U.S. CONGRESSMAN

FRENCH HILL

PROUDLY SERVING *the* 2ND DISTRICT *of* ARKANSAS

Rep. French Hill's Banking Principles – "Make Community Banking Great Again"

<u>Regulatory Fairness, Transparency, and Right-Sizing</u>

- The Federal prudential regulators should not be able to order institutions to terminate a customer's account without a material reason for doing so in order to reverse the weaponization of the government as demonstrated by Operation Choke Point. This political targeting has continued under the Biden-Harris Administration to go after industries like firearms and digital assets; Congress should fully investigate the conduct of agency personnel to find if their actions and policies were consistent with applicable laws, regulations, and policy, while the Trump Administration should officially halt and reverse this policy.

- Climate stress testing should be optional for financial institutions and prohibited from being used in connection with the setting of prudential capital requirements. Instead of creating separate and unique climate-specific regulatory mandates, climate should be considered within existing frameworks such as credit and operational risk assessments, which prevents the need for overlapping and prescriptive regulatory measures.

- The concept of tailoring should be re-established in prudential regulation and supervision by requiring federal prudential regulators to (1) tailor their actions based on the capital structure, risk profile, complexity, financial activities, business model, and size of the institution; and (2) conduct a comprehensive review of their compliance with the statutory mandate for regulatory tailoring under S. 2155, and to remedy any noncompliance.

- The Federal prudential regulators should be open to innovation in a way that is consistent with safety and soundness and provide clear supervisory expectations to financial institutions about their third-party relationships including with financial technology companies. This requires the agencies to be equipped with the necessary technical skills and expertise in order to understand and work with their supervised entities.

- The Federal prudential regulators should conduct a review periodically on the cumulative impact of their regulations.

- U.S. engagement with intergovernmental regulatory bodies like the Basel Committee and the Financial Stability Board should be reformed to reconsider who represents the United States at those meetings and require notice and comment on any future proposals being considered by the U.S. financial regulators.

- There should be more fairness, accountability, and transparency in the bank examination process, including a new process for institutions to appeal supervisory determinations, similar to the approach taken by the Fair Audits and Inspections for Regulators' (FAIR) Exams Act, which was introduced as H.R. 8071 in the 118th Congress.

- The timing of supervisory examinations should be coordinated between federal and state regulators, including the Consumer Financial Protection Bureau (CFPB), to streamline the exam cycle for individual institutions and reduce the compliance burden on smaller institutions.

- The $10 billion threshold for financial institutions subject to the CFPB supervisory authority under the Dodd-Frank Act should be raised and indexed to inflation.

- The consolidated asset threshold, below which well-managed and well-capitalized banks qualify for an 18-month examination cycle instead of a 12-month cycle, should be raised.

- The community bank representative on the Federal Reserve Board of Governors should play a more active role in the supervision and regulation of community banks, and work with interagency coordinating bodies like the Federal Financial Institutions Examination Council (FFIEC).

- The federal prudential regulators should amend the Capital Adequacy, Asset Quality, Management, Earnings, Liquidity, and Sensitivity to Market Risk (CAMELS) rating system, including the relative weight of each category and the establishment of objective measures to determine the evaluation of each CAMELS component and how they make up the composite rating.

- The Federal Deposit Insurance Corporation (FDIC) should modernize Call Report data for banks based on deposit type, size, mean, median, and duration, and the inclusion of disaggregated fraud losses.

- The Federal prudential regulators and other appropriate agencies should jointly submit a plan to Congress to address the surge in mail theft-related check fraud and debit card fraud at the point of sale, which poses a threat to public safety and often targets America's elderly and most vulnerable citizens.

Promoting a Healthy Banking Industry for Institutions of All Sizes

- Any application for a bank merger or acquisition should be deemed approved unless expressly denied by the federal banking regulator within 120 days of filing. Regulators cannot be allowed to unfairly and indefinitely hold up mergers.

- The Federal Reserve Board should defer to the regional Federal Reserve bank on the decision to approve or deny a bank merger between small and/or mid-sized institutions, if both institutions received (1) a '1' or '2' in their most recent composite CAMELS rating under the Uniform Financial Institutions Rating System, and; (2) a 'Satisfactory' or better in their most recent Community Reinvestment Act (CRA) examination.

- There should be more flexibility in approving bank mergers and acquisitions by a variety of potential capital or financed partners in counties without a physical bank or credit union branch.

- The prudential regulators should jointly examine and report to Congress on ways to improve the growth, capital adequacy, and profitability of U.S. banks. Further, the regulators should identify government policies or regulations that limit these measures, and address the lack of *de novo* bank charters, particularly in underserved areas.

- Nonbank capital sources should be allowed to partner with qualified banks or bank executive management teams to be pre-approved for a "shelf charter" with the FDIC as candidates for mergers and acquisitions transactions, such as the purchase of a failing bank or a required divestment.

- The FDIC should be allowed to waive the Least Cost Resolution (LCR) in the event of a bank failure if the agency finds that the accepted transaction would increase competition and facilitate economic growth in the U.S., provided that (1) the buyer agrees to a purchase agreement commitment whereby they pay a Net Present Value catch-up contribution to the Federal Deposit Insurance Fund and (2) the FDIC submits a report to Congress for each transaction with an analysis of the economic difference between the accepted transaction and the so-called 'lowest cost' over a 10-year period.

- It should be harder for the FDIC to waive the national deposit cap rule for the acquisition of a failing or failed bank, which prohibits a bank from acquiring another if the combined entity would hold more than 10 percent of deposits nationwide. The FDIC should be required to provide Congress with a detailed justification in writing for each waiver and demonstrate that other outcomes were considered and encouraged.

- The methodology to evaluate bank mergers and competition for proposed transactions should be revisited, including by proposing (1) alternatives and reforms to the Herfindahl-Hirschman Index (HHI) used by the Department of Justice, such as objective standards for competitive factors based on HHI thresholds; and (2) ways to expand the consideration of deposit market share and other financial services in this evaluation.

Improving Access to Funding and Capital

- The FDIC should uphold its 2020 brokered deposits rule and withdraw its poorly crafted 2024 proposal on brokered deposits, so financial institutions can access diverse funding sources and consumers can have more choice and control over their financial decisions.

- The consolidated asset threshold under the Small Bank Holding Company Policy Statement should be raised to allow more community banks to grow using certain debt financing.

- In order to assist in the growth capital and transfer of ownership for closely held institutions, the maximum number of shareholders allowed to qualify for a Subchapter S bank should be increased and who can count as one individual shareholder should be revisited.

Interested persons should submit electronic copies of their comments to Jae Jang at jae.jang@mail.house.gov.