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FILE NO:

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Jennifer M. Jones
Deputy Executive Secretary
Attention: Comments/ Legal OES RIN 3064-AG17
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 0429

Re: Regulatory Capital Rule: Revisions to the Community Bank Leverage Ratio Framework

Dear Deputy Executive Secretary Jones:

This comment is submitted in response to the proposed rule regarding revisions to the Community Bank Leverage Ratio Framework (the "CBLR") promulgated by the Federal Deposit Insurance Corporation ("FDIC") (the "Proposed Rule").[1] An 8% leverage ratio presents a sufficient compromise between conservative capital levels, while addressing safety and soundness and asset growth. Certain aspects of the Proposed Rule, however, would be counterproductive to the aims intended to be achieved.

The Proposed Rule should be revised to:

1) allow coverage of larger banks consistent with the inherent safety and soundness standards already in the CBLR,
2) address the current need to choose between the CBLR and application of the Small Bank Holding Company Policy Statement (the "Policy Statement"), and
3) exclude derivatives including interest rate swaps sold to customers as well as interest rate hedges acquired for the bank's own interest rate management, from part of the total consolidated assets calculation.

We hope that the FDIC takes these concerns into consideration in formulating a final rule.

[1] 90 Fed. Reg. 55049 (Dec. 1, 2025).

I. *The CBLR's thresholds for community banks should be raised to $25 billion therefore allowing coverage of larger banks consistent with the inherent safety standards already in the CBLR.*

The Proposed Rule should revise the CBLR consolidated asset threshold to $25 billion. As currently formulated, the CBLR only applies to banking organizations that have less than $10 billion in total consolidated assets. Such a change should be coordinated with the Federal Reserve Board's changes to the Policy Statement or Congressional action to expand application of the Policy Statement.

The Policy Statement eliminates the leverage ratio requirement for holding companies over smaller banks and replaced is with a debt-to-equity limit. The intention is to address the difficulty small banking organizations otherwise face in raising capital including for formation or transfer of ownership purposes. Specifically, the Policy Statement recognizes that transfer of ownership of small banks often requires the use of acquisition debt and therefore permits the formation and expansion of small bank holding companies with debt levels higher than would be permitted for larger holding companies.[2] This change recognizes that smaller bank holding companies with higher leverage levels nonetheless adequately serve as a source of strength for their subsidiary banks. The CBLR currently considers a qualifying community banking organization eligible to opt into the CBLR framework. Among other qualifications, under the 2019 final rule, depository institutions and depository institution holding companies that have less than $10 billion in total consolidated assets; leverage ratios of greater than 9%; off-balance sheet exposures (excluding derivatives other than sold credit derivatives and unconditionally cancelable commitments) of 25% or less of total consolidated assets.

If the required leverage ratio is only available to institutions with up to $10 billion of consolidated assets, community banks above that size would still face difficulty raising capital. Such institutions are community banks in approach and balance sheet. They also should be able to add higher levels of debt capital. Without resolving this, the CBLR will be of less utility to community banks that would otherwise benefit from the Proposed Rule's lower leverage ratio.

The simple solution is to increase the Proposed Rule's application to financial institutions of fewer than $25 billion to match the direction of changes to the Policy Statement. Speaking at the American Bankers Association's Washington Summit, House Financial Services Committee Chairman French Hill also suggested this increase in the $10 billion consolidated asset supervisory threshold stating that "moving these thresholds up dramatically is a goal that I have." [3] Raising this threshold would make the CBLR available to larger community banks. This solution allows for both sustainable growth of community banks and meets the purposes of the CBLR.

II. *The Proposed Rule should eliminate the current need to choose between the CBLR and application of the Small Bank Holding Company Policy Statement.*

[2] 12 CFR Part 225, Appendix C.

[3] Legislation is currently moving through Congress which raises the consolidated asset threshold to $25 billion under the Policy Statement.

