Testimony of

Hugh Carney

On Behalf of the

American Bankers Association

Before the

Financial Institutions Subcommittee

Of the

House Financial Services Committee

September 9, 2025

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Chairman Barr, Ranking Member Foster, and Members of the Subcommittee, thank you for the opportunity to testify at today's hearing entitled: "Promoting the Health of the Banking Sector: Reforming Resolution and Broadening Funding Access for Long-Term Resilience." My name is Hugh Carney, Executive Vice President at the American Bankers Association (ABA). The ABA is the voice of the nation's $25 trillion banking industry, which is composed of small, regional and large banks that together employ approximately 2.1 million people, safeguard $19.7 trillion in deposits and extend $13.1 trillion in loans.

My remarks will focus on four proposed changes to the existing regulatory regime that will make regulations more predictable, transparent, and risk-focused while preserving the vibrancy and competitiveness of the American banking system: (1) indexing regulatory thresholds; (2) modernizing the resolution framework; (3) updating funding statutes; and (4) recalibrating capital standards.

I. Indexing Regulatory Thresholds

For decades, many regulatory thresholds have stayed fixed in nominal terms, even as the economy has grown. These thresholds were typically set during very different economic conditions and have not been updated to reflect significant changes in the banking sector. As a result, thresholds that once reflected meaningful distinctions in size, complexity, or risk now capture institutions that were never intended to be subject to more burdensome regulatory requirements.

For example, heightened audit requirements established by the FDIC become applicable when a bank's assets reach $500 million, a threshold that was set in 1993. At that time, these more stringent requirements only applied to 7 percent of banks in the U.S. Today, this requirement applies to 41 percent of banks. Dozens of thresholds, from stress testing to resolution planning, have drifted the same way.

This regulatory "drift" creates three distinct problems:

1. Burdens institutions never meant to be captured.
   Over time, economic growth and inflation erode the real value of thresholds, pulling more institutions into regulatory regimes that were never intended to apply to them. Banks with limited complexity or risk profiles may be forced to shoulder costs and reporting burdens designed for much larger peers.

2. Discourages organic growth.
   Institutions manage their balance sheets defensively to avoid crossing arbitrary thresholds. In some cases, this distortion discourages organic growth and instead encourages consolidation as the only viable means to absorb new regulatory burdens.

3. Dilutes regulatory resources.
   Static thresholds also carry consequences for regulators. An expanding pool of covered banks beyond the intended scope dilutes regulatory efforts and the ability of agencies to focus on the largest sources of risk. These outcomes run counter to the policy objectives Congress and regulators have set.

The solution is indexing. ABA recommends, ***after a one-time adjustment to correct past inaction***, linking asset-based thresholds to nominal GDP, which reflects the size of the economy and the scale of the banking sector. Indexing is a low-cost, high-impact reform that improves transparency, reduces arbitrary burden, and allows regulators to focus where the risk really is.

If the FDIC's $500 million audit threshold had been indexed to nominal GDP, it would be $2.2 billion today, restoring its original scope. While regulators have recognized the importance of revisiting asset triggers (such as for the 18-month exam cycle; see Figure 1), very few supervisory asset thresholds are regularly adjusted for growth. We applaud the FDIC's recent proposal to index some of its thresholds and urge other policy makers to consider the issue. We also commend Governor Bowman and Acting FDIC Chairman Hill's statements in support of this commonsense effort.[1] And, while this issue is particularly important for Congress to consider

18-month exam cycle: Asset threshold adjustments

Effective date	Asset threshold
8/28/1998	$250 million
9/25/2007	$500 million
1/17/2017	$1 billion
1/17/2019	$3 billion

Source: ABA analysis

[1] Gov Bowman: Other examples of regulations that must take into account the impact of economic growth and inflation include elements of the G-SIB surcharge, as well as regulatory thresholds that define the broader categories of banks. Thresholds like the $10 billion definition of a "community bank" and the $700 billion in total assets and $75 billion for cross-jurisdictional activity separating Category II and III banks determine which regulatory requirements apply to each group. One way to prevent the original calibration from becoming divorced from the foundational policy decisions over time is to index the relevant G-SIB surcharge coefficients and regulatory thresholds to nominal gross domestic product. While approaches like indexing thresholds and requirements can

since some thresholds are set by statute, ABA continues to encourage the regulators to act—adjusting regulatory thresholds for GDP to both right-size the regulatory framework and promote economic growth and opportunity.

