LATHAM & WATKINS LLP

10 Key Focus Areas for US Bank Regulators in 2026

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Introduction

In this publication, we explore 10 key focus areas for US bank regulators in the year ahead.

Building on a fast start in 2025, 2026 is shaping up to be an extraordinarily active year, as US bank regulators continue down their revolutionary path of implementing deregulation, streamlining supervision, and attempting to foster innovation in financial services, including further integrating digital assets into the banking system. In addition, federal and state bank regulators will respond to the enactment of the Guiding and Establishing National Innovation for US Stablecoins Act (the GENIUS Act), thus developing the new regulatory regime for stablecoins.

We expect banks large and small to welcome proposed and final rules that will change the long-standing bank capital regime. In addition, federal regulators may further tailor the enhanced bank regulatory regime for significant banks mandated by the Dodd-Frank Act. Bank supervision is anticipated to become less wide-ranging and more concentrated on material financial risks, even as the unregulated sector, including private credit, continues to grow. Federal bank regulators are likely to continue expanding opportunities for sponsors of new banks, including both FDIC-insured banks and non-insured trust institutions. Regulators are also likely to adapt the nation’s anti-money laundering (AML) regime to the new priorities.

1. Basel Endgame Re-Proposal

More than 17 years since the onset of the 2008 financial crisis, the United States, like certain other developed countries, has still not fully implemented all of the reforms to bank capital proposed by the Basel Committee on Bank Supervision in the crisis' aftermath. The initial attempt by the Board of Governors of the Federal Reserve System (Federal Reserve Board), the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC) to implement the so-called Basel Endgame — contained in a July 2023 proposed regulation that would have raised capital requirements significantly for the largest US banks — met with unprecedented criticism. By our analysis, 97% of commenters objected to at least one aspect of the proposal.

The US bank regulators have gone back to the drawing board. In June 2025, a conference on bank capital was held at the Federal Reserve Board in Washington. In August 2025, Federal Reserve Board Vice Chair for Supervision Michelle Bowman said a new proposal would be published "early next year."

For the United States, the chief aspects of Basel Endgame that have not yet been implemented focus on operational risk, market risk, and CVA risk relating to derivatives transactions. A principal issue with the attempted implementation in 2023 was that the US already has a form of so-called "gold plating" above and beyond international standards under its current capital rules, and by not appreciably taking this into account, the 2023 proposal would have mandated an estimated 16% increase in capital requirements for US banks with greater than $100 billion in total assets.

There is no doubt that a 2026 re-proposal of the Basel Endgame will be less onerous than the 2023 proposal, especially for the country's largest banks, which would have borne the brunt of the increases proposed in 2023. What is unclear, however, is just how close a re-proposal will come to being "capital neutral" — that is, whether the increased requirements for operational risk, market risk, and CVA risk will be fully mitigated by reduced requirements in other areas. Notably, there appears to be less appetite for substantial increases in bank capital requirements globally, and arguments based on the US's competitive position vis-à-vis non-US regulatory regimes are likely to receive a sympathetic hearing.

2. Changes to the Stress Testing Regime for the Largest US Banks

Complementing the changes to the Basel Endgame requirements, the Federal Reserve Board is re-evaluating its stress testing regime for the largest US bank holding companies. In 2025, 22 bank holding companies participated in the annual supervisory stress tests. The tests, which the regulators began holding in 2009, measure the amount of capital losses that each participating bank holding company would experience in a hypothetical severely adverse economic scenario, such as a severe recession accompanied by significant losses in the financial markets. Since 2020, the tests have determined how much capital the participating banks are required to hold, because the amount of capital losses in the tests for each participating bank holding company must be held by it as additional capital beyond minimum capital requirements and required capital surcharges — the so-called "stress capital buffer."

Since their inception, the stress tests have been subject to criticism on the grounds that there is little transparency around the models the Federal Reserve Board staff uses to estimate capital losses and other aspects of the tests.

Following the Supreme Court's 2024 overruling of the *Chevron* case in *Loper Bright Enterprises v. Raimondo*, opponents have increased their criticism. In December 2024, several banking agency advocacy groups sued the Federal Reserve Board in federal court, alleging that the stress testing regime violated established principles of US administrative law.

In October 2025, the Federal Reserve Board responded to the litigation with two rule proposals to reform the stress tests. The first proposal requested public comment on the stress test models and economic scenario designs as well as an enhanced disclosure process that would include public comment on material model changes and the annual stress test scenarios. The second proposal requested public comment on the Federal Reserve Board's proposed scenarios for the 2026 supervisory stress tests and the models used to generate the scenarios, which were designed based on proposed revisions to the Federal Reserve Board's Scenario Design Policy Statement.

Although the comment period for the first proposal has closed, the comment period for the second proposal ends on February 21, 2026. Large banking organizations that will be subject to the stress tests are likely to see material changes in the Federal Reserve Board's regime, although the degree to which the Federal Reserve Board is able to satisfy industry criticisms of the current process remains to be seen.

