September 26, 2025

Jennifer M. Jones
Deputy Executive Secretary
Attention: Comments RIN3064-AG15
Federal Deposit Insurance Corporation 550
17th Street NW Washington, D.C. 20429

To: Comments@fdic.gov

Re: Comments to RIN3064-AG15 Proposal to Update Certain Regulatory Thresholds.

DEAR DEPUTY EXECUTIVE SECRETARY JONES:

America First Policy Institute (AFPI) is pleased to submit its comments on the Federal Deposit Insurance Corporation's (FDIC) proposed rule that would amend certain dollar thresholds in its regulations to reflect the impact of past and future inflation. AFPI supports the FDIC's proposed rule as it will make sure that institutions regulated by the FDIC will be subject to regulatory requirements based on the actual size of the institution and not simply because inflation has made a small or mid-size institution subject to regulations that were intended for larger institutions. Making sure that small and mid-size institutions bear less regulatory burden than relatively larger institutions will allow such institutions to make loans to small businesses all across the Main Streets of the United States and fuel prosperity for all Americans.

Introduction to AFPI

AFPI is a research organization advancing policies that put the American people first. In the realm of economic policy, AFPI is guided by the principles of liberty, free enterprise, national greatness, and the primacy of American workers, families, and communities. That means AFPI looks at the actual facts of any issue and pursues public policies addressing such issues that seek to benefit the most Americans. Too often, public policy is made based on what feels or sounds good for the American people but usually has the so-called "unintended consequences" that hurt those who are supposed to be helped. AFPI approaches policy based on facts and the actual impact of such policy, guided by its core principles.

The AFPI Financial Freedom Initiative uses facts and research to highlight the damage to the American economy from rules and regulations passed by the alphabet soup of federal regulators. For example, the increasing costs to comply with the myriad rules applicable to U.S. public companies have contributed to the reduction in the number of such companies from about 8,000 in the 1990s to around 4,000 now. The Wilshire 5000 index of the 5,000 investable U.S. stocks is down to about 3,300, although the name has not changed. This reduction leads to less investor choice and more concentration risk, which increases volatility in U.S. markets. As a result, the so-called Magnificent Seven technology stocks comprise about 30% of the value of the S&P 500 index. AFPI's initiative engages regulators through dialogue, comment letters, and other interactions to limit rules and regulations that reduce the prosperity of all Americans.

The Impact of Inflation

The devastating inflation of the Biden years made daily life more expensive for Americans and eroded real incomes for working Americans. The annual inflation rate under President Biden was the highest since the inflation-ridden 1970s. The cruelly named Inflation Reduction Act pumped even more government spending into an economy awash in COVID-19 relief funds. During the Biden years, nominal wages rose around 19% but prices rose 21%.[1]
In addition to impacting prices and real wages, Biden inflation served to subject small and mid-size insured institutions to more onerous regulatory requirements because the dollar thresholds at which additional regulations apply were not adjusted for inflation. The effect of inflation added to the already existing shortage of small to mid-size institutions that typically lend to new or small businesses in America.

The Decline in U.S. Small Banks

Small banks have seen a steady decline in the U.S. since the 1980s. Banks with under $10 billion in total assets are considered "community banks," banks with total assets from $10 billion to $100 billion are referred to as "regional banks," and "large banks" are those with more than $100 billion in total assets. Community banks have declined from around 14,000 in the 1980s to around 4,000 now.[2] Community banks' share of assets and lending markets represented 40% of the market in 1994; today, that share is 20%.[3] Increased regulatory burdens have helped drive the consolidation of community banks into larger banks. In addition, the formation of new banks continues to decline, with only six new banks formed in 2024, partly due to high capital requirements and regulatory burdens.[4]