Community banks and their holding companies should not be treated as the same for purposes of the CBLR. Bank holding companies are obligated to serve as a source of financial and managerial strength to their subsidiaries, ensuring they do not engage in activities that could jeopardize the banks' safety and soundness. Banks are insured by the FDIC, have an extensive statutory safety net and most important, in times of distress, are walled off from their struggling parent. Indeed, the FDIC itself points to numerous instances during the 2008-2010 Great Recession whereby bank holding companies including, among others, CIT Group, Inc., AmericanWest Bancorporation, and Outsource Holdings, Inc. went bankrupt though in each case the subsidiary bank either survived or was sold without any loss to the Deposit Insurance Fund.[4]

One example of active statutory protection that enforces separation between banks and their holding companies is found in Sections 23A and 23B of the Federal Reserve Act (the "Act"), and its implementing regulation, Regulation W. Regulation W regulates and restricts the relationship between institutions and other business organizations under common ownership or control. Section 23B of the Act provides that transactions between a bank and its affiliates must be on terms and under circumstances, including credit standards, that are substantially the same or at least as favorable to the bank as those prevailing at the time for comparable transactions with or involving nonaffiliated companies. Section 23A has both quantitative limits and collateral requirements for covered transactions with affiliates.

Essentially, bank holding companies are allowed to use parent-level debt to support investments in subsidiary banks, or double leverage, because it enables more efficient capital allocation within banking companies but the equity injected into the bank subsidiary is common stock. This structure reduces the need for capital to be raised and held at multiple levels of the depository institution while lowering overall funding costs. Again, the capital contributed to the banks is walled off from holding company creditors including taxing authorities. As currently drafted, the Proposed Rule would require banks to maintain the same leverage ratios at their holding companies on a consolidated basis. This would effectively mitigate the intended benefit of the Proposed Rule and eliminate the utility of the Policy Statement.

Community banks would benefit if the community bank were able to opt in to the CBLR lower leverage ratios and the bank's holding company were also able to adhere to the Policy Statement. The combined effect of such changes would allow the community bank to grow loans including small business lending. Such changes are in line with the stated goals of §201 of the Economic Growth, Regulatory Relief, and Consumer Protection Act ("EGRRCPA") which is to grow the economy by allowing community banks to have more assets, and thus dollars to lend. Without amending the proposed rule, community banks must choose between the advantageous CBLR ratios and the flexibility offered by the Policy Statement. Requiring community banks to make this decision frustrates the purposes of the EGRRCPA. Decoupling the financial institution and the financial institution's holding company would allow for community banking organizations to take advantage of leveraging capabilities to support and add capital to the community bank subsidiary. Further, this decoupling would not create additional safety and soundness concerns given the regulations and practices that already exist.

[4] Crisis and Response: An FDIC History 2008-2013, page 134.

III. ***Interest rate swaps sold to customers and interest rate hedges for the bank's interest rate management should not be calculated together with a bank's other consolidated assets.***

Another qualification for community banking organizations to opt in to the CBLR framework is the requirement for the banking organization to have trading assets and liabilities of 5% or less of total consolidated assets. However, interest rate swaps for customers and interest rate hedges for the bank's interest rate management should not be aggregated with a bank's other consolidated assets for purposes of calculating total assets under the CBLR. Such derivatives either serve customer needs or limit risk.

Interest rate hedges do not require the community bank to deploy capital in the same manner as other assets that are properly captured in the bank's total consolidated assets. Regarding hedges, the lesson from recent inflationary periods is that banks should do more, not less, hedging to limit their risks.

Interest rate swaps sold to customers is a safe method for banks to limit risks and doing so should not lead to penalties for such a bank by requiring such behavior to be counted towards their total consolidated assets. Further, excluding these interest rate swaps from a bank's consolidated asset pool could lead to more banks, especially those providing traditional banking services to its clients, qualifying for the CBLR framework and choosing to opt-in.

Our proposed recommendations are in the best interests of numerous community banking organizations and the economy of the United States at large. Community banks generate significant business loans which in turn invest in each of our communities across the country. Expanding the capacity of community banks to continue generating loans, subject to safety and soundness principles, would continue to stimulate the American economy. Accordingly, to further the aims and purposes of EGRRCPA's growth mandate, the Proposed Rule should carve out interest rate swaps sold to a bank's customers and interest rate hedges for the bank's interest rate management.

For these reasons, we respectfully request that the FDIC consider our concerns and incorporate our proposed recommendations set forth in this comment letter.

Very truly yours,

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Peter G. Weinstock

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Jay Kestenbaum