

Monthly Bank Regulatory Report

September 30, 2025

We are pleased to provide you with the September edition of Gibson Dunn's monthly U.S. bank regulatory update. Please feel free to reach out to us to discuss any of the below topics further.

KEY TAKEAWAYS

- The legal battle over the president's "for cause" removal authority continues. At the time of this publication, the Supreme Court is [considering](#) whether to permit President Trump's purported termination of Federal Reserve Board Governor Lisa Cook to take effect as the administration appeals the merits. The administration's [application](#) remains pending.
- The Office of the Comptroller of the Currency (OCC) [issued](#) separate bulletins (i) confirming that evidence of "politicized or unlawful debanking" will factor into licensing decisions and Community Reinvestment Act (CRA) evaluations ([Bulletin 2025-22](#)) and (ii) reminding banks about limits on releasing customer financial records under the Right to Financial Privacy Act and proper SAR use ([Bulletin 2025-23](#)).
- The OCC [announced](#) a new organizational framework for bank supervision. Effective October 1, 2025, three separate units will replace the Bank Supervision and Examination group: (i) Large and Global Financial Institutions (greater than \$500 billion in total assets or a foreign parent); (ii) Regional and Midsize Financial Institutions (between \$30 billion and \$500 billion in total assets); and (iii) Community Banks (less than \$30 billion in total assets). Each unit will be led by a Senior Deputy Comptroller who will report to the Comptroller.
- Dr. Stephen Miran was [sworn in](#) as a member of the Federal Reserve Board for a term ending January 31, 2026. Dr. Miran was nominated on September 2, 2025 following the resignation of Adriana Kugler and confirmed by the Senate on September 15, 2025.

- Governor Hochul [announced](#) that Superintendent Adrienne Harris will depart the New York State Department of Financial Services (NYDFS). Kaitlin Asrow will be appointed as Acting Superintendent of the NYDFS effective October 18, 2025.
- Building upon its August 18, 2025 [request](#) for comment on “Innovative Methods to Detect Illicit Activity Involving Digital Assets,” the Department of the Treasury (Treasury) [issued](#) an advance notice of proposed rulemaking (ANPR) seeking public comment on potential regulations that may be promulgated by Treasury under the GENIUS Act, including prohibitions on certain issuances and marketing, BSA/AML and sanctions obligations, the balance of state-level oversight with federal oversight and comparable foreign regulatory and supervisory regimes. Comments on the ANPR are due by October 20, 2025.
- The NYDFS [extended](#) the application of its [April 2022 Guidance on Use of Blockchain Analytics](#) to all New York banking organizations and NYDFS-licensed branches and agencies of foreign banks, effectively leveling expectations regarding the use of blockchain analytics tools across banks, bitlicensees and limited purpose trust companies engaged in virtual currency business activities. See our *Client Alert* [here](#).

DEEPER DIVES

Legal Questions Surrounding the Termination of Federal Reserve Board Governor Cook.

On August 25, 2025, President Trump fired Federal Reserve Board Governor Lisa Cook from the Board of Governors. Governor Cook filed a complaint on August 28, 2025 in federal court in Washington, D.C., challenging the president’s attempt to remove her from office, paving the way for a legal battle over the president’s “for cause” removal authority. After an emergency hearing, the U.S. District Court for the District of Columbia barred the government from removing Cook. After the D.C. Circuit declined to stay the District Court’s ruling pending appeal, the administration [asked](#) the Supreme Court for a stay to suspend the District Court’s injunction on September 18, 2025. The District Court [found](#) that the “best reading of the ‘for cause’ provision is that the bases for removal of a member of the Board of Governors are limited to grounds concerning a Governor’s behavior in office and whether they have been faithfully and effectively executing their statutory duties,” and does not reach “conduct that occurred before they began in office.”

- *Insights.* Although no Federal Reserve Board Governor has been removed “for cause” in the 111 years since the Federal Reserve was created, Cook’s case prompts the Supreme Court to weigh in for the second time this year regarding the extent of the President’s “for cause” removal authority. In an unsigned May 2025 [opinion](#), the Supreme Court indicated that Federal Reserve Board Governors cannot be terminated without cause, distinguishing the Federal Reserve Board from other independent agencies as “a uniquely structured, quasi-private entity that follows in the distinct historical tradition of the First and Second Banks of the United States.” However, the May 2025 opinion does not address other questions potentially relevant to Cook’s case, like what type of conduct constitutes “cause,” whether the Administration has to make any type of showing to establish such cause, whether Governor Cook or others has an opportunity to respond, or whether and under what circumstances a termination decision is subject to judicial review.

