

United States House of Representatives  
Committee on Financial Services  
2129 Rayburn House Office Building  
Washington, D.C. 20515

November 10, 2022

## Memorandum

**To:** Members, Committee on Financial Services  
**From:** FSC Majority Staff  
**Subject:** November 16, 2022, Full Committee Hearing entitled, “Oversight of Prudential Regulators: Ensuring the Safety, Soundness, Diversity, and Accountability of Depository Institutions”

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The Full Committee will hold a hearing entitled, “Oversight of Prudential Regulators: Ensuring the Safety, Soundness, Diversity, and Accountability of Depository Institutions” on November 16, 2022, at 10:00 a.m. ET in room 2128 of the Rayburn House Office Building and on the virtual meeting platform Cisco WebEx. There will be one panel with the following witnesses:

- **The Honorable Michael Barr**, Vice Chairman of Supervision, Board of Governors of the Federal Reserve System
- **The Honorable Martin Gruenberg**, Acting Chairman, Federal Deposit Insurance Corporation
- **The Honorable Todd Harper**, Chairman, National Credit Union Administration
- **Mr. Michael Hsu**, Acting Comptroller of the Currency, Office of the Comptroller of the Currency

### Overview

Prudential regulation of insured depository institutions is divided among four Federal regulators, consisting of the Board of Governors of the Federal Reserve System (Fed), Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), and the National Credit Union Administration (NCUA).<sup>1</sup> Section 1108 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) requires the Vice Chairman for Supervision of the Fed to testify before the Committee regarding the Fed’s supervision and regulation of depository institutions and other financial firms. This hearing fulfills that requirement and provides oversight of all four Federal prudential regulators.<sup>2</sup> As of June 30, 2022, there were 4,771 FDIC-insured banks.<sup>3</sup> Most of these institutions are community banks; for example, 4,612 of these banks held less than \$10 billion in total assets (97%).<sup>4</sup> Between the second quarter of 2021 and the same quarter this year, banks made \$64.4 billion in profits, and total assets rose by more than \$944 billion (4.1% increase) to nearly \$23.7 trillion.<sup>5</sup> Total loans and leases outstanding held by banks at the end of June 2022 increased to \$11.7 trillion (8.4% increase).<sup>6</sup> In addition, there were 4,853 NCUA-insured credit unions with 132.6 million members as of June 30, 2022.<sup>7</sup> At the end of June 2022, nearly 86% of credit unions had less than \$500 million in assets. Between the second quarter of

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<sup>1</sup> This memo was prepared with the assistance of Congressional Research Service (CRS) staff. For more information, see CRS, [Banking Policy Issues in the 117th Congress](#) (Mar. 2, 2021); CRS, [Bank Supervision by Federal Regulators: Overview and Policy Issues](#) (Dec. 28, 2020); and CRS, [Introduction to Bank Regulation: Credit Unions and Community Banks: A Comparison](#) (Dec. 14, 2018). Also see Fed, [Supervision and Regulation Reports](#) (accessed Nov. 10, 2022) and OCC, [Semiannual Risk Perspective](#) (accessed Nov. 10, 2022).

<sup>2</sup> The FDIC, OCC, and NCUA do not have such statutorily mandated testimony requirements.

<sup>3</sup> FDIC, [Quarterly Banking Profile](#) (Jun. 30, 2022).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> NCUA, [Quarterly Data Summary Reports](#) (Jun. 2022).

2021 and the same quarter this year, credit union assets increased 8.1% to \$2.14 trillion.<sup>8</sup> Total loans outstanding held by these credit unions increased to \$1.39 trillion (16.2% increase).<sup>9</sup>

