

## Monthly Bank Regulatory Report

December 31, 2025

We are pleased to provide you with the December 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 Federal Deposit Insurance Corporation (FDIC) [issued](#) a proposed rule under the GENIUS Act to establish procedures for FDIC-supervised insured depository institutions to obtain approval to issue permitted payment stablecoins through a subsidiary. Comments on the proposed rule are due by February 17, 2026.
- The Board of Governors of the Federal Reserve System (Federal Reserve) [rescinded](#) its 2023 policy statement interpreting Section 9(13) of the Federal Reserve Act and issued a new policy statement governing the activities of state member banks (both insured and uninsured) and withdrew from the regulatory record the 2023 supplementary information that reflected a presumption against “novel and unprecedented” activities, including crypto-related activities.
- The Federal Reserve [published](#) a request for information (RFI) on a limited purpose “payment account” for eligible institutions focused on clearing and settlement. As originally [previewed](#) by Governor Waller, the new proposed payment account would be subject to balance caps, would not pay interest or grant access to Federal Reserve services like the discount window, and could be subject to additional restrictions and risk controls on a case-by-case basis. Responses to the RFI are due by February 6, 2026.
- The Office of the Comptroller of the Currency (OCC) [issued](#) a notice of proposed rulemaking that would increase the average total consolidated assets threshold at which

[heightened standards](#) apply to certain insured national banks, insured federal savings associations, and insured federal branches from \$50 billion to \$700 billion. If adopted, the rule would reduce the number of institutions subject to the heightened standards from 38 institutions to eight.

- The OCC and FDIC [withdrew](#) their 2013 and 2014 interagency leveraged lending guidance and FAQs, stating that the guidance and FAQs had become overly restrictive and clarified that banks and examiners should apply general principles of prudent risk management and safe and sound lending to leveraged lending activities. The OCC also [issued](#) updated guidance on venture lending, emphasizing that lending to early-stage and growth companies may be conducted in a safe and sound manner when supported by appropriate underwriting, risk management, and governance.
- The OCC [published](#) an interpretive letter authorizing national banks to engage in “riskless principal” crypto-asset transactions. The approval preceded the OCC’s conditionally granting five national trust company charters to institutions in the digital assets space.
- The OCC [released](#) preliminary findings on debanking activities.
- Travis Hill was [confirmed](#) as Chairman of the FDIC’s Board of Directors, and Michael Selig was [confirmed](#) as Chairman of the Commodity Futures Trading Commission.
- As part of Chairman Hill’s broader emphasis on improving failed-bank resolution practices, the FDIC [announced](#) that the agency had updated its online resources to include enhanced information on the marketing and sale of distressed institutions and had made available sample agreements to help prospective acquirers assess transaction terms in advance.
- On December 30, 2025, the D.C. federal district court in *National Treasury Employees Union v. Vought* granted a clarification that the Consumer Financial Protection Bureau (CFPB) cannot justify a violation of the preliminary injunction “designed to ensure that the CFPB would continue to exist as Congress mandated and perform its statutorily required duties while the merits of plaintiffs’ claims were litigated” by refusing to request funding from the Federal Reserve. The court held that the CFPB’s unilateral decision to decline to request funding is not supported by the CFPB’s interpretation of the Dodd-Frank Act and contravenes the preliminary injunction.

## DEEPER DIVES

**FDIC Proposes GENIUS Act Application Procedures.** On December 16, 2025, the FDIC [issued](#) a proposed rule to implement the application provisions of the GENIUS Act for FDIC-supervised insured depository institutions seeking to issue payment stablecoins through a subsidiary. Under the proposed rule, an FDIC-supervised state nonmember bank or state savings association must submit an application demonstrating how it and its subsidiary would satisfy statutory factors for approval as a permitted payment stablecoin issuer (PPSI), including reserve arrangements, corporate governance, and compliance controls. The rule would establish content

requirements, processing timelines, and an appeal process for denied applications under a new section of the FDIC's regulations. Comments on the proposed rule are due by February 17, 2026.

- *Insights.* Although the proposal marks the FDIC's first concrete implementation step under the GENIUS Act to create a formal path for FDIC-supervised institutions to enter the regulated payment stablecoin market, the broader competitive landscape will hinge on forthcoming GENIUS Act rulemakings—particularly those addressing capital, liquidity, and risk management standards for PPSIs, which are expected next. The requirement that state stablecoin regulatory regimes be “substantially similar” to the federal framework effectively means that states can leverage a ready-made model off which to build their own stablecoin regulatory regimes.