Legal Questions Surrounding the Termination of NCUA Board Members. On April 16, 2025, President Trump removed the two Democratic members of the NCUA Board, Todd Harper and Tanya Otsuka. On April 28, 2025, both challenged their removal in federal court, leading to a complex legal battle over the president's authority to dismiss independent agency leaders. On July 22, 2025, the District Court for the District of Columbia [held](#) that the Federal Credit Union Act insulates NCUA Board members from at-will removal and reinstated both Harper and Otsuka, but only days later, the D.C. Circuit [issued](#) an administrative stay, pausing the reinstatement ordered by the District Court while the Circuit Court considered the motion. In a [filing](#) on September 16, 2025, the administration admitted that it had no cause, and that the Federal Credit Union Act's silence on removal protections means that the NCUA Board members are at will.

- *Insights.* Oral arguments before the D.C. Circuit were scheduled for November 21, 2025. However, on September 29, 2025, the court removed the case from the November 21, 2025 oral argument schedule pending a decision from the Supreme Court in the litigation challenging the president's authority to remove Rebecca Slaughter, a member of the Federal Trade Commission.

OCC Updates Organizational Structure. On September 18, 2025, the OCC [announced](#) a new organizational framework for bank supervision and updates to its Office of the Chief National Bank Examiner. Effective October 1, 2025, three distinct units will replace the Bank Supervision and Examination group: Large and Global Financial Institutions, which will supervise institutions with greater than \$500 billion in total assets or having a foreign parent; Regional and Midsize Financial Institutions, which will supervise institutions with between \$30 billion and \$500 billion in total assets; and Community Banks, which will supervise institutions with less than \$30 billion in total assets. Each unit will be led by a Senior Deputy Comptroller who will report to the Comptroller.

- *Insights.* The creation of the Community Banks unit with supervision of institutions with total assets of less than \$30 billion is notable in light of initiatives currently underway at the FDIC and Federal Reserve to assess, tailor and calibrate regulatory asset thresholds. In particular, as highlighted by Acting Chairman Travis Hill in his [remarks](#) at the September 2025 Financial Stability Oversight Council (FSOC) meeting, the FDIC is modifying its continuous exam program by raising the threshold from \$10 billion to \$30 billion in assets and [issued](#) a proposal to raise and index 37 regulatory asset thresholds and is evaluating additional steps on a range of other asset thresholds. Vice Chair for Supervision Bowman has long voiced [concerns](#) with the current \$10 billion threshold defining the upper bounds of a community bank and we expect this to be a topic of conversation at the Federal Reserve's upcoming October 9, 2025 Community Bank Conference.

Treasury Issues ANPR on GENIUS Act Implementation. On September 19, 2025, Treasury [issued](#) an ANPR seeking public comment on potential regulations that may be promulgated by Treasury under the GENIUS Act, including prohibitions on certain issuances and marketing, BSA/AML and sanctions obligations, the balance of state-level oversight with federal oversight and comparable foreign regulatory and supervisory regimes. Comments on the advance notice of proposed rulemaking are due by October 20, 2025. The ANPR also builds on Treasury's prior

Request for Comment on Innovative Methods to Detect Illicit Activity Involving Digital Assets [issued](#) last month, which remains open for comment through October 17, 2025.

- *Insights.* The Administration remains focused on implementing the GENIUS Act on an expedited timeline. Like any advance notice of proposed rulemaking, the ANPR has 58 prompts for consideration by commenters, most of which are expected themes and practical considerations, although there are a few areas of focus for the various industry groups. Specifically, the ANPR asks whether regulations should be issued to clarify the meaning of “pay,” “interest,” “yield,” “solely,” or otherwise clarify the scope of the GENIUS Act’s prohibition on the payment of yield, and asks whether regulations should clarify “to what extent any indirect payments are prohibited?”, which impacts potential features and products that may be offered by stablecoin issuers. The ANPR further seeks feedback on criteria for finding that a nonbank would not present a material safety and soundness risk; and whether Treasury should grant any safe harbors or de minimis exceptions to permit certain issuers outside of the GENIUS Act’s scope.

