AMERICAN BANKERS ASSOCIATION, ASHTYN LANDEN

Proposal and Comment Information

Title: EGRPRA: Rules of Procedure; Safety and Soundness; and Securities, OP-1828

Comment ID: FR-0000-0117-03-C20

Subject

Docket No. OP–1828: submission of ABA EGRPRA Comment

Submitter Information

Organization Name: American Bankers Association

Organization Type: Organization

Name: Ashtyn Landen

Submitted Date: 03/11/2025

Good afternoon,

The American Bankers Association's EGRPRA comment letter is attached (Docket No. OP–1828). Please let me know if you have any questions.

Best,

Ashtyn Landen
Senior Director, Prudential Regulation
American Bankers Association
202-663-7533
alanden@aba.com

American Bankers Association

Ashtyn Landen
Senior Director, Prudential Regulation
202-663-7533
alanden@aba.com

March 11, 2025

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave, NW
Washington, DC 20551

James P. Sheesley
Assistant Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Chief Counsel's Office
Office of the Comptroller of the Currency
400 7th Street, SW
Washington, DC 20219

Re: Comment on Docket ID OCC-2023-0016, Second Published Request for Comments Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996

Dear Sir or Madam,

The American Bankers Association (ABA)[1] appreciates the opportunity to provide comments on the regulatory burden review under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA).[2]

As required by EGRPRA, the federal banking agencies (Agencies)[3] must review their regulations at least every ten years to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions. This process includes providing public notice, gathering comments on specific regulatory categories, and ultimately producing a report for Congress.[4] This report should summarize the key regulatory burdens raised, assess their validity, and recommend whether those issues are best addressed by regulation or legislation.[5]

ABA supports the goals and purpose of the EGRPRA and strongly encourages the Agencies to use this third decennial review as an opportunity to provide meaningful regulatory relief for banks, enabling them to better serve their customers. Although ABA provided detailed

---

[1] The American Bankers Association is the voice of the nation's $24.1 trillion banking industry, which is composed of small, regional and large banks that together employ approximately 2.1 million people, safeguard $19.2 trillion in deposits and extend $12.7 trillion in loans.

[2] Economic Growth and Regulatory Paperwork Reduction Act, 89 Fed. Reg. 99,751 (Dec. 11, 2024).

[3] The current EGRPRA review includes regulations issued by the Federal Financial Institutions Examination Council, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the Board of Governors of the Federal Reserve System. However, ABA believes it should also include rules issued by the Bureau of Consumer Financial Protection (CFPB) and the Financial Crimes Enforcement Network (FinCEN) to address a broader range of regulatory challenges impacting banks.

[4] *See* 12 USC § 3311.

[5] *Id.*

Ashtyn Landen
Senior Director, Prudential Regulation
202-663-7533
alanden@aba.com

recommendations in previous EGRPRA reviews, few were adopted by regulators.[6] In response, ABA is now focusing on a broader goal: removing unnecessary regulatory burdens, a priority shared by both regulators and the banking industry. The recommendations and examples below regarding rules of procedure and safety and soundness issues require immediate attention, but they also point to a broader underlying issue. We encourage the Agencies to use the examples below to identify broader rules and requirements that hinder, rather than help, banks in effectively serving their customers.

I. Specific Regulation Comments

a. Liquidity Risk (12 CFR Part 50)

ABA and its members recognize that robust liquidity risk measurement, monitoring, and management are essential to ensuring both individual bank resilience and the stability of the U.S. financial system. We strongly support efforts to ensure that all banks have access to sufficient and readily available liquidity, both during normal business operations and in times of stress.

To achieve this, the Liquidity Coverage Ratio (LCR) and Net Stable Funding Ratio (NSFR), (together, the Liquidity Risk Measurement Standards), must reflect realistic outflows and recognize the diverse funding sources covered banks in times of stress. The Agencies recently updated their liquidity guidance[7] to encourage all banks to take steps to ensure they are operationally ready to access the discount window when needed. The Agencies should also update existing liquidity and resolution requirements to allow banks to appropriately recognize the Discount Window, and other facilities such as Federal Home Loan Bank (FHLB) lines and the Standing Repurchase Agreement (Repo) Facility**,** as sources of liquidity. This includes recognition in the LCR, Internal Liquidity Stress Testing (ILST), and resolution planning**.**

b. Heightened Standards Guidelines (12 CFR Part 30, Appendix D)

The Heightened Standards Guidelines should be recalibrated to appropriately distinguish between regional banks and large, systemically important financial institutions to ensure that regulatory expectations are proportionate to an institution's risk profile and systemic footprint. While heightened standards play a crucial role in strengthening risk governance and resilience, applying a one-size-fits-all approach can place an undue burden on regional banks. For instance, liquidity risk management, resolution planning, and board governance requirements should be structured to reflect the differences in complexity, operational scale, and interconnectivity of an institution.

