §§ 603, 604.

[35] 5 U.S.C. § 605(b).

[36] The U.S. Small Business Administration's ("SBA") Office of Advocacy criticized the basis for the CFPB's certification and noted it must convene a SBREFA panel absent additional analysis on small entity impacts, neither of which the CFPB ever did. *See* U.S. SBA Office of Advocacy, Comment Letter Re: *Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders* (Mar. 28, 2023).

[37] The CFPB simply estimated that there were 155,043 nonbanks offering a "consumer financial product or service," and that only 1% to 5% of such firms would likely have a covered order subject to the Registry rule. However, it never provided an analysis of how many entities with covered orders would be *small entities*. *Supra* note 3, at 56136.

[38] *Id.* at 56146.

[39] The CFPB acknowledged that hiring outside counsel could be costly for firms. Given the nuances and complexities of public orders, firms will presumably do so to ascertain whether they are even subject to the rule. To avoid such legal costs, the CFPB made the astounding and blithe suggestion that firms could simply register with the Nonbank Registry, even if they are not legally required to do so. *Id.* at 56137.

state and local consumer financial laws, nor did it vest the CFPB with the power to adjudicate orders issued by independent state agencies and state courts.

**IV. The Nonbank Registry is unnecessary to address potential "repeat offenders."**

The CFPB failed to prove that there is a recidivism problem among nonbanks that required the creation of the Nonbank Registry. Neither the proposed nor final rule provided data or examples of increased recidivism among nonbank companies. In fact, the only justification regarding recidivism provided is incredibly thin:

> "Since passage of the [Consumer Financial Protection Act], the Bureau has brought more than 350 enforcement actions against nonbanks… On *numerous occasions*, the Bureau has uncovered companies that failed to comply with consent orders that the companies entered into with the Bureau voluntarily."[40]

Presumably, the CFPB was wholly capable of detecting non-compliance with its own orders prior to establishing the Nonbank Registry. Similarly, it should be able to detect and deter non-compliance with any of its own orders in the future without the Nonbank Registry.

**Conclusion**

Under the parameters of EO 14219, CSBS encourages the formal rescission of the Nonbank Registry as it is unnecessary, unlawful, and unduly burdensome.

Sincerely,

Brandon Milhorn
President and CEO

[40] *Supra* note 3, at 56028 - 56029 (emphasis added).

**Modification of Outdated, Burdensome Community Bank Regulatory Thresholds**
**Attachment C**

May 12, 2025

The Honorable Scott Bessent
Secretary of the Treasury
United States Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

The Honorable Jerome H. Powell
Chair
Federal Reserve Board of Governors
20th Street and Constitution Avenue NW
Washington, DC 20551

The Honorable Travis Hill
Acting Chairman
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

The Honorable Rodney Hood
Acting Comptroller
Office of the Comptroller of the Currency
400 7th Street SW
Washington, DC 20219

The Honorable Russell T. Vought
Acting Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: *Executive Order 14219 – Modification of Outdated, Burdensome Community Bank Regulatory Thresholds*

Dear Secretary Bessent, Chair Powell, Acting Chairman Hill, Acting Comptroller Hood, and Acting Director Vought:

On behalf of the Conference of State Bank Supervisors[41] ("CSBS"), I commend your support of community banks and your call for tailored, common-sense regulations. We share your focus on Main Street institutions and commitment to ensuring that the financial system works for Americans in every part of the country.

In furtherance of Executive Order ("EO") 14219,[42] we offer several recommendations regarding current regulations that disproportionately burden community banks. Many of these regulatory requirements are triggered by asset or activity thresholds that are both static and outdated. However, they can be promptly revised at the discretion of the relevant federal agency or agencies. Moreover, where appropriate, they can and should be indexed to account for economic growth and changes in industry composition. Collectively, the following reforms would ease community bank compliance burdens, free up resources for local lending, and help restore the balance between risk management, safety and soundness, and regulatory and supervisory efficiency.

[41] CSBS is the nationwide organization of state banking and financial regulators from all 50 states, the District of Columbia, and the U.S. territories.

[42] EO 14219 directs federal agencies to rescind or modify regulations that, among other criteria, "impose significant costs upon private parties that are not outweighed by public benefits" and "impose undue burdens on small business and impede private enterprise and entrepreneurship." Exec. Order No. 14219, *Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative*, 90 Fed. Reg. 10583 (Feb. 19, 2025).