OTHER NOTABLE ITEMS

OCC Issues Guidance on Debanking and Sharing Customer Information. On September 9, 2025, the OCC [issued](#) separate bulletins (i) clarifying how the OCC considers “politicized or unlawful debanking” in certain licensing filings and assessing banks’ records of performance under the CRA ([Bulletin 2025-22](#)) and (ii) reminding banks of the limited circumstances that allow for the release of customer financial records and the proper use of SARs ([Bulletin 2025-23](#)), stating that banks “should not use voluntary SARs as a pretext to improperly disclose customers’ financial information or evade the [Right to Financial Privacy Act]. A bank should only submit a voluntary SAR where it identifies concrete suspicious activity, such as activity that could form the basis for filing a SAR except that it is under the applicable threshold.” The agency also noted again it is “reviewing its approaches to [BSA/AML] supervision to ensure they are not contributing to unlawful debanking and will make changes if needed.”

NCUA Ceases Using Reputation Risk and Equivalent Concepts. On September 25, 2025, the NCUA [announced](#) it ceased using reputation risk and equivalent concepts in the examination and supervisory process. According to its [letter](#) to credit unions, effective September 25, 2025, the NCUA “will no longer base supervisory concerns on reputation risk,” will continue to review key review areas that were historically classified under reputation risk (e.g., financial risks associated with active litigation and insider abuse) as part of the examination process and will remove references to reputation risk in its regulations, manuals, guidance and training materials.

FDIC Updates Enforcement Actions Manual Regarding Minimum Standards for Termination of Certain Enforcement Orders. On September 8, 2025, the FDIC [updated](#) its enforcement policy to allow termination of cease-and-desist and consent orders issued under Section 8(b) of the Federal Deposit Insurance Act when an institution has achieved “*substantial compliance*” with the order. Previously, the standard for termination required “*full compliance*” with the terms of the order.

FSOC Convenes Quarterly Meeting. On September 10, 2025, the Financial Stability Oversight Council (FSOC) convened its quarterly meeting. According to the [readout](#), the FSOC received a presentation that addressed the FSOC's "intention to review" its guidance related to nonbank financial company determinations under Section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. During the meeting, the FSOC also received an update from the Federal Reserve, OCC and FDIC on the "steps the federal banking agencies are taking to enhance the efficiency of their regulatory and supervisory frameworks."

Comptroller Gould Outlines OCC Priorities and Regulatory Reforms at FSOC Meeting. On September 10, 2025, Comptroller Jonathan Gould [issued](#) a statement at the FSOC meeting highlighting the work the OCC has undertaken in its review of "the entire post-2008 chartering, regulatory, and supervisory framework." On *de novo* charters and bank M&A, Comptroller Gould noted the OCC "will no longer have a de facto 'no' policy." Comptroller Gould also confirmed the OCC's regulatory reform initiatives aimed at: updating capital and liquidity requirements; defining supervisory concepts like unsafe and unsound practices in regulation; and tailoring bank supervision, with prioritization of the community bank supervisory process.

Acting Chairman Hill Outlines FDIC Priorities and Regulatory Reforms at FSOC Meeting. On September 10, 2025, Acting Chairman Travis Hill [issued](#) a statement at the FSOC meeting highlighting the work the FDIC has undertaken to "improve its regulatory and supervisory approach" across a number of different areas. In addition to those actions already taken or currently underway through the rulemaking process, Hill noted the FDIC: is working with the federal banking agencies on a reproposal of the Basel III endgame rules and analyzing potential changes to the community bank leverage ratio; has begun work to implement the GENIUS Act and recommendations from the President's Working Group on Digital Asset Markets; conducting reviews of supervised institutions for evidence of unlawful debanking, following the debanking Executive Order; working on additional improvements to the bank merger review process and analytical framework; and continuing its work on assessing, tailoring and calibrating regulatory asset thresholds.

Stephen Lybarger Appointed Senior Deputy Comptroller for Chartering, Organization and Structure. On September 9, 2025, the OCC [announced](#) the elevation and renaming of its chartering and licensing function and the appointment of Stephen Lybarger as Senior Deputy Comptroller for Chartering, Organization and Structure. Mr. Lybarger will continue to lead the OCC's licensing function responsible for managing the OCC's licensing process for national banks, federal savings associations, payment stablecoin issuers and proposals for growth and structure changes.

Agencies Announce Public Outreach Meeting on Review of Regulations. On September 9, 2025, the federal banking agencies [announced](#) they will hold a hybrid public outreach meeting on October 30, 2025 as part of the agencies' required review of regulations under the Economic Growth and Regulatory Paperwork Reduction Act. The outreach meeting will present an opportunity for stakeholders to present their views on the twelve categories of regulations for which comment was previously [published](#) in the *Federal Register*: applications and reporting; powers and activities; international operations; consumer protection; directors, officers and employees; money laundering; rules of procedure; safety and soundness; securities; banking operations, capital; and Community Reinvestment Act. Those interested in providing oral comments must register by October 22, 2025.