**Federal Reserve Policy Statement on Section 9(13) of the Federal Reserve Act.** On December 22, 2025, the Federal Reserve [rescinded](#) its 2023 policy statement interpreting Section 9(13) of the Federal Reserve Act and issued a new policy statement on the scope of activities state member banks—both insured and uninsured—may engage in as principal. The new policy statement (i) replaces the rebuttable presumption that state member banks could generally engage only in activities permissible for national banks (unless permissible for state-chartered banks by federal statute or FDIC regulation), and (ii) articulates two guiding principles—“same activity, same risks, same regulation” and “different activity, different risks, different regulation”—to facilitate innovation while preserving safety and soundness. The new policy statement withdraws from the regulatory record the 2023 supplementary information addressing specific crypto-asset activities, thereby removing crypto-specific interpretive guidance and signaling that such activities will be evaluated under the Federal Reserve's general, risk-based supervisory principles rather than a categorical presumption of impermissibility. The new policy statement also provides guidance on how uninsured state member banks and uninsured state-chartered bank applicants for membership may seek to engage in activities as principal that are not permissible for insured state member banks. The policy is effective upon publication in the *Federal Register*.

- *Insights.* The principal beneficiaries of the new policy statement are uninsured state member banks and state-chartered institutions pursuing innovative or non-traditional activities, as the new policy replaces the 2023 rebuttable presumption with a principles-based, risk-focused framework and provides a clearer pathway for engaging in activities authorized under state law. Insured state member banks also benefit indirectly from the Federal Reserve's withdrawal of crypto-specific supplementary information and the elimination of a categorical presumption against “novel and unprecedented” activities, though such institutions remain subject to applicable statutory and FDIC regulatory constraints.

**Request for Information on Reserve Bank Payment Account Prototype.** On December 23, 2025, the Federal Reserve [published](#) an RFI on a Reserve Bank payment account prototype, seeking input on a special purpose Federal Reserve Bank account tailored to the risks and needs of institutions focused on payments innovation. The RFI describes a proposed “Payment Account” that would be distinct from a traditional Reserve Bank master account, intended solely for clearing and settling an institution's payment activity, and designed to pose limited risk to Reserve Banks and the payments system. The prototype includes features such as balance

caps, no interest on overnight balances, no discount window or intraday credit access, and streamlined Reserve Bank review, and would not alter existing legal eligibility for Federal Reserve accounts and services. Comments on the RFI are due February 6, 2026.

- *Insights.* The Payment Account RFI builds on Federal Reserve Board Governor Waller's earlier concept of a "payment account" as a "lower-risk" gateway to the Federal Reserve's payments infrastructure for eligible institutions, including those with innovative business models that may not require—or have faced barriers to—traditional master accounts. The Federal Reserve is soliciting detailed feedback on the Payment Account's structure, usage cases, risk mitigants (e.g., overnight balance limits and exclusion of certain services), and potential impacts on payment system safety and innovation. Although the RFI does not change eligibility criteria under the Federal Reserve Act (which includes national trust banks), it reflects a broader effort to adapt core Federal Reserve services to evolving payment system dynamics and support timely access to key rails for institutions focused on payment activities.

**OCC Proposal to Raise Asset Threshold for Heightened Standards.** On December 23, 2025, the OCC [issued](#) a notice of proposed rulemaking that would increase the average total consolidated assets threshold for application of the OCC's heightened standards to certain insured national banks, insured federal savings associations, and insured federal branches from \$50 billion to \$700 billion. If adopted, the proposal would significantly narrow the scope of institutions subject to heightened standards, reducing the number of covered institutions from 38 to eight.

- *Insights.* The proposal would most directly benefit mid-sized national banks and federal savings associations currently subject to heightened standards. By substantially raising the threshold, the OCC signals a renewed emphasis on regulatory tailoring and proportionality, aligning heightened standards more closely with systemic risk. The proposal would also reduce ongoing compliance and governance burdens for affected institutions, while leaving the most complex and systemically important banks subject to enhanced risk management, liquidity, and capital planning expectations.

**OCC and FDIC Withdrawal of Interagency Leveraged Lending Guidance.** On December 5, 2025, the OCC and FDIC [withdrew](#) their 2013 and 2014 interagency guidance and FAQs on leveraged lending and issued a joint interagency statement explaining the withdrawal. The agencies stated that the guidance and FAQs had become overly restrictive and clarified that banks should manage leveraged lending activities in accordance with general principles of prudent risk management applicable to commercial lending and other credit activities. The statement further notes that examiners will evaluate leveraged lending based on general safety and soundness standards, rather than the withdrawn guidance.