## I. Modifying Outdated, Burdensome Regulatory Thresholds

### *a. FDICIA Audit Committee and Internal Control Assessment Thresholds*

CSBS recommends raising asset thresholds associated with certain Federal Deposit Insurance Corporation Improvement Act ("FDICIA") regulatory requirements.[43] In particular, asset thresholds that trigger requirements for independent audit committees and internal control assessments are both artificially low and significantly dated. When these requirements were first implemented in 1993, both applied to institutions exceeding $500 million in total assets, capturing approximately 1,000 of the largest banks (roughly 7% of banks and 78% of industry assets). In 2005, the FDIC raised the internal control assessment threshold to $1 billion, noting that the threshold would still apply to roughly 7% of banks.[44] Since 1993 and 2005, the number of institutions subject to various FDICIA requirements has increased dramatically. Today, nearly 40% of banks, who collectively hold 98% of banking assets, exceed the $500 million threshold. Another 23% of banks, representing over 95% of industry assets, surpass $1 billion. FDICIA's regulatory requirements now extend far beyond the original policy scope.[45]

Internal control assessments, while important for financial integrity, impose disproportionate documentation and attestation costs on smaller banks that already maintain robust, fit-for-purpose controls. These requirements can divert significant resources away from lending. Meanwhile, the audit committee requirement presents governance challenges, especially for rural banks. Smaller communities often lack a deep pool of eligible candidates to serve as outside, independent directors. Even where such individuals are available, concerns about personal liability can make it difficult to recruit and retain qualified directors.[46] As more institutions cross these outdated thresholds, the regulatory burden increasingly falls on banks least equipped to absorb it—those with straightforward operations and lean governance structures.

### *b. SAR and CTR Reporting Thresholds*

Key elements of the Bank Secrecy Act ("BSA") and anti-money laundering ("AML") framework, notably Currency Transaction Reports ("CTR") and Suspicious Activity Reports ("SAR"), have not kept pace with inflation or underlying risk. The CTR and SAR thresholds, set at $10,000[47] in 1970 and $5,000[48] in 1996, respectively, should be raised given the growing complexity of transaction monitoring and filing expectations. Although the BSA permits CTR exemptions for certain customers, the eligibility criteria are restrictive, and many smaller banks find that few of their business customers qualify. The CTR and SAR requirements impose cumbersome processes on banks. However, it is questionable whether the current reporting framework meaningfully supports law enforcement or national security objectives.[49]

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[43] 12 C.F.R. Part 363.
[44] FDIC, Final Rule, *Independent Audits and Reporting Requirements*, 70 Fed. Reg. 71226 (Nov. 28, 2005).
[45] As of 12/31/24. Data sourced from FDIC BankFind Suite.
[46] In 2005, the FDIC introduced a hardship exemption to the audit committee requirement for institutions between $500 million and $1 billion. Under this exemption, a majority of—rather than all— audit committee members must be outside directors who are independent of management.
[47] 31 C.F.R. § 1010.311.
[48] 12 C.F.R. § 353.3(a).
[49] A 2024 GAO report found that law enforcement accessed only 5.4% of CTRs filed between 2014 and 2023. *See* U.S. Government Accountability Office, *Currency Transaction Reports: Improvements Could Reduce Filer Burden While Still Providing Useful Information to Law Enforcement* (Dec. 2024).

Maintaining the financial system's integrity is paramount, but compliance resources must also be well-targeted. It also is incumbent on the federal government – who imposed these requirements on financial institutions – to periodically ensure that the BSA/AML framework continues to fulfill its primary purpose and that the cost of its reporting mandates are properly weighed against the benefits of the burdensome regime.[50] Industry estimates suggest that U.S. financial institutions spent $59 billion on BSA/AML compliance in 2023,[51] and state supervisors conducted more than 1,000 BSA compliance exams in the same year.[52] We appreciate Treasury's ongoing reviews of reporting requirements pursuant to the Anti-Money Laundering Act of 2020. We look forward to continuing that collaboration to modernize the overall BSA/AML framework in ways that improve efficiency, strengthen risk alignment, and support shared regulatory goals.

*c. "Small Bank" and "Intermediate Small Bank" CRA Thresholds*

CSBS encourages the federal banking agencies to raise the asset thresholds for determining whether a bank is evaluated as a Small, Intermediate Small, or Large Bank under the Community Reinvestment Act ("CRA"). These thresholds have been adjusted annually since 2005 based on changes in the Consumer Price Index ("CPI").[53] While indexing these thresholds is a net positive, the CPI measure does not adequately capture broader macroeconomic or industry changes. Given ongoing banking industry consolidation and growth, an increasing number of institutions cross these CRA thresholds.[54]

Transitioning from one CRA category to another, such as from Small to Intermediate Small Bank or Intermediate Small to Large Bank, entails significantly more complex reporting and supervision requirements and more advanced compliance infrastructure. A more comprehensive review that reflects inflation and structural industry shifts would ensure the framework remains appropriately tailored. The federal banking agencies could revise these thresholds as they seek comment on rescinding the 2023 CRA final rule and reinstating the prior CRA framework.[55]