## Recent Trends in Banking

According to the FDIC, the rate of households without a bank account dropped in 2021 to 4.5% from 5.8% in 2019, and the rate of underbanked households fell too, from 17.9% of households in 2019 to 14.1% in 2021.<sup>10</sup> The FDIC further noted that 34.9% of recently banked households reported that receiving a government benefit payment (e.g. unemployment benefits or a stimulus payment) contributed to opening a bank account since March 2020.<sup>11</sup> Loan modifications in the fourth quarter of 2021 fell to \$134 billion from a peak (\$621 billion) in the second quarter of 2020.<sup>12</sup> In the first half of 2022, banks reported the lowest delinquency rates across loan categories since the end of 2005.<sup>13</sup> In the first few months of 2022, there was robust loan growth by commercial banks across all major loan categories, and loans grew faster than deposits for the first time since the onset of the pandemic.<sup>14</sup> Furthermore, low mortgage rates in 2021 spurred a wave of refinancing, but refinances reached a 22-year low this year in light of rapidly rising interest rates.<sup>15</sup> Moreover, regulators have noted they are closely monitoring how inflation and higher interest rates may impact financial institutions and the economy, potentially leading to delinquencies, bankruptcies, and other forms of financial distress, among other dynamics.<sup>16</sup>

## Diversity in Banking

Prudential regulators play a role in promoting diversity in the banking system. For example, each regulator maintains an Office of Minority and Women Inclusion (OMWI) and is required to promote and preserve minority depository institutions (MDIs).<sup>17</sup> The OMWIs record, report, and encourage diversity representation at each regulator<sup>18</sup> and across those entities regulated. According to the latest agency reports, there were 144 MDI banks with a combined \$328.7 billion total assets, 509 MDI credit unions with a combined 5.1 million members and \$65.5 billion total assets, and 2,620 low-income designated credit unions.<sup>19</sup> Of the 1,380 certified community development financial institutions (CDFIs), there were 320 CDFI banks and 472 CDFI credit unions.<sup>20</sup> As part of the Consolidated Appropriations Act for 2021, Congress provided \$12 billion in capital investments and grants to support MDIs and CDFIs and the communities they serve;<sup>21</sup> \$9.5 billion of those funds have been deployed to date.<sup>22</sup> Banking regulators have several initiatives designed to support MDIs and CDFIs. For example, in September 2021, the FDIC launched the *Mission-Driven Bank Fund* to channel private capital to MDI and CDFI banks.<sup>23</sup>

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> FDIC, [2021 FDIC National Survey of Unbanked and Underbanked Households](#) (Nov. 2, 2022).

<sup>11</sup> *Id.*

<sup>12</sup> Fed, [Supervision and Regulation Report](#) (May 2022).

<sup>13</sup> Fed, [Supervision and Regulation Report](#) (Nov. 2022).

<sup>14</sup> Fed, [Supervision and Regulation Report](#) (Nov. 2022).

<sup>15</sup> Fed, [Economic Well-Being of U.S. Households in 2021 Fact Sheet \(May 23, 2022\)](#).

<sup>16</sup> See Fed, [Supervision and Regulation Report](#) (Nov. 2022); Fed, [Financial Stability Report](#) (Nov. 2022); OCC, [Semiannual Risk Perspective](#) (Jun. 23, 2022); FSOC, [2021 Annual Report](#) (Dec. 17, 2021); IMF, [Global Financial Stability Report](#) (Oct. 2022).

<sup>17</sup> See FDIC, [OMWI Reports](#); Fed, [Report to the Congress on the Office of Minority and Women Inclusion](#) (Mar. 2022); NCUA, [NCUA Releases OMWI Annual Report to Congress](#) (Apr. 2022); OCC, [OMWI Publications](#) (accessed Nov. 10, 2022). Also see Section 308 of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).

<sup>18</sup> See Appendix B for diversity workforce data for the FDIC, Fed, OCC, and NCUA.

<sup>19</sup> FDIC, [MDI List for Second Quarter 2022](#) (Jun. 30, 2022); NCUA, [MDI Preservation – List of MDIs](#) (Jun. 30, 2022); and NCUA, [Quarterly Credit Union Data Summary for 2022 Q2](#) (Jun. 30, 2022).

<sup>20</sup> CDFI Fund, [CDFI Certification – List of CDFIs](#) (Oct. 14, 2022).

<sup>21</sup> See FSC, [One pager on Emergency Support for CDFIs and MDIs in the December COVID-19 stimulus package](#) (Dec 2020).