- *Insights.* The withdrawal of the decade-old leveraged lending guidance primarily benefits banks with leveraged lending portfolios by eliminating prescriptive thresholds and constraints that had been widely viewed as limiting banks' participation in leveraged loan markets, including loans to leveraged corporate borrowers and private-equity sponsored deals. Without the 2013 guidance and 2014 FAQs, banks should have greater discretion to apply enterprise-wide risk management principles to leveraged loan underwriting and

portfolio management, potentially restoring some competitive footing against nonbank private credit providers. At the same time, the shift places greater onus on banks to demonstrate sound credit risk practices under broader safety and soundness expectations, and underscores that supervisory scrutiny remains grounded in general risk-based standards rather than prescriptive leverage metrics. While the Federal Reserve did not join the FDIC and OCC in the withdrawal of the leveraged lending guidance, it is unlikely to limit the effect of the relief granted to national banks and state nonmember banks that operate under a holding company structure. As stated in the Federal Reserve's [Statement of Supervisory Operating Principles](#), "Federal Reserve supervisory staff should not conduct their own examination of [depository institution subsidiaries other than state member banks] unless it is impossible for the Federal Reserve to rely on their examinations or other supervisory work."

**OCC Updates Guidance on Venture Lending.** On December 5, 2025, the OCC also [issued](#) Bulletin 2025-45, updating its supervisory guidance on "venture loans"—commercial loans to companies in early, expansion, or late stages of corporate development. The bulletin provides insights into the OCC's supervisory approach, rescinds OCC Bulletin 2023-34, and articulates expectations that banks engaging in venture lending do so in a safe and sound manner consistent with the bank's risk appetite. The guidance emphasizes that banks should ensure venture lending activities are appropriately documented, underwritten, risk-rated, sufficiently reserved, and monitored, with strong board and management oversight reflecting the inherently higher credit risk profile.

- *Insights.* The revised guidance reflects the OCC's policy of not discouraging prudent venture lending when supported by robust risk management, signaling a shift from earlier caution toward broader commercial credit risk engagement. By rescinding the earlier bulletin, the OCC clarifies that venture loans can be part of a bank's portfolio provided they are governed by enterprise-wide risk principles commensurate with credit, liquidity, and concentration risk. National banks and federal savings associations that pursue venture lending should benefit from principles-based expectations that align with general safety and soundness frameworks, though they must demonstrate strong underwriting discipline and oversight. Community banks and less complex institutions should carefully assess whether venture lending fits within their risk appetite and capacity to manage potential higher default probabilities.

**Oversight of Prudential Regulators.** On December 2, 2025, the House Financial Services Committee held a [hearing](#) titled "Oversight of Prudential Regulators," at which senior officials from the Federal Reserve, OCC, FDIC, and National Credit Union Administration testified regarding supervisory and regulatory priorities, including regulatory tailoring, capital requirements, supervisory transparency and emerging risks. Members also focused on concerns regarding the use of reputational risk in supervision and potential regulatory drivers of debanking.

- *Insights.* The hearing underscored continued focus on reputational risk and debanking. The focus on reputational risk and the OCC's debanking report suggests growing alignment between congressional oversight and regulatory efforts to address perceived supervisory overreach, and indicates that debanking and access to financial services issues are likely to remain prominent in both regulatory reform initiatives and potential

legislative action. The hearing was followed closely by the [release](#) of the OCC's preliminary findings on debanking activities. The House Financial Services Committee also [released](#) a Staff Report focused on debanking in the digital assets industry and called for passage of the FIRM Act to codify that prohibition on considering reputational risk. With the comment period for the FDIC and OCC's [proposed rule](#) prohibiting consideration of reputational risk now closed, the agencies will likely continue to press forward by issuing a final rule.

## OTHER NOTABLE ITEMS

**Federal Reserve Releases Supervision and Regulation Report.** On December 1, 2025, the Federal Reserve [released](#) its Supervision and Regulation Report, highlighting, among other things, the Federal Reserve's supervisory focus on core and material financial risks and its efforts to tailor supervisory approaches based on institution size, complexity, business model, and risk profile. As part of this strategic shift, the report explains updates to the supervisory ratings frameworks and examination priorities to enhance transparency and effectiveness. The report also discusses recent regulatory developments and rulemakings affecting institutions.

