Bank On It

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Bank On It: August 2026 Update

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Main Street Capital Access Act

The House of Representatives passed the Main Street Capital Access Act (Main Street Act), which is intended to have a deregulatory effect for banks of all sizes and that encourages the chartering of *de novo* banks. Most political commenters do not expect the bill to be approved by this Senate, but it is still an important roadmap for future legislative efforts, particularly given it received bipartisan support in the House.

Broad themes of the bill include ensuring regulatory tailoring, indexing thresholds tied to inflation, providing greater flexibility to de novo banks, updating bank merger review standards, revising the CAMELS rating, and requiring a range of studies and reports (including one on bank-fintech partnerships). In addition, the bill would require a study on shelf charters for prospective nonbank acquirers of failed banks. Shelf charters was a topic we discussed in a prior client alert.

Proposed Revisions to Regulation O

The Federal Reserve Board proposed a comprehensive overhaul of Regulation O, marking the first significant modernization of the insider lending rules applicable to all banks in decades. The proposal includes a number of substantive changes intended to simplify compliance, including, among other things, increasing applicable thresholds for transactions to be in scope, as discussed below. The proposal would also revise numerous definitions and exemptions, incorporate statutory amendments enacted since Regulation O was last comprehensively updated and codify long-standing Federal Reserve interpretations.

A key feature of the proposal is the recalibration of several long-standing dollar thresholds that have not kept pace with inflation. The Federal Reserve proposal would increase the following thresholds as follows:

- For the amount of certain credit card debt that is exempt from the definition of "extension of credit," from **$15,000 to $60,000**.
- For the amount of indebtedness arising from certain interest-bearing overdrafts associated with preauthorized credit plans that are exempt from the definition of "extension of credit," from **$5,000 to $20,000**.
- For the exception from the prohibition against paying an overdraft to an executive officer or director for certain inadvertent overdrafts, from **$1,000 to $4,000**.
- For the "other purpose" exception for unsecured lending to executive officers, from **$100,000 to $400,000**.

- For the size of an extension of credit that requires prior approval by a bank's board of directors, from **$500,000 to $2 million**.
- For the threshold for public disclosure of loans to executive officers and principal shareholders, from **$500,000 to $2 million**.

Going forward, these thresholds would be adjusted every five years to be indexed to nominal GDP.

Beyond updating monetary thresholds, the proposal addresses a number of recurring interpretive issues that have created compliance uncertainty. Among other changes, the Federal Reserve would clarify how Regulation O applies to index funds and their portfolio companies, harmonize key definitions with other banking regulations, codify existing staff interpretations, streamline recordkeeping and disclosure requirements, and revise the treatment of executive officers, principal shareholders and related interests. If adopted, the proposal would preserve Regulation O's core restrictions on preferential insider lending while providing banks with greater clarity and operational flexibility, particularly in areas that have historically relied on supervisory guidance rather than regulatory text.

The proposal would include valuation methodologies for measuring credit exposures from derivative transactions and securities financing transactions. These categories were added to Regulation O by the Dodd-Frank Act and were also added to Section 23A of the Federal Reserve Act, which is implemented in Regulation W. The Federal Reserve has yet to update Regulation W to reflect these statutory changes, but this proposal offers insights into how the Federal Reserve may seek to update Regulation W to account for derivative transactions and securities financing transactions.

The Federal Deposit Insurance Corporation (FDIC) also approved a proposal to revise Regulation O to keep the FDIC's lending thresholds in line with the Federal Reserve's.

Comments on both proposals are due 60 days after publication in the Federal Register.

Proposed CRA Rule

The OCC and FDIC proposed their latest iteration of the Community Reinvestment Act (CRA) regulations. Under the proposal, the number of banks subject to the full requirements of the CRA would drop significantly — the proposal would subject banks with $10 billion or less in assets to fewer data collection, maintenance and reporting requirements under the CRA. The small-bank threshold is currently $1.649 billion. Further, the proposal would limit grants that banks could give to certain community advocacy groups and require that banks increase the due diligence done on their grants and donations. For example, large banks would have to ensure that recipients' overhead costs and other indirect costs are under 15%.

Notably, the Federal Reserve did not join the proposal. The last attempt to modernize the CRA rules was a 2023 joint final rulemaking by the Federal Reserve, Office of the Comptroller of the Currency (OCC) and FDIC (together, the Federal Banking Agencies), which has been stayed during ongoing litigation. The Federal Reserve published a notice of proposed rulemaking to rescind its 2023 final rule and reinstate its prior CRA framework on July 18, 2025, and recently told the 5th Circuit Court of Appeals that it is "close to completion of the rulemaking process."

OCC Proposes CSI Changes

The OCC issued a notice of proposed rulemaking that would change its rules governing banks' disclosure of confidential supervisory information (CSI) controlled by the agency. Among other changes to processes and procedures, the proposal would expand the exceptions to the prior approval requirement for the disclosure of CSI to specified parties, such as potential merger counterparties and senior executive officer candidates. The proposal would also remove reference to potential criminal liability to avoid the "chilling effect on supervised entities' willingness to make independent determinations" on whether information could be shared, though the preamble notes that the OCC would still be able to refer the unauthorized disclosure of confidential information to the Department of Justice for criminal prosecution where appropriate.

The OCC's proposal follows the FDIC's June proposal that similarly would expand the ability of supervised institutions to disclose CSI without prior authorization.

Revised CBLR Framework Guide

The Federal Banking Agencies issued a revised guidebook on the optional community bank leverage ratio that went into effect on July 1. The final rule lowers the Community Bank Leverage Ratio (CBLR) requirement from 9% to 8%, making more community banks eligible to opt into the CBLR framework.

Proposed Rule for Mutual Holding Companies

The Federal Reserve Board proposed changes to Regulation MM, the regulations governing mutual holding companies. The proposal would clarify the treatment of certain instruments for purposes of regulatory capital, reduce the burden associated with dividend waiver requests as well as make other changes to reduce burden and simplify implementation of the regulation.

Upstart Conditional Approval

On July 23, AI-based online lender Upstart announced that the OCC had granted conditional approval to Upstart Bank, N.A. If Upstart's deposit insurance and bank holding company applications are approved and Upstart Bank opens for business, it will be a full-service, online-only commercial bank. Upstart originates loans using AI for credit decisions.

NYDFS Consent Order

The New York State Department of Financial Services (NYDFS) announced that a foreign bank and its New York branch agreed to pay a $50 million penalty after they failed to cooperate with NYDFS' requests for information. The press release notes that the bank withheld critical information and intentionally obscured information from NYDFS during the course of ongoing investigations.

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If you have any questions concerning these developing issues, please do not hesitate to contact any of the following Paul Hastings Washington D.C. lawyers:

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