



DENVER | DALLAS

Across the Agencies 2026:

The Big Swing



Food for Thought

"Ideas come with explosive immediacy, like an instant birth. Human thought is like a pendulum; it keeps swinging from one extreme to the other." – **Eugene Field**

"History has always been a series of pendulum swings, but the individual doesn't have to get caught up in that." – **Robert Johnson**

The Past, the Present and the Future

Looking Back

Who feels better about the regulatory environment today than they did five years ago? Who feels worse?

Looking Forward

Who expects that, five years from now, the regulatory environment will be more favorable than it is now? Who expects it to be less favorable?

The Road Ahead

Exam Pressure Points



Federal Overview



State Overview



Recent Developments:
Micro



Recent Developments:
Macro



AI



Crypto



Exam Pressure Points

More Timely Remediation of MRAs

October 2025 NPR establishes a uniform standard for "matters requiring attention" (formerly MRBAs). An MRA must meet one of three criteria:

Financial Condition

Material harm to an institution's financial condition

DIF Risk

A material risk of **loss to the DIF**

Violations

Actual **violations** of banking or banking-related law or regulation

Key Changes

Objective, higher standard

Material financial harm/risk not previously required

Does not include reputation risk

Oral/written nonbinding supervisory suggestions are OK but must not be treated as MRAs

NPR Preamble

Any CAMELS downgrade to composite 3 or lower would **only** occur in connection with an **actual MRA** and under other limited circumstances.



Exam Pressure Points (Continued)

Safety and Soundness: Focus on Asset Quality and Liquidity Planning

Contingency Funding Plan

Potential sources include FHLB and the Fed. Use annual testing to validate the plan's effectiveness.

On-Balance Sheet Liquidity

Heightened focus on the sufficiency of on-balance sheet liquid assets.

Business Plan Assumptions

Broader stress testing of the business plan, including key assumptions relating to prepayment and deposit repricing.

Liquidity Quality/Concentration

Attention on customer flows based on pricing.



Exam Pressure Points (Continued)

New Examiners

New examiners bring more and different questions — not less scrutiny. Examiners may have less experience in credit cycles and are evaluated based on issues identified.

***Loper Bright*: End of Chevron Deference**

The Supreme Court's decision in *Loper Bright* fundamentally redefined the relationship between agencies and the courts, with significant implications for how banking rules are challenged and interpreted.

Federal Developments: Capital Requirements

A Changing Landscape



7-8% Overall Decrease

Overall decrease in capital requirements, freeing up capital across the industry



More Flexibility

Greater flexibility for lending, dividends, share repurchases, and balance sheet growth