*d. HMDA Reporting Thresholds*

Home Mortgage Disclosure Act ("HMDA") data collection and reporting requirements[56] are particularly costly and onerous for small lenders, so much so that community banks may choose to limit their mortgage lending activity to avoid triggering HMDA compliance. The problem is particularly acute given that the HMDA compliance threshold is quite low, applying to banks originating just 25 closed-end mortgage loans in each of the two preceding calendar years. While robust HMDA data is important for

[50] Quantifying the benefits of the BSA/AML framework is complicated by the lack of transparency associated with the program. While some opaqueness is understandably necessary to protect ongoing intelligence and law enforcement investigations, it increases the burden on the federal government to revisit the cost-benefit determinations associated with the significant BSA/AML reporting obligations imposed on all financial institutions.
[51] Forrester Consulting, *True Cost of Financial Crime Compliance Study, 2023: United States and Canada* (Nov. 2023).
[52] CSBS, Profile of State Chartered Banking.
[53] For 2025, the Small Bank threshold is $402 million, Intermediate Small Bank threshold is between $402 million and $1.609 billion, and Large Banks are above $1.609 billion. *See* FFIEC, *Explanation of the Community Reinvestment Act (CRA) Asset-Size Threshold Change*.
[54] For example, in 2005, nearly 72% of banks with 5.4% of industry assets were classified as Small Banks. Today, only 53% of banks with 1.8% of industry assets are Small Banks for CRA purposes.
[55] FDIC, FRB, and OCC, Joint Release, *Agencies Announce Intent to Rescind 2023 Community Reinvestment Act Final Rule* (Mar. 28, 2025).
[56] 12 C.F.R. Part 1003.

evaluating compliance with fair lending laws, a sample of 25 closed-end mortgage loans is not adequate to conduct fair lending analysis. The 25 closed-end loan threshold discourages community banks from extending additional credit to homebuyers in their communities, and it should be raised.[57]

## II. CSBS Research to Promote Tailored Community Bank Regulation

CSBS is committed to providing additional regulatory reform ideas to the federal agencies and Congressional policymakers. The annual Community Banking Research Conference – sponsored by CSBS, the Federal Reserve, and FDIC – is a premier source for such ideas.[58] The conference is a critical forum for community bankers, academics, policymakers, and bank regulators to explore a wide range of issues affecting the community banking sector, including the regulatory framework. Findings from the CSBS Annual Survey of Community Banks[59] are released at the conference each year.

In last year's survey, 89% of community bankers reported that government regulation is the highest external risk they face.[60] CSBS will soon publish research that confirms the smallest banks shoulder a disproportionately high compliance cost burden relative to their size. Using data from both the CSBS Annual Survey of Community Banks from the past 10 years and bank Call Reports, our research shows that smaller banks consistently attribute between 11%–15.5% of their personnel expenses to regulatory compliance, compared to 5.6%–9.6% reported by larger institutions. The annual personnel compliance cost difference between the smallest and largest banks ranged from 3.8%–8.2%, all of which were statistically significant differences. Moreover, beyond personnel expenses, statistically significant compliance cost burdens were also attributed to other expense categories, including data processing, accounting and auditing, and consulting.

CSBS recently opened the 2025 Annual Survey of Community Banks.[61] Importantly, this year's survey includes new questions asking banks to estimate the percentages of compliance expenses attributable to various groups of laws, regulations, or reporting requirements (*e.g.*, BSA/AML, safety and soundness, consumer compliance, etc.). Survey responses will offer critical data to policymakers on the costliest elements of the regulatory framework. We look forward to sharing this important research during the 2025 Community Banking Research Conference.

**Conclusion**

CSBS recommends raising these outdated regulatory thresholds to provide swift relief to our nation's community banks. We look forward to working with you on additional efforts to appropriately tailor community bank regulations and supervision.

Sincerely,

Brandon Milhorn
President and CEO

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[57] In light of the DC District Court's September 2022 decision in *National Community Reinvestment Coalition v. CFPB* to vacate the 2020 HMDA rule's increased closed-end mortgage loan reporting threshold, future revisions would likely require a more nuanced and robust cost-benefit analysis.
[58] The Community Banking Research Conference is now in its 13th year. Community Banking Research Conference.
[59] CSBS, Annual Survey of Community Banks.
[60] CSBS, *2024 CSBS Annual Survey of Community Banks*, Community Banking Research Conference (Oct. 2-3, 2024).
[61] CSBS, 2025 CSBS Annual Survey of Community Banks.