The decline in community banks and the lack of formation of new banks make it difficult for small businesses to obtain capital to grow. As the Kansas City Fed put it, "Community banks are leading providers of credit to small businesses, often with strong relationships in their community. At the core, community banks primarily rely on relationship lending, funding local loans with local deposits."[5] Loan officers at community banks often have better insight into local conditions and businesses than regional or larger banks. To the extent the FDIC's regulatory thresholds have remained un-indexed for inflation, banks may move from being a community bank to being a regional bank solely due to the impact of inflation without actually becoming a larger bank from real growth. This is a critical issue as fixed regulatory costs are not proportional and do not scale with bank size, placing a greater economic strain

[1] Statista: "Biden's Blemish Wages Haven't Kept Up With Inflation" by Felix Richter, January 20, 2025.
[2] Kansas City Fed "The Critical Role of Community Banks," August 20, 2024.
[3] Harvard Kennedy School "The State and Fate of Community Banking," 2015.
[4] S&P Global Market Intelligence, "Number of new U.S. banks continued to decline in 2024," March 26, 2025.
[5] Kansas City Fed, "The Critical Role of Community Banks," August 20, 2024.

on smaller banks' ability to maintain regulatory compliance.[6] The FDIC's proposal to adjust such thresholds based on historical inflation and index them for future inflation is a welcome step to ease regulatory burdens on smaller banks. The money saved from compliance costs can go toward more lending to small businesses and farms in America.
The U.S. banking system's unique ability to provide banking services for large and small businesses has fueled the incredible growth of the U.S. economy. The FDIC's proposal seeks to strengthen business banking, particularly community banks, without a negative impact on safety and soundness. Many institutions, including local businesses, governments, and non-profits, rely on community banks, and this proposal benefits all of them by freeing up time and resources being used for government requirements that can be used for lending instead.

AFPI's Comments and Answers to Questions Posed by the Proposal

In this section, AFPI comments on and provides answers to certain questions posed by the FDIC in its Proposal to Update Certain Regulatory Thresholds (the proposal). This section follows the order of the headings outlined in the proposal, and AFPI has not addressed every subsection of the proposal.

II.D. 12 CFR Part 347 International Banking

In this part of the proposal, the FDIC seeks to adjust its dollar limit for historical inflation for underwriting commitments and equity securities held for distribution or dealing in international banking by insured institutions.

FDIC Question 5: What are the advantages and disadvantages of updating the dollar limits in sub part A of 12 CFR part 347 on aggregate underwriting commitments and on equity securities held for distribution or dealing to $120 million and $60 million respectively?

<u>AFPI's Answer</u>: AFPI supports raising such dollar limits as it will enable FDIC-insured institutions to provide more services internationally and compete with non-U.S. banks. In addition, such institutions will be able to provide more international services for their customers. All these effects will help American-insured institutions compete in a competitive banking landscape.

II.E. 12 CFR 363 – Annual Independent Audits and Reporting Requirements

The FDIC proposes to raise the dollar thresholds at which insured institutions are required to submit independent audits, internal control reports, and management reports, among other requirements. This proposal goes to the heart of the problem of not adjusting these thresholds for inflation. Without such adjustment, more and more small institutions become subject to those requirements, increasing cost and time burdens when a small bank is trying to grow by lending to local small businesses.

[6] Siems, Thomas F., "Do Banking Regulations Disproportionately Impact Smaller Community Banks?," p.33, July 29, 2025.

FDIC Question 8: What are the advantages and disadvantages of increasing the thresholds within Part 363, as described above?

<u>AFPI's Answer</u>: The advantage is to reduce the regulatory burden on community banks that are critical to small business growth in America. The purpose of Part 363 was to impose increased accounting requirements on the insured institutions "posing the greatest risk to the Deposit Insurance Fund."[7] Allowing inflation to push smaller institutions above the existing thresholds is contrary to the purpose of Part 363. The thresholds proposed by the FDIC will return the coverage of Part 363 to a number of institutions and assets closer to where it was at the time of the promulgation of Part 363. This will decrease the burden for many small institutions; one of the changes removes almost 800 institutions from the burdens of Part 363.