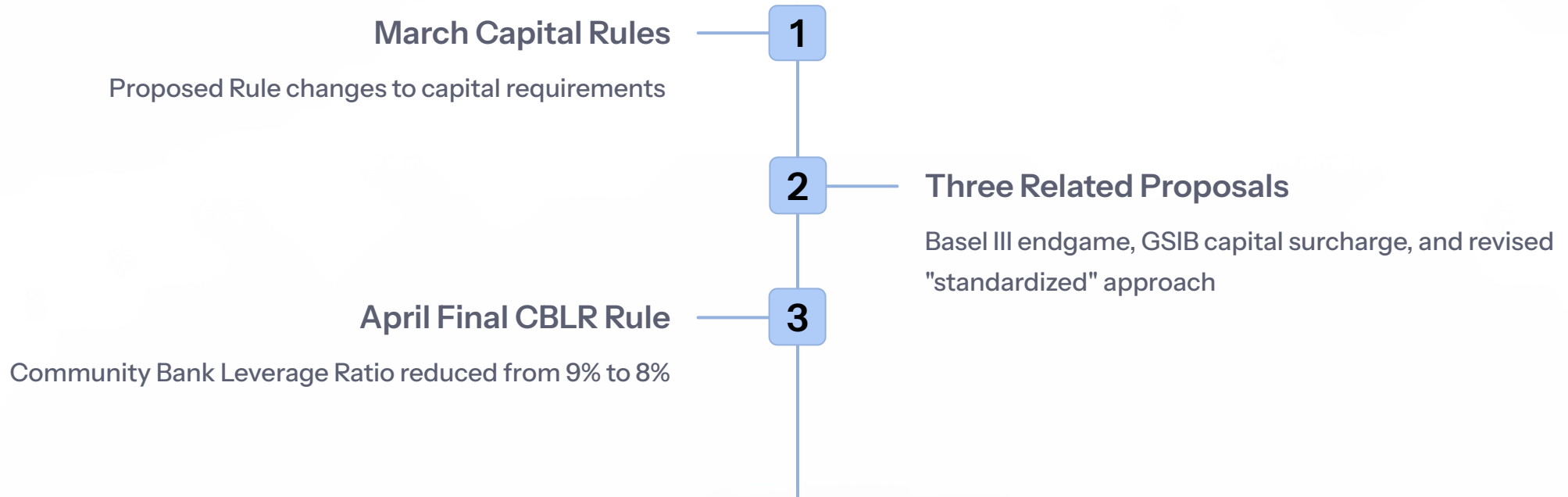


Less Complexity

Reduced regulatory complexity frees up resources that can be deployed elsewhere in the organization



Federal Developments: Capital Requirements (Continued)



i The Community Bank Leverage Ratio reduction from 9% to 8% per the April final rule provides meaningful relief for community banks seeking to optimize their capital structures.


Federal Developments: Capital Requirements (Continued)

Risk Weight Changes

Exposure Type	Previous Weight	New Weight
Corporate Exposures	100%	95%
Other Uncategorized Exposures	100%	90%
Residential Mortgages	50% / 100%	25%–110% (risk-sensitive)
MSAs	Threshold-based deduction	250% risk weight for all MSAs

Also includes changes to commitments to extend credit and securitization exposures.

Residential mortgage risk weights now depend on factors including LTV, lien position, occupancy/property type, loan performance/credit quality, and underwriting/structural features.

 **Caveat:** Need to balance proposed changes with an uncertain environment and increasing operational risks.

Federal Developments: Mortgage Executive Order

Where Did All the Banks Go?

2008

Banks originated **60%** of mortgages and serviced **95%** of mortgage balances

2023

Banks originated **35%** of mortgages and serviced **45%** of mortgage balances

Benefits of a Strong Bank Mortgage Ecosystem

Banks

Revenue generation and deepened customer relationships

Consumers

Greater choice and competition in the mortgage marketplace

Financial Stability

Regulatory framework for non-bank originators/servicers has not kept pace with growth



Federal Developments: Mortgage Executive Order (Continued)

"Paper Perfection" → Substantive Compliance

1 ATR/QM Reform

Directs CFPB to amend Reg Z to tailor ATR/QM requirements and related TILA/RESPA/TRID obligations:

- Broad QM safe harbor for portfolio loans.
- Replace TRID timing rules with a materiality-based standard to reduce closing delays.

2 Points and Fees

Adjust QM points and fees caps for small mortgage loans to improve access and reduce compliance burden.

3 Digital Rescission

Directs CFPB to modernize rescission rights for mortgage lending:

- enable digital processes.
- streamline mortgage servicing rules for rate-and-term refinancings, including exempting such loans from rescission rights.

Federal Developments: Mortgage Executive Order (Continued)

HMDA Modernization

Directs CFPB to amend Reg C to raise HMDA exemption asset thresholds for smaller banks, reducing reporting burden.

Enforcement Policy

Enforcement policies should limit civil money penalties (CMPs) to willful, knowing, or reckless violations.

Capital & Liquidity Realignment

Realignment of capital and liquidity rules to remove disincentives for mortgage lending by banks.

Federal Developments: Mortgage Executive Order (Continued)

Supervisory Guidance Reforms

New Examiner Focus

Agencies directed to consider supervisory guidance ensuring examiners evaluate mortgage lending based on:


- **Effectiveness of lenders' policies**
- **Prudent underwriting**

Instead of the current focus on processes and technical compliance.