<sup>22</sup> Treasury, [Treasury Awards \\$1.25 Billion to CDFIs to Support Economic Relief in Underserved Communities](#) (Jun. 15, 2021); Treasury, [Biden-Harris Administration Announces Over \\$8.28 Billion in Investments in CDFIs and MDIs through the ECIP](#) (Sep. 21, 2022)

<sup>23</sup> FDIC, [FDIC Launches Mission-Driven Bank fund](#) (Sep. 16, 2021). Also see OCC, [Project REACH](#) (accessed Nov. 9, 2022); Fed, [Partnership for Progress](#) (accessed Nov. 9, 2022); NCUA, [MDI Preservation](#) (accessed Nov. 9, 2022).

## Regulatory and Supervisory Developments

**Enhanced Prudential Standards.** Under the Dodd-Frank Act, the largest and most complex banks face stringent prudential regulations – including capital, liquidity, leverage, stress testing, and living wills – compared to community banks.<sup>24</sup> Many of the actions regulators took in response to COVID-19 to delay or relax regulations regarding capital requirements and restrict distributions largely ceased last year.<sup>25</sup> On September 9, banking agencies announced their commitment to update U.S. capital requirements that is aligned with the final set of Basel III capital standards, referred to as the “Basel Endgame,” and Vice Chair for Supervision Barr gave remarks suggesting the Fed would take a risk-based, wholistic review and make improvements where necessary.<sup>26</sup> Industry have raised concerns about how revised capital rules may affect lending, whereas financial reform advocates have encouraged regulators to take an evidence-based approach to ensure prudential standards, especially for the largest banks, are sufficiently robust.<sup>27</sup> On October 14, the Fed and FDIC proposed expanding total loss absorbing capacity (TLAC) requirements to apply them to regional banks given their growth in recent years, including through mergers, to ensure an orderly resolution of large banks should they fail.<sup>28</sup>

**Supervision and Enforcement.** The Fed reported a recent uptick in the number of unresolved supervisory and compliance matters the largest banks have, including those related to operational resilience, information technology, third-party risk management.<sup>29</sup> In the last few years, Federal regulators have continued to bring a range of enforcement actions against the largest financial institutions.<sup>30</sup> In September 2021, Fed Chair Jerome Powell stated the asset cap that was placed on Wells Fargo in 2018 will remain in place until the company has fixed multiple problems.<sup>31</sup> Furthermore, the prudential regulators along with the CFPB made six referrals in 2021 to the Department of Justice involving potential discrimination in violation of Equal Credit Opportunity Act.<sup>32</sup>

**Community Reinvestment Act.** In July 2021, Acting Comptroller Hsu announced the OCC’s plans to rescind a June 2020 Community Reinvestment Act (CRA) final rule that altered how OCC regulated banks would be assessed for compliance with the law,<sup>33</sup> and one that the Fed and FDIC did not sign on to.<sup>34</sup> The rule was rescinded on December 14, 2021, creating a path for the three regulators to work on a joint rule-making.<sup>35</sup> On May 5, 2022, the Fed, FDIC and OCC issued a joint proposal to modernize CRA rules and requested comments on the proposal through August 5, 2022.<sup>36</sup>

**Mergers and Acquisitions.** In July 2021, President Biden issued an Executive Order to promote competition, calling for regulators to update guidelines and provide more scrutiny to the merger process.<sup>37</sup>

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<sup>24</sup> CRS, [Enhanced Prudential Regulation of Large Banks](#) (May 6, 2019).

<sup>25</sup> New York Times, [Banks can resume buybacks and pay dividends if they’re profitable, Fed says](#), (Dec. 18, 2020) and Fed, [Federal Reserve announces temporary and additional restrictions on bank holding company dividends and share repurchases currently in place will end for most firms after June 30, based on results from upcoming stress test](#), (Mar. 25, 2021).

<sup>26</sup> Fed, [Making the Financial System Safer and Fairer](#) (Sep. 7, 2022); Fed, [Agencies reaffirm commitment to Basel III](#) (Sep. 9, 2022).