II. Modernizing the Resolution Framework

Resolving failed banks is one of the critical roles played by the FDIC. When the FDIC is appointed receiver of an insured bank that fails, it handles payment of depositors' insured deposits, collections on the failed bank's assets, and payment of all other creditor claims. In addition, the FDIC works to recover its outlays from paying insured deposits, and anything remaining after creditors are paid is distributed to the bank's equity holders. The FDIC tries to make insured deposits available to customers of the failed bank as quickly as possible. In the FDIC's history, no depositor has ever lost even a penny in insured deposits.

The FDIC can use several approaches to resolve a bank, including purchase and assumption transactions and standing up a bridge bank. Timing and cost are key drivers of which option it chooses. The FDIC is required by law to use the method expected to meet its deposit insurance obligations with respect to the failed bank at the least cost to the Deposit Insurance Fund ("least cost test").

The bank failures of 2023 showed that resolution rules must evolve. Earlier this year, ABA formed a taskforce focused on insurance and resolution issues. The task force recommends three resolution reforms:

- Broaden the least-cost test so regulators can consider costs that a particular bank resolution may impose on society, including potential costs of contagion and impacts on relevant communities.
- Allow greater community bank participation in failed-bank resolutions through consortium bids and flexible evaluation standards.
- Improve transparency in the bidding process by publishing clear qualification criteria and timelines.

These changes will help maintain stability, preserve local access to financial services, and reduce long-term systemic costs.

Broadening the Least-Cost Test

As currently practiced, the least cost test does not permit the FDIC to consider other costs that a particular bank resolution approach may impose on society. Specifically, different resolution

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make our regulations more robust and durable over time, we should also acknowledge the essential role of supervision as a tool to promote safety and soundness, and financial stability. Just as our capital requirements are intended to operate in a complementary manner, so do regulation and supervision act in a complementary way.

https://www.federalreserve.gov/newsevents/speech/bowman20250623a.htm

Hill: https://www.fdic.gov/news/speeches/2025/view-fdic-update-key-policy-issues#footnote31 methods may have different impacts on impairing the stability of other insured institutions or jeopardizing other institutions' future prospects.

As the failure of Silicon Valley Bank (SVB) made clear, the stress on a particular bank may be transmitted through the financial system to other insured banks and other financial market participants. To the extent other insured banks have begun to experience such stress, it implies that their own failures may produce additional losses for the Deposit Insurance Fund (DIF). If those potential losses can be estimated, the choice of a resolution approach that minimizes them may be the least costly option from the perspective of the DIF as a whole, even if it increases incrementally the cost of resolving the bank most at risk and likely to fail first. ABA recommends that Congress explicitly recognize this more informed and nuanced approach, confirming that the FDIC should take account of the impact of its resolution strategy on other insured banks.

Allowing Greater Community Bank Participation in Failed-Bank Resolutions

Under the least cost test as currently applied, the extent to which uninsured depositors are protected in a resolution depends on the bids received for the failed bank, some of which may include an offer to assume some or all uninsured deposits. ABA believes that the requirement to minimize the cost of a given bank failure to the Deposit Insurance Fund sometimes exacerbates competitive disparities by effectively prohibiting community banks from purchasing a bank that has failed in their community, or pieces thereof. This can create harmful effects for local communities, for example, when deposits and financial services leave the local area or are provided at increased cost.

ABA recommends that Congress direct the FDIC not only to factor potential community impact into the considerations driving a resolution strategy in each case but also to provide the FDIC with the power to balance the least cost test for community bank failures with options to mitigate negative impacts on the relevant communities.

One way to achieve this is by allowing an exception to the least cost test for a resolution method that would preserve financial services essential to communities or otherwise meet the convenience and needs of the community in the specific case. For example, this would allow the FDIC to carve out pieces of a failed institution franchise within specific footprints, markets or geographic areas for bidding by acquirers who might not wish to bid on the entire franchise of the failed bank. Moreover, given the value of deposits, which are the lifeblood of banks, smaller banks would be given the option of acquiring any deposits that are unwanted as the failed bank is being unwound. This approach could increase the likelihood of maintaining a higher level of banking services in the communities in question.

Improving Transparency in the Bidding Process by Publishing Clear Qualification Criteria and Timelines

FDIC-managed asset sales are currently open to investors who complete a Prospective Bidder Information Form, asserting their interest and eligibility to purchase assets of failed financial institutions from the FDIC. Eligibility is determined on a transaction-specific basis, with some transactions requiring more capital than others.

By publishing objective qualification standards associated with asset sales of failed institutions, the FDIC would provide all potential investors with clarity as to what specific assets they are able to bid on, or what objective criteria they would need to meet, to qualify as a bidder for a given portfolio of assets. To further provide expedited access to asset sales to smaller institutions during an active resolution, a pre-vetted list of community banks (and other bidders) could be created by the FDIC.