AFPI suggests that the FDIC consider raising these thresholds beyond the rate of historical inflation, as the number of institutions in America has declined so sharply, and new bank formations are so low. Providing more time for small institutions to grow and not be subject to the Part 363 requirement means more loans for American businesses and farms. At one point in the proposal, the FDIC states that rural banks are having difficulty even finding qualified people to serve as audit committee members. Moreover, rural banks have struggled to gather capital and assets when compared to their metropolitan counterparts. Between 1994 and 2003, assets and deposits grew 81% and 83% less, respectively, in rural Great Plains banks versus institutions located in metropolitan areas in the Great Plains.[8]
Additionally, between 2012 and 2017, more than 40% of rural counties lost bank branches and more than 100 banking markets—nearly all rural—went from containing the headquarters of at least one bank to containing no bank's headquarters.[9]

As community banks hold the majority of banking deposits in U.S. rural and micropolitan counties, the threat of community bank closure in these communities cannot be understated. Per FDIC data, 1 out of every 5 U.S. counties had no physical banking office other than a community bank.[10] Regulatory burdens are throttling community banks and stifling much-needed investment in a fractured industry. In a 2024 survey, community banks considered regulatory burdens to be a higher concern than an economic recession.[11] Lifting some of these burdens will encourage more entrepreneurs to start banks and allow capital to be deployed to grow businesses and farms, not submit reports to the FDIC.

III. Indexing Methodology for Future Threshold Adjustments

The FDIC is proposing to follow an indexing methodology to update dollar thresholds automatically in the future to keep up with future inflation.
AFPI strongly supports the use of a methodology to raise the dollar threshold at which additional regulatory burdens apply to insured institutions, particularly smaller insured institutions like community banks.

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[7] Proposal, p. 21.
[8] FDIC, "FYI: An Update on Emerging Issues in Banking," May 18, 2004.
[9] Board of Governors of the Federal Reserve, "Perspectives from Main Street: Bank Branch Access in Rural Communities," November 2019.
[10] Consumer Financial Protection Bureau, "Data Spotlight: Challenges in Rural Banking Access," April 2022.
[11] Conference of Bank State Supervisors, "Regulatory Burden Is Top Community Bank Concern in Annual Survey," October 2, 2024.

III.A. Indexing Methodology for Future Threshold Adjustments

Under the proposal, the thresholds for certain regulatory requirements that are described in Part II of the proposal (certain of which AFPI has commented on above) would be adjusted at the end of consecutive two-year periods from the effective date of any final rulemaking on the proposal. The proposal provides that if inflation exceeds 8% in any intervening calendar year, then the adjustments to thresholds would be made in the first quarter of the following calendar year. The rate of inflation used for these adjustments would be based on the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) and would be implemented on April 1 of the year when the adjustment takes place. Since periods of deflation are rare, no adjustment would be made for a year in which inflation decreased, although any such deflation would be factored into future adjustments, as no adjustment will be made unless there is a cumulative rise in inflation.
FDIC Question 13: Would increasing thresholds pursuant to the proposed indexing methodology have any unintended consequences? Are there other factors that should be considered as part of any update to thresholds?

<u>AFPI's Answer</u>: The proposed indexing methodology will appropriately address "bracket creep" that subjects smaller insured institutions to more regulations solely as a result of inflation and not from real asset growth. The FDIC should implement these adjustments on all of its regulatory thresholds to ensure that there are no situations where insured institutions have regulatory relief in one area but not in another. Using a consistent, well-documented methodology to adjust FDIC regulatory thresholds automatically will end the patchwork approach described in the proposal, where certain thresholds have been adjusted in the past and other thresholds have not been adjusted.

This certainty of approach will allow U.S. banks to know exactly where they stand in relation to regulatory thresholds and allow such institutions to plan their business accordingly. Some institutions may choose to keep their assets below certain dollar thresholds to avoid the cost and time needed to comply, which would then enable such institutions to devote more attention to loans. Without indexing for inflation, institutions that wish to stay below a threshold would need to reduce assets if inflation were pushing such institutions over the threshold. This result is harmful to the U.S. economy.