**Vice Chair Bowman Identifies Priorities for Supervision and Regulation.** Vice Chair Bowman's December 2, 2025 [testimony](#) before the House Financial Services Committee highlighted the Federal Reserve's priority of tailoring supervisory and regulatory frameworks, particularly to reduce disproportionate burden on community banks, and modernizing the regulatory capital and supervisory framework for large banks. Key areas include continued reforms to stress testing transparency, the supplementary leverage ratio, the Basel III framework, and the G-SIB surcharge. She also discussed prospective regulation to clarify supervisory and enforcement standards, ongoing review of the CAMELS framework (including reducing subjectivity in the "M" component), and steps to ensure supervisors do not improperly influence banks' decisions on customer relationships.

**Federal Reserve Publishes Staff Manuals for Supervision of Largest, Most Complex Banks.** On December 18, 2025, the Federal Reserve [published](#) the first of several staff manuals for the supervision of the largest and most complex banks. According to the release, the staff manual has not been updated to reflect the recent name change of the Federal Reserve's program for the largest and most complex banks from LISCC to GSIB nor has it been amended to reflect the [Statement of Supervisory Operating Principles](#). Vice Chair for Supervision Bowman lauded the release as "another step in [the Federal Reserve's] efforts to improve transparency and public accountability for bank supervision." Additional manuals expected to be released by the Federal Reserve next year include the manuals for the large bank operating committee, capital and liquidity planning, recovery and resolution planning, the large bank rating program, enforcement actions, and the large bank risk identification system.

**Federal Reserve Request for Information on Future of Check Services.** On December 4, 2025, the Federal Reserve [issued](#) a Request for Information and Comment on the Future of the Federal Reserve Banks' Check Services, seeking public input on potential strategic changes to Reserve Bank check collection and processing services amid declining check usage and rising costs. Vice Chair for Supervision Bowman [issued](#) a statement dissenting from the RFI, expressing concern that it appears to favor discontinuation of check services to address the



growing problem of payments fraud, even though checks remain a significant payment mechanism. Responses to the RFI are due by March 9, 2026.

**FSOC Convenes Quarterly Meeting.** On December 11, 2025, the Financial Stability Oversight Council (FSOC) convened its quarterly meeting. According to the [readout](#), the FSOC received a briefing from Treasury staff on potential revisions to FSOC's interpretive guidance regarding nonbank financial company determinations and FSOC's analytic framework for financial stability risk identification, assessment, and response.

**FDIC Provides Update on IDI Resolution Planning for Large Banks.** On December 31, 2025, the FDIC [issued](#) an update on its insured depository institution (IDI) resolution planning framework, noting that it plans to propose amendments to the IDI Rule in 2026 to codify content requirement exemptions and incorporate lessons learned from 2025 submissions. For 2026, the FDIC outlined submission expectations for covered IDIs (CIDs), including adjustments to filing schedules and continued application of existing FAQs and waivers for certain content requirements. The FDIC also plans to conduct capabilities testing early next year to assess CIDs' abilities to populate virtual data rooms with key information to support resolution efforts. The guidance and proposed rule changes aim to align IDI resolution planning with operational priorities and reduce duplicative overlap with Title I planning where appropriate.

**OCC, FDIC Issue Statement Regarding the Status of Certain Investment Funds and Their Portfolio Investments for Purposes of Insider Lending Restrictions and Related Reporting Requirements.** On December 18, 2025, the OCC and the FDIC [issued](#) a joint statement clarifying supervisory expectations for OCC- and FDIC-supervised institutions regarding the regulatory status of certain investment interests for purposes of insider lending and related regulatory requirements. The statement rescinds the agencies' prior interagency statements issued annually since 2019 and provides that the current statement will remain in effect unless amended, superseded, or rescinded in writing. The agencies explained that the statement is intended to provide continued regulatory clarity pending the Federal Reserve's adoption of a final rule revising Regulation O to address the treatment of certain investment structures involving complex-controlled portfolio companies.

**OCC Proposals on Preemption.** On December 23, 2025, the OCC [issued](#) two notices of proposed rulemaking applicable to national banks and federal savings associations that offer escrow accounts in connection with real estate lending. The proposals would clarify the OCC's position that federal law preempts state laws and regulations that purport to dictate whether, and at what rate, interest must be paid on escrowed funds or that restrict the assessment of fees in connection with escrow accounts. The OCC stated that such state requirements interfere with the exercise of national bank and federal savings association powers under the National Bank Act and the Home Owners' Loan Act. The proposals would codify this preemption determination through amendments to the OCC's regulations and are intended to promote uniformity and reduce compliance burden for federally chartered institutions operating in multiple states. Comments on both proposed rules are due 30 days after publication in the *Federal Register*.