<sup>27</sup> For example, see BPI, [Basel III Endgame and the Cost of Credit for American Business](#) (Jan. 10, 2022); Center for American Progress, [An Action Plan for the Bank Regulators](#) (Jun. 9, 2022); Better Markets, [Better Markets Sends an Agenda to the Incoming Vice Chair for Supervision of the Federal Reserve](#) (Jul. 13, 2022).

<sup>28</sup> Fed, [Federal Reserve Board invites public comment on an advance notice of proposed rulemaking to enhance regulators’ ability to resolve large banks in an orderly way should they fail](#) (Oct. 14, 2022).

<sup>29</sup> Fed, [Supervision and Regulation Report](#) (Nov. 10, 2022).

<sup>30</sup> For example, see CFPB, [Regulators Fine BofA \\$225 Million Over Botched Disbursement of State Unemployment Benefits](#) (Jul. 14, 2022); OCC, [OCC Assesses \\$250 Million Civil Money Penalty, Issues Cease and Desist Order Against Wells Fargo](#) (Sept. 9, 2021); and FSC hearing, [Holding Megabanks Accountable: Oversight of America’s Largest Consumer Facing Banks](#) (Sep. 21, 2022).

<sup>31</sup> The Hill, [Wells Fargo asset cap to remain in place, Fed chair says](#) (Sep. 22, 2021).

<sup>32</sup> CFPB, [Fair Lending Report of the CFPB](#) (May 2022).

<sup>33</sup> OCC, [OCC Finalizes Rule to Strengthen and Modernize Community Reinvestment Act Regulations](#) (May 20, 2020).

<sup>34</sup> See National Community Reinvestment Coalition (NCRC), [Analysis Of The OCC’s Final CRA Rule](#) (Jun. 15, 2020).

<sup>35</sup> OCC, [OCC Issues Final Rule to Rescind its 2020 Community Reinvestment Act Rule](#) (Dec. 2021).

<sup>36</sup> Fed, [Agencies issue joint proposal to strengthen and modernize Community Reinvestment Act Regulations](#) (May 5, 2022).

<sup>37</sup> The White House, [FACT SHEET: Executive Order on Promoting Competition in the American Economy](#) (Jul. 9, 2021).

Subsequently, the FDIC requested public comment on the regulatory framework for merger transactions involving one or more insured depository institutions, including mergers between banks and non-banks, which closed in May.<sup>38</sup> In May, Acting Comptroller Hsu highlighted the value of public input on mergers, and stated that the OCC is considering adopting a presumption in favor of holding public meetings for large mergers.<sup>39</sup> Data from the FDIC shows that it approved over 100 mergers between small and mid-sized financial institutions in 2021.<sup>40</sup> The Fed has also approved several mergers since December 2021,<sup>41</sup> including between Citizens Bank and Investors,<sup>42</sup> and between U.S. Bank and MUFG Union Bank.<sup>43</sup>

**NCUA's Central Liquidity Facility.** In December 2020, Congress extended Section 4016 of the CARES Act, granting access to the Central Liquidity Facility (CLF) for a larger set of credit unions, however those provisions expired in December 2021.<sup>44</sup> NCUA has noted that 3,648 smaller credit unions will lose access to the CLF in the fourth quarter of 2022. NCUA's entire Board has called on Congress to permanently extend the CLF enhancements included in the CARES Act to help ensure small credit unions continue to have access to this source of emergency liquidity.<sup>45</sup>

**FDIC's Deposit Insurance Fund.** After the FDIC's Deposit Insurance Fund (DIF) fell below its statutory minimum of 1.35%, the FDIC approved an increase of two basis points to deposit insurance assessment rates for all insured banks to ensure the DIF meets the statutory minimum by September 30, 2028.<sup>46</sup> The new rates will begin in the first quarterly assessment period of 2023 and remain in effect until the reserve ratio meets or exceeds the Designated Reserve Ratio of 2%, at which time lower assessment rate schedules will take effect.<sup>47</sup>