Correction-First Treatment

Agencies directed to consider a **correction-first supervisory treatment** for good-faith, technical compliance errors. Enforcement reserved for cases involving:

- Borrower harm
- Repeated misconduct

 **Caveats:** Large CFPB docket creates implementation uncertainty. Should banks invest in infrastructure when changes could be temporary?



Federal Developments: Debanking

2013: Operation Choke Point

Government tells banks **who not to bank** — directing financial institutions to cut off certain industries deemed politically disfavored.

2026: The Reversal

Government tells banks **who they can't not bank** — prohibiting financial institutions from cutting off politically disfavored industries

- ❏ **Practical Tip:** Make sure account terms and conditions clearly permit the bank to close an account for any reason. For example: *"The Bank may close your account at any time and for any reason."* Always record the basis for closing the account and identify it as attorney/client privileged. This supports the bank's ability to deny services to customers who pose risks that the bank deems unacceptable.

Federal Developments: Debanking (Continued)

Trump Executive Order: Fair Banking for All Americans (August 2025)

→ **Identify Unlawful Debanking**

Directs regulators to identify institutions that have engaged in unlawful debanking practices.

→ **Remove Reputation Risk**

Regulators update guidance and other materials to remove use of reputation risk that could result in politicized or unlawful debanking.

→ **SBA Loan Compliance**

SBA lenders must identify actual or potential clients that were denied service through politicized or unlawful debanking and certify compliance with the order.

Federal Developments: Debanking (Continued)

Final Rule Eliminating Reputation Risk from Supervisory Programs

What Is Prohibited

Prohibits regulators from:

- Criticizing or taking adverse action against a bank based on reputation risk
- Requiring or encouraging institutions to close accounts based on a person's **political, social, cultural, or religious views or beliefs, constitutionally protected speech, or lawful business activities**

Definition of Reputation Risk

Any risk — regardless of how labeled — that an action or activity of an institution could negatively impact public perception **for reasons not clearly and directly related to the financial or operational condition of the institution.**

Key Change from NPR

Broadens prohibition on adverse actions to cover activities disfavored by the agency or **any of its personnel** — not just the supervisor.

- ☑ Supervisory actions should be based on objective risks to an institution's financial or operational condition or violations of law or regulation — **not on perceived reputational concerns.**



A Moment to Reflect

The regulatory pendulum continues to swing. The following sections address emerging federal priorities in AML/CFT, state-level developments, and the micro and macro forces that could test banks' operational resilience in 2026.

Federal Developments: AML/CFT Rules

- ⊗ **One terror attack away from complete change.** The AML/CFT landscape remains highly sensitive to geopolitical events.

Proposed AML/CFT Program Rules

Effectiveness Over Compliance

Rework 2024 proposed rules to focus on the **effectiveness** of AML/CFT programs, not "check the box" compliance.

Compliance Obligations Similar to 2024 Rules

The 2024 NPR added a new risk assessment AML/CFT "pillar"; under the revised proposal, this now falls under the internal controls pillar.

"Establishing" vs. "Maintaining"

Practical consequences are unclear; consistent with existing supervisory expectations to "establish" a program.

Enforcement actions for failure to maintain only if the failure is **material**.



Federal Developments: AML/CFT Rules (Continued)

Expansion of FinCEN Oversight

Pre-Action Coordination

Agencies would need to go through FinCEN before initiating a significant AML/CFT supervisory action — adding a layer of coordination and consistency.

Consistency vs. Capacity

While the goal is consistency, FinCEN has a small staff relative to the volume of supervisory actions across all banking agencies.

Takeaway

→ Stay Tuned

The final rule has not yet been issued. Monitor for significant changes from the proposed rule.

State of the States: Recent State Developments

Washington: Credit Union Tax

CUs that acquire or merge with a bank become subject to the state's **1.2% business and occupation tax**.

Only applies to Washington-organized CUs — they can circumvent by converting to a Federal charter or mutual bank.