**OCC Continues Regulatory and Supervisory Tailoring Efforts for Community Banks.** On December 17, 2025, the OCC [issued](#) proposed supplemental guidance for a simplified strategic plan process for community banks' compliance with the Community Reinvestment Act (CRA).

Comments on the proposed supplemental guidance are due by February 20, 2026. The OCC also [announced](#) revisions to the asset-size threshold amounts used to define “small bank or savings association” and “intermediate small bank or savings association” under the CRA’s regulations.

**Remarks by Comptroller Gould at the Blockchain Association Policy Summit.** On December 8, 2025, Comptroller Jonathan Gould delivered [remarks](#) at the Blockchain Association Policy Summit, where he focused on the importance of reinvigorating the chartering of new banks as a core OCC function and a driver of competition, innovation, and financial system dynamism. Gould observed that de novo chartering had stagnated in the post-financial crisis period but noted that the OCC has received a significant uptick in applications in 2025, including from entities engaged in digital asset and novel technology activities. He emphasized that national trust banks have long been authorized to engage in nonfiduciary custody and safekeeping activities, and argued that permitting charter applicants to engage in such activities is consistent with longstanding OCC practice and statutory authority. He also reaffirmed the OCC’s commitment to merit- and statutory-based review of charter applications to strengthen the federal banking system’s capacity to evolve with financial innovation.

**OCC Releases Semiannual Risk Perspective.** On December 18, 2025, the OCC [released](#) its Semiannual Risk Perspective for Winter 2025, identifying credit, market, operational, and compliance risks as the primary risk themes facing national banks and federal savings associations. The report highlights rising operational and compliance risks, including an increase in threats from foreign state-sponsored actors and sophisticated cybercriminal groups targeting financial institutions, as well as continued challenges stemming from elevated levels and increasing sophistication of fraud and scams. The report emphasizes the importance of strong governance, risk management, and operational resilience as banks navigate these evolving risk dynamics.

**OCC Issuances: Rescissions.** On December 30, 2025, the OCC [announced](#) it identified for rescission 55 outdated or replaced OCC issuances published between 1983 and 2023 and 21 transmittal (or cover) bulletins issued between 2003 and 2023.

**OCC, FDIC, and State Attorneys General Seek Rehearing in DIDA Preemption Case.** The OCC, the FDIC, and attorneys general from 20 states filed amicus briefs urging the U.S. Court of Appeals for the Tenth Circuit to rehear its decision in *National Association of Industrial Bankers v. Weiser*, which addresses the scope of state opt-out authority under the Depository Institutions Deregulatory and Monetary Control Act of 1980 (DIDA). The case arises from Colorado’s decision to opt out of DIDA and enforce its state interest-rate caps on loans made to Colorado borrowers. After the district court enjoined Colorado from enforcing its rate caps against state-chartered banks located outside Colorado, the Colorado Attorney General appealed. The Tenth Circuit reversed, holding that DIDA’s opt-out provision applies to loans in which either the lender or the borrower is located in the opt-out state. In their amicus briefs, the OCC, the FDIC, and the states argue that DIDA’s opt-out provision applies only when the lender is located in the opt-out state, and not based on borrower location. The FDIC asserted that the Tenth Circuit’s interpretation imposes “significant financial and operational burdens on state-chartered institutions,” while the OCC warned that the decision would advantage national banks over state-chartered banks and “diminish the vibrancy of the dual banking system.” The participating states



similarly contended that the decision improperly interferes with other states' ability to regulate and support their own financial institutions.

**Call Reports: RFI on Regulatory Reporting Burden.** On December 1, 2025, the Federal Reserve, OCC, and FDIC [issued](#) an RFI on sources of regulatory reporting burden for institutions that file Call Reports. Responses to the RFI are due by January 30, 2026.

**FDIC Updates PPE List.** On December 22, 2025, the FDIC [released](#) an updated list (as of December 15, 2025) of companies that have submitted notices for a Primary Purpose Exception (PPE) under the 25% or Enabling Transactions test.

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:



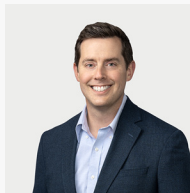
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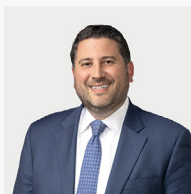
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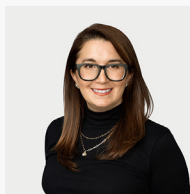
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