**Climate Risk.** In October 2021, the Financial Stability Oversight Council (FSOC) released a report in response to President Biden's Executive Order on climate-related financial risk, which includes recommendations for prudential regulators and other federal agencies to take action.<sup>48</sup> Since then, the OCC and FDIC issued proposed principles to improve climate-related financial risk management for large banks.<sup>49</sup> In September, Vice Chair Barr noted that the Fed would join the OCC and FDIC to collaborate on such guidance for large banks, and announced plans in 2023 to launch a scenario analysis pilot to assess the long-term, climate-related financial risks facing the largest banks.<sup>50</sup>

**Cybersecurity and Third-Party Vendor Oversight.** In November 2021, the Fed, FDIC and OCC announced a final rule requiring banks to notify their primary regulator of significant cyber incidents as soon as possible and no later than 36 hours after the bank determines that an incident has occurred.<sup>51</sup> In early 2022, Congress passed a law requiring financial institutions and other critical infrastructure entities to report a substantial cyberattack to the Cybersecurity and Infrastructure Security Agency within 72 hours, and within 24 hours of making a ransomware payment.<sup>52</sup> A recent Fed report notes that cybersecurity remains a notable issue for banks, and that reliance on third-party service providers and other technology solutions presents operational risks.<sup>53</sup> Additionally, FSOC has raised similar concerns

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<sup>38</sup> FDIC, [RFI on Rules, Regulations, Guidance, and Statements of Policy Regarding Bank Merger Transactions](#) (Mar. 31, 2022).

<sup>39</sup> OCC, [Acting Comptroller Hsu Remarks at Brookings on Bank Mergers and Industry Resiliency](#) (May 9, 2022).

<sup>40</sup> FDIC, [Mergers Decisions: Annual Report to Congress](#). (Accessed Oct. 20, 2022).

<sup>41</sup> Arnold & Porter, [Bank Merger Guidelines Under Review](#) (Dec. 21, 2021).

<sup>42</sup> Fed, [Federal Reserve Board announces approval of application by Citizens Financial Group, Inc.](#) (Sep. 2022).

<sup>43</sup> Fed, [Order Approving the Acquisition of a Bank](#) (Oct. 2022).

<sup>44</sup> NCUA, [Central Liquidity Facility](#) (Accessed Nov. 3, 2022).

<sup>45</sup> NCUA, [NCUA Board Calls on Congress to Make CLF Enhancements Permanent](#) (Nov. 29, 2021).

<sup>46</sup> FDIC, [Final Rule on Assessments, Revised Deposit Insurance Assessment Rates](#) (Oct. 18, 2022).

<sup>47</sup> FDIC, [FACT SHEET: Final Rule on Assessments, Revised Deposit Insurance Assessment](#) (Oct. 18, 2022).

<sup>48</sup> Treasury, [FSOC Identifies Climate Change as an Emerging and Increasing Threat to Financial Stability](#) (Oct. 2021).

<sup>49</sup> OCC, [Principles for Climate-Related Financial Risk Management for Large Banks; Request for Feedback](#) (Dec. 16, 2021); FDIC, [FDIC Issues Request for Comment on Principles for Climate-Related Financial Risk Management for Large FIs](#) (Mar. 30, 2022).

<sup>50</sup> Fed, [Speech by Vice Chair for Supervision Barr on making the financial system safer and fairer](#) (Sep. 7, 2022).

<sup>51</sup> Fed, [Agencies approve final rule requiring computer-security incident notification](#) (Nov. 18, 2021).

<sup>52</sup> HSGAC, [New Report on Rise of Ransomware Attacks and How Cryptocurrencies Facilitate Cybercrimes](#) (May 24, 2022).