Separately from the qualification standards associated with bidders, following a successful auction sale, the FDIC could publish the list of bidders permitted to engage in FDIC-managed asset sales to satisfy all investors as to the fairness of the bidder qualification process and the competitiveness of the auction. For example, by allowing consortiums of community banks to participate in resolution-associated auctions, the FDIC would increase the diversity of institutions permitted to bid on failed institution assets. An increase in the number and type of bidders would increase the competitiveness of auctions and quell equity concerns among depository institutions and the public as to who is invited to participate in FDIC managed asset sales.

Moreover, for some bank asset portfolios and deposit franchises, a single bank (acquiring both the bulk of assets and the entire deposit franchise) may not be the most advantageous solution, if breaking up portfolios and/or deposit franchises would produce more aggressive bids than limiting bidders to those interested in acquiring the whole bank. Under some market conditions, asset purchasers even from outside the depository institutions universe may bring more competition to asset auctions and lower the ultimate cost of resolution, as well as reducing reliance on a more limited universe of whole-bank bidders.

If the application of the least cost test is refined as discussed above, these options could more frequently become the best choice for resolutions, but even under the current approach to the least cost test, they could be attractive, perhaps increasingly so as nonbank investors become accustomed to bidding on failed bank assets.

Increasing the options in approaches to resolution simply builds on approaches already allowed under applicable law. ABA emphasizes that failed bank resolutions implicate multiple policy goals and multiple economic and community interests. We urge Congress and the FDIC to work toward a framework flexible enough to take appropriate account of those goals and interests that go beyond resolution costs alone.

III. Ensuring Access to Stable Funding

It is critical that banks have access to stable funding sources and that statute, regulations and supervision related to funding and liquidity are aligned with modern banking, the marketplace for financial services, and reflect actual risk and risk management practices. One example of a statute not aligned with modern banking is Section 29 of the Federal Deposit Insurance Act, which has not been updated in over 30 years. Section 29 was enacted in 1989 to prevent *less than well-capitalized banks* from attempting to grow their way out of trouble by raising expensive, rate dependent funding. Today, technology and market changes have made it difficult to differentiate the funding Congress meant to restrict weak institutions from holding and there is little evidence that the "classic" types of brokered deposits pose the same risks today as they did in the 1980s. Since Congress couldn't have contemplated the internet, smart phone, and mobile banking in 1989, the statue has become outdated and vulnerable to a significant misinterpretation of what constitutes a "deposit broker."

Section 29 doesn't define entities as "deposit brokers," rather the definition primarily relies on FDIC interpretation. Since its enactment, there have been significant statutory changes that, when combined with significant technological advances, have reconfigured markets, spurred new services and banking models, and led to an increase in the types of mechanisms that banks use to gather deposits. From 1989 to 2020, significant gaps developed between the FDIC's interpretation of Section 29, what Congress intended to capture, and the actual risks posed by deposits scoped into the definition. The term brokered deposit implies a volatile deposit that may be expensive, flighty, and convey limited value to the Bank. However, many of the deposits that were classified as "brokered deposits" under the FDIC's regulations, or that banks treated as "brokered deposits" due to the lack of clarity in those regulations and existing FDIC guidance, pose little, if any, enhanced risk. The result of an overly broad interpretation was that even *well-capitalized banks* were strongly discouraged from holding otherwise stable sources of funding by the prospect of higher deposit insurance assessments, adverse treatment under liquidity and capital regulations, unnecessary and increased scrutiny from bank examiners, and negative treatment by credit rating agencies and bank counterparties.

In 2019, then FDIC Chairman Jelena McWilliams revised the framework through which the FDIC identifies "deposit brokers" after extensive review and public comment. The FDIC issued a rule in 2020 that aligns more closely with the original purpose of Section 29 of the Federal Deposit Insurance Act and does not stigmatize modern affiliations and deposit gathering techniques. Shortly after issuing the final rule, Chairman McWilliams recommended repealing Section 29 and replacing it with an asset growth restriction. ABA recommends Congress adopt this approach through legislation.

Repealing Section 29 of the Federal Deposit Insurance Act would remove an outdated restriction that no longer reflects how funding markets, fintech partnerships, and customer acquisition channels function, even after partial modernization efforts. This repeal would align prudential oversight with risk-based supervision, improve competitive neutrality, and enhance liquidity resiliency without sacrificing safety and soundness. Restricting asset growth at troubled institutions —instead of trying to apply a regulatory framework created in the 1980s to modern banking and technology — enhances the banking agencies' ability to identify and mitigate unsafe and unsound banking practices by allowing them to focus on a bank's entire balance sheet, rather than the presence of an arbitrary type of deposit. Moreover, it does not penalize well-capitalized banks from using modern technologies to serve their customers and engage in the business of banking.