Speech by Governor Barr on Stress Testing. On September 25, 2025, Federal Reserve Board Governor Michael Barr gave a [speech](#) titled “Preserving the Dynamism and Credibility of Stress Testing.” In his speech, Governor Barr expressed concerns that recent proposals—such as subjecting models to public comment—would weaken the tests’ rigor. As an alternative, Governor Barr proposes decoupling stress test outcomes from binding capital rules, instead using them primarily as supervisory tools and addressing any shortfall by a regulatory capital requirement linked to the risks in the trading book or via regulation.

Speech by Governor Waller on Payments. On September 29, 2025, Federal Reserve Board Governor Christopher Waller gave a [speech](#) titled “The Next Frontier of Payments Innovation.” In his speech, Governor Waller highlighted the potential for significant innovations in payments presented by new technologies like distributed ledgers, tokenized assets, smart contracts and AI.

Federal Reserve Publishes Agenda for Community Bank Conference. On September 19, 2025, the Federal Reserve [published](#) its agenda for its October 9, 2025 Community Bank Conference. The conference aims to examine the key issues the community bank sector faces, including payments innovation, capital and liquidity standards and the evolution of consumer demands.

Federal Reserve Board to Host Payments Innovation Conference. On September 3, 2025, the Federal Reserve [announced](#) that it will host a conference on payments innovation on October 21, 2025. The conference aims to focus on the convergence of traditional finance and DeFi, emerging stablecoin use cases, the intersection of AI and payments and tokenization of financial products.

Will Giles Named Principal Deputy Chief Counsel. On September 9, 2025, the OCC [announced](#) Will Giles as Principal Deputy Chief Counsel.

FEDS Notes Examines Pre-Pledged Collateral and Likelihood of Discount Window Use. On August 29, 2025, Federal Reserve staff [published](#) a note indicating that a depository institution with pre-pledged collateral increased the probability of the depository institution borrowing primary credit. The note indicated that as of 2023, nearly 3,000 institutions had pre-pledged collateral with about two-thirds of that collateral consisting of loans (mostly consisting of less liquid loan collateral).

FRBNY’s *Liberty Street Economics* Blog Examines How Investors Perceived Bank Risk During the 2023 Bank Run. On September 29, 2025, the Federal Reserve Bank of New York [published](#) a *Liberty Street Economics* blog post titled “Reading the Panic: How Investors Perceived Bank Risk During the 2023 Bank Run.” In a companion post titled “Calming the Panic: Investor Risk Perceptions and the Fed’s Emergency Lending during the 2023 Bank Run,” the *Liberty Street Economics* blog [examines](#) how the Federal Reserve’s liquidity support affected investor risk perceptions.

The following Gibson Dunn lawyers contributed to this issue: Jason Cabral, Ro Spaziani, and Rachel Jackson.

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding the issues discussed in this update. Please contact the Gibson Dunn lawyer with whom you usually work or any of the member of the [Financial Institutions](#) practice group:



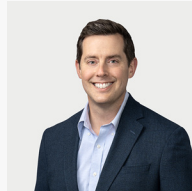
Jason Cabral
New York
+1 212.351.6267
jcabral@gibsondunn.com



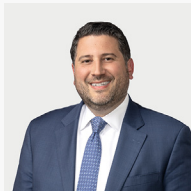
Ro Spaziani
New York
+1 212.351.6255
rspaziani@gibsondunn.com



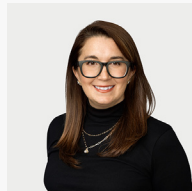
Stephanie L. Brooker
Washington, D.C.
+1 202.887.3502
sbrooker@gibsondunn.com



M. Kendall Day
Washington, D.C.
+1 202.955.8220
kday@gibsondunn.com



Jeffrey L. Steiner
Washington, D.C.
+1 202.887.3632
jsteiner@gibsondunn.com



Sara K. Weed
Washington, D.C.
+1 202.955.5807
sweed@gibsondunn.com



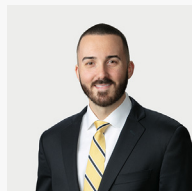
Ella Capone
Washington, D.C.
+1 202.887.3551
ecapone@gibsondunn.com



Sam Raymond
New York
+1 212.351.2499
sraymond@gibsondunn.com



Rachel Jackson
New York
+1 212.351.6260
rjackson@gibsondunn.com



Hayden McGovern
Dallas
+1 214.698.3142
hmcgovern@gibsondunn.com

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