---

[6] *See* ABA's First 2014-2015 EGRPRA Comment Letter at Docket FFIEC-2014-0001-0034; https://www.regulations.gov/comment/FFIEC-2014-0001-0034; ABA's Second 2014-2015 EGRPRA Comment Letter at Docket FFIEC-2014-0001-0077; https://www.regulations.gov/comment/FFIEC-2014-0001-0077; ABA's Third 2014-2015 EGRPRA Letter at Docket FFIEC-2014-0001-0037; https://www.regulations.gov/comment/FFIEC-2014-0001-0037; and ABA's Fourth 2014-2015 EGRPRA Letter at Docket FFIEC-2014-0001-0126; https://www.regulations.gov/comment/FFIEC-2014-0001-0277.

[7] Addendum to the Interagency Policy Statement on Funding and Liquidity Risk Management: Importance of Contingency Funding Plans https://www.fdic.gov/news/press-releases/2023/pr23057a.pdf.

Ashtyn Landen
Senior Director, Prudential Regulation
202-663-7533
alanden@aba.com

To address this, clearer guidance and tailored expectations should be provided to ensure that regulatory standards are calibrated in a way that promotes safety and soundness without imposing disproportionate costs. Similarly, heightened operational resilience requirements, such as those concerning third-party risk management, should differentiate between banks with global operational dependencies and those that primarily operate in domestic markets. Additionally, capital and liquidity requirements under the heightened standards should be reviewed to ensure they align with an institution's actual risk exposure.

c. Definitions Related to the Financial Stability Oversight Council (12 CFR Part 242)

We recommend updating definitions related to the Financial Stability Oversight Council to reflect current market practices and risks. For example, definitions should account for the evolving role of non-bank financial institutions, such as hedge funds, non-bank market markers, and private equity firms, as their influence on market liquidity and systemic stability has grown significantly. Additionally, the rise of fintech firms and digital assets introduces new complexities that the existing framework does not fully address. The increasing reliance on central clearing counterparties and the expansion of non-traditional lending models also warrant a reassessment of regulatory definitions to ensure they capture emerging risks. Ensuring consistency with other regulatory frameworks and international financial stability standards is necessary to prevent duplicative oversight and reduce confusion for market participants.

d. Enhanced Prudential Standards Risk Committee Requirements for Certain Bank Holding Companies (12 CFR Part 252 Subpart C, Regulation YY)

ABA urges the Agencies to adopt a more tailored approach to risk committee requirements for bank holding companies (BHCs) to better align regulatory expectations with an institution's size, complexity, and risk profile. The current framework imposes significant governance burdens on mid-sized institutions, creating disproportionate compliance costs without a corresponding supervisory benefit. To address this imbalance, the Agencies should consider refinements that provide flexibility in governance structures while ensuring that risk oversight remains effective.

Maintaining adaptability in how BHCs establish and structure their risk committees would allow institutions to implement governance frameworks that are appropriate for their unique risk exposures and business models. By refining these requirements, regulators can enhance the effectiveness of risk oversight while reducing unnecessary burdens on banks that do not warrant heightened prudential scrutiny.

e. Resolution Plans (12 CFR Part 360)

While ABA and its members recognize the importance of robust resolution planning to promote financial stability, the current framework would benefit from greater clarity, coordination, and

Ashtyn Landen
Senior Director, Prudential Regulation
202-663-7533
alanden@aba.com

proportionality. Specifically, the two U.S. resolution planning frameworks, the IDI Rule[8] and the 165(d) Rule[9], should be aligned to complement each other. A resolution plan submitted under Section 165(d) already addresses the treatment of an IDI in a resolution scenario and incorporates key elements that could be harmonized across both frameworks. Given the FDIC's responsibility for both rules, it should reduce duplicative requirements and improve efficiency by ensuring alignment. This includes, for example, FDIC ensuring that they align their capabilities testing approach with testing under Title I. See additional examples in ABA's response to the 2023 Notice of Proposed Rulemaking (NPR).[10]

The current process for IDI resolution planning imposes a continuous cycle of full submissions, interim supplements, material change notices, capabilities testing, and engagement. This volume of requirements overwhelms both FDIC staff and IDIs with excessive details rather than strengthening core resolution planning. Overlapping mandates can impede institutions' ability to respond thoughtfully to feedback and enhance resolution strategies. The FDIC should streamline these processes to ensure resolution planning remains a meaningful exercise rather than a compliance-driven burden.

The IDI Rule should not impose conflicting or redundant requirements on institutions subject to both frameworks. IDIs and their parent organizations invest significant time and resources in planning, testing, and governing resolution capabilities. The FDIC should provide additional clarity to ensure IDIs can effectively manage these requirements without unnecessary duplication.