<sup>53</sup> Fed, [Supervision and Regulation Report](#) (Nov. 10, 2022).

about the increasing use of third-party vendors, and it has repeatedly recommended, along with the GAO, that Congress give the NCUA similar authority that bank regulators have to oversee third-party vendors.<sup>54</sup>

**Financial Technology and Artificial Intelligence.** In 2021, prudential regulators and the CFPB issued a request for information (RFI) on the use of artificial intelligence (AI), including machine learning (ML), in financial services.<sup>55</sup> In May 2022, an NCUA official testified that AI and ML algorithms should be tested for historical bias and discriminatory outcomes.<sup>56</sup> The FDIC also issued a 2021 financial institution letter guiding community banks in conducting due diligence on fintech companies they may choose to partner with.<sup>57</sup> The guidance included evaluating the fintech for its legal and regulatory compliance as well as its risk management.<sup>58</sup>

**Digital Assets.** Regulators continue to grapple with how to oversee digital assets, including cryptocurrencies (crypto), non-fungible tokens (NFTs), stablecoins, and other digital representations of value made possible by cryptography and distributed ledger technology (DLT).<sup>59</sup> After the OCC previously issued three interpretive letters discussing banks' involvement in the space,<sup>60</sup> Acting Comptroller Hsu clarified that in order to engage with digital assets, banks would have to notify their supervisor and receive a non-objection from the supervisor.<sup>61</sup> The FDIC and Fed subsequently issued similar guidance.<sup>62</sup> NCUA has issued guidance clarifying credit union obligations with respect to their own use of DLT, as well as partnering with third-party companies that provide digital asset services to their members.<sup>63</sup> Additionally, the President's Working Group on Financial Markets, along with the FDIC and OCC, issued a report on stablecoins last year, calling on Congress to establish safeguards to address related risks.<sup>64</sup> In January, the Fed released a paper examining a potential U.S. central bank digital currency (CBDC) and how it could improve the U.S. payments system.<sup>65</sup> In March, the White House issued an Executive Order instructing various agencies to explore ways to ensure the responsible development of digital assets.<sup>66</sup> Among other reports that were issued in response to the order,<sup>67</sup> the FSOC released a report last month on regulatory gaps and financial stability risks related to digital assets.<sup>68</sup>

**Payments.** On May 19, the Fed finalized rules governing funds transfers over the FedNow Service, a new interbank settlement service operating 24 hours a day, seven days a week and throughout the year, with clearing functionality to support instant payments in the United States.<sup>69</sup> The service is expected to launch in 2023. Additionally, the Fed recently finalized guidelines regarding requests to access a Fed "master account" and related Fed payment services.<sup>70</sup> Moreover, the Fed issued a final rule last month revising the Durbin Amendment regulations to require that each debit card transaction must be able to be processed on at least two unaffiliated payment card networks in both card-not-present and card-present transactions.<sup>71</sup>

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<sup>54</sup> NCUA, [Third-Party Vendor Authority](#) (Mar. 2022).

<sup>55</sup> Federal Reserve, FDIC, CFPB, NCUA, OCC, [RFI on Financial Institutions' Use of AI, Including Machine Learning](#) (Mar. 29, 2021).

<sup>56</sup> NCUA, [NCUA Director of the Office of Examination and Insurance Written Testimony before the AI Task Force](#) (May 2022).

<sup>57</sup> FDIC, [Conducting Due Diligence on Financial Technology Companies](#) (Aug. 2021).

<sup>58</sup> *Id.*

<sup>59</sup> See CRS, [Digital Assets and SEC Regulation](#) (Jan. 30, 2020).

<sup>60</sup> OCC, [Chief Counsel's Interpretation Clarification](#) (Nov. 18, 2021).

<sup>61</sup> OCC, [Clarifies Bank Authority to Engage in Certain Crypto Activities and Authority to Charter National Trust Banks](#) (Nov. 23, 2021).

<sup>62</sup> FDIC, [Notification of Engaging in Crypto-Related Activities](#) (Apr. 7, 2022); Fed, [Engagement in Crypto-Asset-Related Activities by Federal Reserve-Supervised Banking Organizations](#) (Aug. 16, 2022).

<sup>63</sup> NCUA, [Relationships with Third Parties Related to Digital Assets](#) (Dec. 2021); NCUA, [Credit Union Use of DLT](#) (May 2022).