IV. Recalibrating Capital Standards

Finally, it is important to recognize that capital rules are not just bank rules. They directly affect borrowers, businesses, and the functioning of capital markets. That is why the 2023 Basel III

Endgame proposal generated such strong public concern. Miscalibrated capital standards can raise borrowing costs, reduce credit availability, and restrict liquidity in the economy.

As agencies reconsider the Basel III Endgame, ABA urges the use of a capital-neutral framework that removes excess gold plating that has been layered on top of the international norms and removes overlap between capital regulations and the stress testing framework. Our regulatory capital framework should be simple, transparent, and efficient—and in crafting this framework, the regulators must ensure that banks are not unfairly penalized for making or servicing mortgages or disincentivized from participating in community projects because of unduly harsh regulatory requirements. We look forward to continuing to work with the regulators on these important principles.

In addition, we encourage rapid finalization of the proposed changes to the Enhanced Supplementary Leverage Ratio (eSLR) to restore its role as a backstop. In 2014, the banking agencies adopted a final eSLR rule that substantially increased the leverage capital requirements for the eight U.S. GSIBs. The stated intent of the agencies was to maintain the role of the leverage ratio as a backstop to risk-based capital requirements, an essential function, which ABA supports.

For some institutions, however, the formulation of the eSLR has frequently proved in practice to be the governing or controlling constraint. As the Federal Reserve recently noted, from Q2 2021 to Q4 2024, the SLR requirement was the binding tier 1 capital requirement 60 percent of the time, on average, for seven out of the eight GSIB BHCs and was binding 87 percent of the time, on average, for their "major" depository institution subsidiaries.

As currently calibrated, the eSLR rule creates incentives for banks to reduce participation in lower risk and lower-return businesses—such as Treasury market intermediation. This trend has been exacerbated by structural shifts in the macroeconomy, as well as by the evolution of liquidity regulations. Banks now carry materially more high-quality liquid assets on their balance sheets, such as cash and U.S Treasury securities, in part because of both shifts in credit demand generally and increasing U.S. government borrowing needs.

Moreover, we encourage revisiting leverage requirements more generally. The vast majority of banks are not subject to the SLR at all, and if future broad-based relief is to be considered, the tier 1 leverage ratio should be reviewed to ensure that it is functioning as intended. Accordingly, attention going forward should be extended to the broader leverage ratio framework. ABA strongly supports a broader holistic review of leverage ratio requirements and appropriate future rulemaking to ensure that all leverage ratios function as a backstop to risk-based capital requirements and not a binding constraint. This will provide parity of treatment across leverage ratios.

It is well recognized by policymakers that when leverage ratios bind, it can discourage low risk and relatively safe activities compared to the riskiest activities. ABA has long argued that low-risk and riskless assets, such as reserves on deposit at the Federal Reserve, cash, and U.S. Treasury securities, should be excluded from leverage ratio calculations. Their inclusion can disincentivize banks from engaging in market-stabilizing activities when those functions are most needed. The agencies should consider future proposals excluding such assets from the leverage ratio calculations for all banks. Such proposals would align with leverage ratios' intended backstop role. Similarly, the agencies should exercise their existing statutory authority through a future rulemaking to reduce the community bank leverage ratio (CBLR) from 9 percent to 8 percent. We share Federal Reserve Vice Chair Bowman's views that this change would "not only allow more community banks to adopt the framework but also increase balance sheet capacity for all CBLR firms, facilitating additional support for local economies through lending."

Finally, we recommend recognizing mutual capital certificates as capital without unnecessary compliance burdens. Existing law and regulations recognize these instruments as an appropriate alternative for mutual institutions to raise capital in a form consistent with their corporate structure that provides a functional loss buffer equivalent to corporate equity. Gaining regulators' approval for specific transactions has, however, sometimes proven unnecessarily time-consuming and inflexible.

This balanced approach maintains strong capital standards while supporting economic growth.

Conclusion

Taken together, the four proposed changes to the existing regulatory regime described in my testimony—indexing, modernizing resolution standards, updating funding policy, and recalibrating capital standards—will make the financial system safer, more competitive, and better equipped to serve customers and communities.

Thank you once again for the opportunity to testify. I look forward to answering your questions.