Finally, the FDIC should conduct a comprehensive impact assessment to evaluate the information collected through resolution plans, eliminate duplicative reporting, and ensure regulatory expectations are aligned. Updates to the framework should be based on clear, data-driven justifications that demonstrate the benefits of new requirements outweigh the costs. A measured and transparent approach would prevent unnecessary disruptions while ensuring that resolution planning remains a practical and effective tool for maintaining financial stability.

f. Extension of Credit by Federal Reserve Banks 12 CFR Part 201 (Regulation A)

ABA recommends that the Federal Reserve review and clarify policies under 12 CFR Part 201 (Regulation A) to enhance the accessibility and utility of the Discount Window. Clearer guidance

---

[8] FDIC, Resolution Plans Required for Insured Depository Institutions With $100 Billion or More in Total Assets, 89 Fed. Reg. 51208 (July 9, 2024) (codified at 12 C.F.R. pt. 360).

[9] Section 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), as amended by the Economic Growth, Regulatory Relief, and Consumer Protection Act, 12 U.S.C. § 5365(d).

[10] *See* ABA's Comment Letter regarding Resolution Plans for Insured Depository Institutions With $100 Billion or More in Total Assets; Informational Filings for Insured Depository Institutions With at Least $50 Billion But Less Than $100 Billion in Total Assets, (RIN 3064–AF90), https://www.fdic.gov/system/files/2024-06/2023-resolution-plans-required-idi-100-billion-more-total-assets-3064-af90-c-010.pdf.

Ashtyn Landen
Senior Director, Prudential Regulation
202-663-7533
alanden@aba.com

on Discount Window usage would help ensure that financial institutions can incorporate it more effectively into their liquidity risk management strategies. Additionally, we encourage greater coordination between the Federal Reserve and other regulatory Agencies to integrate discount window policies into broader liquidity risk management frameworks. Such coordination would improve the consistency of supervisory expectations, reduce the stigma associated with Discount Window borrowing, and strengthen the overall resilience of the financial system.

g. Mutual Capital Certificates (12 CFR § 163.74)

To better reflect the current regulatory landscape and the recent approvals and usage of Mutual Capital Certificates (MCCs), 12 CFR § 163.74 should be amended to provide greater clarity and consistency for mutual savings associations seeking to raise capital. First, the regulation should explicitly recognize MCCs as a Tier 1 and Common Equity Tier 1 (CET1) capital instruments, ensuring regulatory certainty when these instruments are issued in accordance with OCC approvals. Additionally, the rule should broaden permissible issuance conditions by eliminating overly restrictive language that requires case-by-case approvals, instead allowing issuance under standardized conditions, such as those outlined in past approvals. Additionally, we recommend that OCC modify the rule to allow for variable payments to MCC holders based on non-cumulative current earnings.

To streamline the approval process, the OCC should establish clear, standardized criteria for MCC issuances, reducing the need for ad hoc approvals. Additionally, the OCC should clarify the treatment of MCCs in stress testing and capital planning by ensuring these instruments are formally incorporated into capital adequacy frameworks. Aligning the treatment of MCCs with other prudential standards would enhance consistency with broader regulatory expectations. Given recent precedents demonstrating the viability of MCCs as a capital tool, these changes would reduce regulatory uncertainty, encourage responsible capital formation, and support the resilience of these institutions.

h. Indexing Regulatory Thresholds

One of the fundamental purposes of EGRPRA is to identify outdated, unnecessary, or unduly burdensome regulations. Static regulatory thresholds exemplify this issue, as they fail to reflect economic realities and inadvertently subject banks to compliance requirements that were originally intended for much larger institutions. As inflation drives nominal increases in asset size, deposit volume, and other financial metrics, more banks are being swept into regulatory categories that do not align with their actual risk profiles. This creates an unintended burden that limits banks' ability to efficiently serve their customers and communities.

Thresholds that trigger heightened regulatory requirements, such as those tied to stress testing, resolution planning, and capital requirements, have not been adjusted for inflation, subjecting more banks to disproportionate compliance obligations. If left unaddressed, this misalignment will continue to constrain economic growth, limit competition, and increase compliance costs without corresponding risk-based justifications.

As part of this EGRPRA review cycle, the Agencies should identify and update static regulatory thresholds to ensure they remain appropriate in the current economic environment. Implementing

Ashtyn Landen
Senior Director, Prudential Regulation
202-663-7533
alanden@aba.com

automatic adjustments tied to reliable economic indicators would ensure that regulatory requirements remain aligned with their original intent, promote a more equitable and efficient banking environment, and reduce unnecessary burdens on financial institutions. By modernizing these thresholds, regulators can strengthen the fairness and effectiveness of the supervisory framework, ultimately benefiting banks, their customers, and the broader economy.

II. Conclusion

ABA looks forward to working with the Agencies to find ways to reduce regulatory burden consistent with the shared goal of ensuring that bank operations are conducted in a safe and sound manner while enhancing the ability of banks to serve their customers. Should you have any questions, please do not hesitate to contact the undersigned at alanden@aba.com or (202) 663- 7533.

/s/

Ashtyn Landen
Senior Director, Prudential Regulation
American Bankers Association