<sup>64</sup> Treasury, [President's Working Group on Financial Markets Releases Report and Recommendations on Stablecoins](#) (Nov. 1, 2021).

<sup>65</sup> Fed, [Discussion paper examines a potential U.S. CBDC](#) (Jan. 2022); and Boston Fed, [Tech Research on CBDC](#) (Feb. 2022).

<sup>66</sup> The White House, [Executive Order on Ensuring Responsible Development of Digital Assets](#) (Mar. 9, 2022).

<sup>67</sup> For example, see Treasury, [Statement from Secretary Yellen on the Release of Reports on Digital Assets](#) (Sep. 16, 2022).

<sup>68</sup> FSOC, [FSOC Releases Report on Digital Asset Financial Stability Risks and Regulation](#) (Oct. 3, 2022).

<sup>69</sup> Fed, [Federal Reserve Board finalizes rule that governs funds transfers over the Federal Reserve Banks' FedNow Service](#) (May 2022).

<sup>70</sup> Fed, [Guidelines for Evaluating Account and Services Requests](#), vol. 87 *Federal Register* no. 160, August 19, 2022, p. 51099.

<sup>71</sup> Fed, [Debit Card Interchange Fees and Routing](#) (Oct. 11, 2022).

## Appendix A - Legislation

The Committee has previously advanced a number of bills to address issues related to this hearing, including H.R.1996, the SAFE Banking Act (Perlmutter); H.R. 2311, the Credit Union Governance Modernization Act (Emmer); H.R. 2516, the Promoting Diversity and Inclusion in Banking Act (Green); H.R. 2543, the Financial Services Racial Equity, Inclusion, and Economic Justice Act (Waters); H.R. 3958, the Central Liquidity Facility Enhancement Act (Waters); H.R. 4277, the Overdraft Protection Act (Maloney); H.R. 4590, the Promoting New and Diverse Depository Institutions Act (Auchincloss); H.R. 5911, the Fair Hiring in Banking Act (Beatty); H.R. 5912, the Close the ILC Loophole Act (C. García); H.R. 6889, the Credit Union Board Modernization Act (Vargas); H.R. 7022, the Strengthening Cybersecurity for the Financial Sector Act (Foster); and FSC provisions included in H.R. 7900, the National Defense and Authorization Act for FY 2023, among other bills. The following are additional bills the Committee will consider as part of this hearing:

- **H.R. 3571, “Climate Change Financial Risk Act” (Casten).** This bill would require FSOC to establish a committee to assist it in identifying risks and responding to threats to the financial system as a result of climate change. The Fed must develop financial risk analyses relating to climate change for certain large banks and nonbank financial companies, evaluating them every two years on whether they have the capital necessary to absorb financial losses that would arise under several different climate change risk scenarios. The bill also would establish the Climate Risk Scenario Technical Development Group to provide recommendations to the Fed regarding such climate change risk scenarios, and determine the financial and economic risks of these scenarios.
- **H.R. 5419, “Bank Merger Review Modernization Act” (C. Garcia).** The bill would ensure that bank mergers are in the public interest by clarifying and strengthening the public interest aspect of the merger review and require regulators to use a quantifiable metric to evaluate systemic risk.<sup>72</sup>
- **H.R. 8833, “Making Communities Stronger through the Community Reinvestment Act” (Waters).** This bill would revise CRA rules to ensure that bank loans and investments are meaningful and responsive to the needs of low- and moderate-income communities, communities of color, and meeting the local needs of communities where banks have branches and issue most of their loans. Specifically, this bill would encourage banks to tailor their community development services, require banks to regularly meet with stakeholders to discuss current and future CRA obligations where banks have facilities, evaluate the lending activities completed through a nonbank or fintech partner, encourage banks to issue small-dollar mortgages, introduce stronger consequences for bank activities that are discriminatory or violate consumer financial protection laws, and require the Federal financial supervisory agencies to conduct a study identifying ongoing discrimination or racial disparities in access to credit.
- **H.R. 8880, “Multilingual Financial Literacy Act” (S. Garcia).** This bill would require the Financial Literacy and Education Commission (FLEC) to carry out a study on the impact of language barriers to financial health and issue a report with recommendations on how to address these barriers to offer better financial inclusion for individuals with limited English proficiency, as well as require FLEC to coordinate and promote efforts of Federal agencies to make financial literacy and education resources available in at least eight of the most commonly spoken languages in the United States.
- **H.R. \_\_\_\_\_, “Community Reinvestment Reform Act” (Cleaver).** This bill would subject independent mortgage companies to CRA exams, codify community benefits agreements, specify