FDIC Question 17: Should the FDIC apply the proposed methodology consistently across all regulations or should the FDIC tailor alternative methodologies to consider factors specific to each individual threshold and/or regulations or groups of thresholds and/or regulations? Would the benefits of a more tailored approach justify the cost of inconsistent indexing methods?

<u>AFPI's Answer</u>: Applying the proposed indexing methodology across all FDIC regulations promotes consistency in regulatory approach and frees up insured institutions to focus on topics other than whether inflation will push them past a regulatory threshold and increase their compliance costs. As is explained in the proposal, historically, increases in thresholds have been sporadic and often done in connection with amendments to a regulation on a different topic. A consistent methodology for all regulations gives both the FDIC and the insured institutions it regulates certainty on the raising of thresholds to match inflation.

A more tailored approach of different methodologies would serve no useful regulatory goal and would increase uncertainty for insured institutions, as different methodologies may produce different results under different regulations. In addition, future leaders at the FDIC may seek to introduce alternative methodologies that would decrease the likelihood of adjustment to the thresholds.

A uniform system of adjustments is the fairest way for the FDIC to proceed. Any benefits of tailored methodologies would be outweighed by the cost of applying inconsistent methodologies. The FDIC is taking a huge deregulatory step by raising thresholds to match historical inflation and indexing such thresholds to future inflation. This is exactly the kind of commonsense deregulation that voters were seeking when they returned President Donald J. Trump to the White House. In AFPI's view, tailoring the methodologies for different regulatory thresholds undermines the progress the proposal represents.

III.B. Alternatives to the Proposed Indexing Methodology

I. Alternative Measures of Inflation

The proposal discusses a variety of other inflation measures that were considered by the FDIC and rejected in favor of CPI-W.
FDIC Question 18: What would be the advantages and disadvantages of using the CPI-W as the reference index under the proposed indexing methodology? What would be the advantages and disadvantages of using other potential indices for updating the indexing thresholds within FDIC regulations? Are there other consumer price indices that should be considered for updating the indexing thresholds within FDIC regulations? If so, please explain the advantages and disadvantages of those indices relative to the CPI-W and the alternatives described above.

<u>AFPI's Answer</u>: Choosing CPIW, which is already used by the FDIC, the Social Security Administration, and other federal agencies, makes the most sense to simplify FDIC regulations. The temptation of regulatory agencies is to do something different from other agencies because the industry or subject that such an agency regulates is unique. In reality, even one instance of using the same standard within an agency and across agencies reduces regulatory complexity and reduces burden and expense for U.S. businesses. The FDIC has fulfilled its duty by examining alternative methodologies, but it should proceed with CPI-W.

IV. Economic Analysis

AFPI commends the FDIC for the extensive economic analysis provided in the proposal. Such analysis emphasizes the benefits of adjusting the FDIC regulatory dollar thresholds for historical inflation and indexing such thresholds going forward. The FDIC's Summary of Estimated Changes in the Number of Covered Entities notes that the increase in regulatory thresholds in Part 363 discussed above would lift regulatory requirements on 774 small institutions, resulting in "increased lending and economic activity resulting from lower compliance costs."[12]

[12] Proposal pp. 59-60.

As far as the regulatory impact of such adjustments, “the impact on safety and soundness of realigning these thresholds is expected to be negligible and outweighed by the broader benefits of the proposal.”[13] Cutting through the formal language required by the Administrative Procedures Act, the proposal will lift regulatory burdens on hundreds of insured institutions and enable such institutions to lend to businesses to increase U.S. economic growth, with no measurable impact on the safety and soundness of such institutions.

The FDIC is delivering on commonsense deregulation to benefit lending to small businesses in America. AFPI fully supports the FDIC’s effort to increase lending and economic growth. AFPI looks forward to seeing the proposal adopted and going into effect as soon as possible.

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AFPI appreciates the opportunity to submit this comment letter on the FDIC’s deregulatory proposal. If the staff of the FDIC has any questions on the foregoing, please email info@americafirstpolicy.com or call (703)-637-3690.

AMERICA FIRST, *ALWAYS.*

Jill Homan

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[13]Proposal pp. 59-61