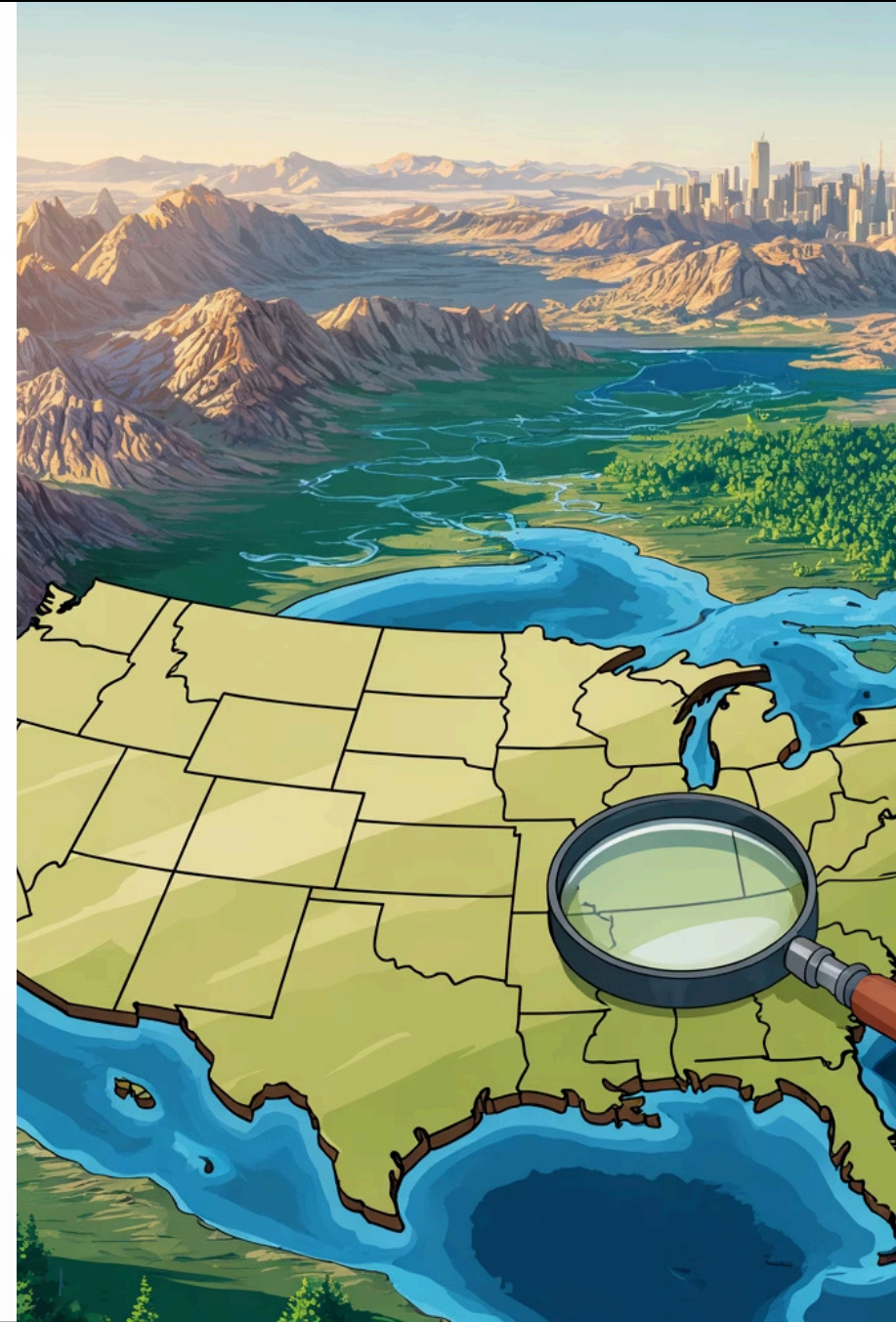
Puts banks on **more even footing** with CUs, but lowers the number of potential acquirors.

Colorado DIDMCA Opt-Out

Colorado's opt-out to impose interest rate caps on out-of-state banks threatens the dual banking system.

If state banks must comply with varying state caps while national banks retain exportation powers, state charters become **less attractive for nationwide lending** — potentially pushing banks toward national charters.

Lessens the benefits of bank-fintech partnerships.