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<sup>72</sup> Sen. Warren, [Senator Warren and Rep. Chuy Garcia Introduce the Bank Merger Review Modernization Act to End Rubber Stamping of Bank Merger Applications](#) (Sep. 30, 2021).

conditions under which a bank may receive a downgrade and be required to create an improvement plan, and require disclosure of deposits from LMI communities.

- **H.R. \_\_\_\_, “Diversity in Financial Regulatory Advisory Committees Act.”** The bill would require reporting of advisory committee demographics and the consideration of at least one gender and racially or ethnically diverse individual when filling advisory committee vacancies at certain financial regulatory agencies.
- **H.R. \_\_\_\_, “Enhanced Community Input on Megabank Merger Reviews Act.”** This bill would require regulators to establish a joint online database for proposed bank mergers, giving the public 120 days to comment on such mergers, requiring regulators convene a public hearing for large bank mergers (resulting bank has over \$100 billion in total assets), and requiring a plan to minimize the creation of banking deserts resulting from large bank mergers with input from LMI communities and communities of color.
- **H.R. \_\_\_\_, “Repeat Offenders, Megabanks, and Credit Bureaus Accountability Act” (Waters).** This bill would require the CFPB, Federal Reserve, FDIC, and OCC to design a strategic plan outlining how they would utilize the full extent of their existing authority to hold megabanks, credit bureaus, and other large financial institutions accountable for a pattern of repeated compliance failures, including those that result in extensive consumer harm. It would also require treble damages for harmed consumers when these large institutions do not promptly notify the CFPB and the public when they violate any Federal consumer protection law and provide for prompt remediation for harmed consumers. The bill would also require greater transparency regarding supervisory grades given to megabanks, and standards with respect to megabank boards. This bill is based, in part, on the Committee’s investigations of Wells Fargo and Equifax.<sup>73</sup>

## Appendix B – Prudential Regulator Workforce Diversity

Agency	Total	Female	Male	Asian	Black	Latinx	Small ERI Groups**	White
<i>FDIC</i>	6,034	44%	56%	8%	17%	5%	3%	68%
<i>Fed</i>	2,903	43%	57%	16%	19.7%	5.4%	1.7%	57%
<i>OCC</i>	3,547	43.7%	56.3%	10.1%	17.1%	8.0%	1.2%	63.6%
<i>NCUA</i>	1,152	43%	57%	7.6%	15.9%	6.4%	1.2%	68.8%

\*\* Note: Small ERI groups are Native Americans, Native Hawaiians, and persons of two or more races combined.

Source: 2021 OMWI Reports for [Fed](#), [OCC](#), and [NCUA](#). The FDIC data presented is from the FDIC Corporate Human Resources Information System to support continuity. The [FDIC OMWI](#) report did not include a breakdown of overall workforce diversity data.

<sup>73</sup> FSC, [Waters Releases Staff Report on Pattern of Consumer Abuse from Wells Fargo](#) (Sep. 29, 2017); FSC, [Waters Introduces Groundbreaking Legislation to Shut Down Abusive Megabanks Like Wells Fargo](#) (Oct. 4, 2017); FSC, [In Advance of Wells Fargo Hearings, Waters and Green Release Investigative Report Exposing Failures of Megabank’s Management, Board, and Regulators](#) (Mar. 4, 2020); FSC, [Holding Megabanks Accountable: An Update on Banking Practices, Programs and Policies](#) (May 27, 2021); and FSC, [Chairwoman Waters Vows to Hold Equifax Accountable for Repeatedly Harming Consumers](#) (Aug. 10, 2022).