State of the States: Recent State Developments

Prohibition on Interchange Fees on Taxes and Tips

Illinois: No Interchange on Taxes/Tips

Requires huge infrastructure investment and results in a decrease in interchange fees.

Colorado: Similar Legislation

SB 26-134 would prohibit interchange fees on taxes and tips.

Arizona: Similar Legislation

HB 2629 (2025) would prohibit interchange fees on taxes and tips.

OCC: Preemption

The OCC issued an Interim Final Order preempting the Illinois law.

Expansion of State Regulation & Enforcement

Increased state Attorney General enforcement activity is filling the vacuum left by a reduced federal CFPB presence. States are stepping up as the primary consumer protection enforcers.

Recent Developments: Micro



A Penny for your thoughts?

Per Treasury, the U.S. Mint is no longer making pennies.

Unintended consequences : Texas UCC Section 4.112 (payor bank must pay checks at par) and state rounding laws — e.g., Arizona requires rounding to the nearest nickel when exact change is not available.



NSF Fee Guidance Rescinded

FDIC rescinded prior guidance that multiple NSF fees for a single transaction could constitute UDAAP. However, disclosures must still accurately reflect actual practices.



Model Risk Management Guidance

Updated FDIC/OCC/Fed guidance adopts a risk-based approach based on size and complexity. Applies to banks under \$30B only if they have significant model risk exposure or activities not traditional to community banking.



Recent Developments: Macro

Iran War

Ongoing geopolitical conflict with Iran continues to create uncertainty in global financial markets and heighten black swan and operational risk considerations for U.S. financial institutions.

North Korea Infiltration

North Korea's infiltration of bank payrolls represents a novel and serious threat to the integrity of financial institution operations and personnel security.

"It's not going to end well for them, for those that decided that . . . they would act in their perceived, very narrow self-interest, which I would underscore is very short-term self-interest." – **Susan Rice**





AI

"The machines are empty gloves. The hand is always the hand of man, and the hand of man can be good or evil, while the gloves themselves remain amoral." – **Ray Bradbury**

Key Considerations



Who

Is responsible for oversight? Is the Board, CEO, or CTO responsible for oversight and for devising a strategic plan for AI in the Bank?



What

What is the Bank's policy on AI? A clear, written policy is essential before deployment.



How

How will the Bank approach AI? Use it for efficiency, growth, or other use cases?



Approach

Proactive or Reactive? Evolutionary Adaptation vs. Revolutionary Adoption — the choice shapes risk and opportunity.



Banking and Crypto

Legislative Landscape

GENIUS Act / CLARITY Act: Interest on crypto?

Crypto-Related Deposits

Softening regulatory tone has led some banks to accept deposits from crypto-related firms.

Expanding Use Cases

Banks are actively exploring:

- Stablecoins and tokenized deposits
- Bitcoin safekeeping
- Lending against Bitcoin collateral

New Products, New Risks

Innovation = opportunity and risk.

Risk management frameworks must keep pace.

Banking and Crypto, Continued

Considerations for Community Banks

1

Who Are the Customers?

Who are the actual and target crypto customers? Are they long-time customers with significant deposits and lending needs — or new, unfamiliar relationships?

2

Ideal Customers?

Are crypto-related firms and individuals truly ideal customers for a community bank's business model and risk appetite?

3

Investment vs. Risk

Do the investment and risk justify the potential benefits? Crypto infrastructure, compliance, and operational requirements are significant.

 **Takeaway:** Do investment and risk justify the potential benefits? Are these ideal customers for your institution?



Conclusion

If Eugene Field was right and human thought and history truly are just a series of pendulum swings, is the true competitive advantage for a community bank really found in trying to perfectly predict and time the next set of rules — or is it found in **building an operational culture so fundamentally resilient that it can execute its strategy regardless of which way the regulatory pendulum swings?**

Predict & Time

Attempt to anticipate every regulatory shift and optimize for the current environment — a high-risk, high-effort strategy in an uncertain world.

Build Resilience

Invest in an operational culture and infrastructure that executes strategy effectively regardless of the regulatory environment — the enduring competitive advantage.



Additional Information

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