3. Potential for New Regulatory Tailoring

Increased tailoring of regulatory requirements is likely to be a significant part of the deregulatory agenda in 2026. In the first Trump administration, Congress enacted legislation that permitted US bank regulators to reduce enhanced prudential requirements, particularly for banking organizations with less than $250 billion in total consolidated assets. (The regulators retained discretion to impose certain requirements on banking organizations with between $100 billion and $250 billion in total consolidated assets.) The bank regulators responded by issuing a "tailoring" regulation that divided banking organizations with more than $100 billion in assets into four categories: I, II, III, and IV, with I representing the nation's largest banks.

In November 2025, House Financial Services Committee Chairman French Hill, joined by other Republican committee members, wrote a letter to Comptroller of the Currency Jonathan Gould, Federal Reserve Board Vice Chair Bowman, and then-Acting FDIC Chairman Travis Hill urging them to take action to increase the amount of regulatory tailoring.

With respect to Category II banking organizations, the letter noted that "Category II covers [non-G-SIB] banks with either $700 billion or more in assets, *or* banks with $100 billion or more in assets and $75 billion or more in cross-jurisdictional activity. This results in banks with less than $250 billion in assets, for which Congress made application of [enhanced prudential standards] (EPS) discretionary, being subject to the same EPS as banks whose size is nearly triple the $250 billion threshold at which Congress made EPS mandatory."

With respect to Category III banking organizations, the letter noted that "Category III covers banks with either $250 billion or more in assets, or banks with $100 billion or more in assets and $75 billion or more in nonbank assets, short-term wholesale funding, or off-balance sheet exposures. ... This has resulted in a group of Category III banks of incredibly diverse capital structures, risk attributes, levels of complexity, financial activities, size, and other factors being subject to a uniform set of EPS requirements."

Finally, for Category IV banking organizations, the letter noted that "Category IV covers banks with $100 billion or more in assets and for which designation as a Category I, II, or III bank is inapplicable. Composed entirely of banks for which Congress made application of EPS discretionary, Category IV banks are nevertheless subject to largely the same set of EPS as Category I, II, and III banks with some modest easing in certain instances." The letter concluded by arguing that the bank regulatory agencies already possessed the legal authority to remedy these issues by issuing further regulations.

Some regulators have already acted to increase tailoring in other areas. On December 23, 2025, the OCC issued a rule proposal that would amend its guidelines relating to heightened risk governance standards for insured national banks, federal savings associations, and federal branches. The proposed rule would increase the average total consolidated assets threshold for applying the guidelines from $50 billion to $700 billion, which would reduce the number of covered institutions dramatically. This action suggests that certain of Chairman Hill's desires could be realized in 2026. In addition, banks that have less than $100 billion in total assets but are not "community banks" (i.e., do not have fewer than $10 billion in total assets) are not subject to enhanced prudential standards; nonetheless, they may see regulatory relief in other areas.

4. Streamlining Supervision

US bank regulators have indicated that they are targeting excessive supervisory and examination burdens in addition to excessive regulation. In June 2025, Federal Reserve Board Vice Chair Bowman described her approach as follows: "Supervision focused on material financial risks that threaten a bank's safety and soundness is inherently more effective and efficient. We should be cautious about the temptation to overemphasize or become distracted by relatively less important procedural and documentation shortcomings."

Four months later, the Federal Reserve Board staff followed up by issuing a "Statement of Supervisory Operating Principles." These principles include:

- Examiners and other supervisory staff should prioritize their attention on a firm's material financial risks. They should not become distracted from this priority by devoting excessive attention to processes, procedures, and documentation that do not pose a material risk to a firm's safety and soundness.
- Board Supervision & Regulation and Reserve Bank staff should tailor their supervision based on the size, complexity, and systemic importance of a particular banking organization, using relatively more resources on large, complex, and more systemic organizations and relatively fewer resources on smaller, less complex, and less systemic organizations.
- Examiners and other supervisory staff should not perform duplicative validations of whether a firm has fully remediated a Matter Requiring Attention (MRA), a Matter Requiring Immediate Attention (MRIA), or a requirement in an enforcement action unless the firm's internal audit is rated unsatisfactory. Instead, they should rely on an institution's internal audit for validations when that function is rated satisfactory.
- Staff should not delay the termination of an MRA, MRIA, or requirement in an enforcement action if the underlying deficiency has been fully remediated in order to test over a period of time whether the remediation is sustainable. Instead, they should monitor sustainability after termination and hold the firm accountable if the deficiency reappears.
- The Large Institution Supervision Coordinating Committee (LISCC) and Large and Foreign Banking Organization (LFBO) portfolios should no longer conduct horizontal reviews unless the Deputy Director of Supervision determines that the benefits of a particular horizontal review to the safety and soundness of the banking organizations being reviewed or the stability of the US financial system outweigh the associated costs.
- MRAs and MRIAs should prioritize deficiencies that could have a material impact on a firm's financial condition, rather than focus on procedural or documentation shortcomings that do not materially threaten the firm's safety and soundness. In addition, examiners must communicate MRAs and MRIAs with sufficient specificity so that a person of ordinary intelligence can readily know what the deficiency is and what a non-deficient state would be.

These new operating principles are a real break from the past. Other regulators took similar tacks. In order to reduce supervisory discretion, the OCC and the FDIC proposed a rule that would define the term “unsafe or unsound practice” for purposes of the Federal Deposit Insurance Act’s enforcement provisions as well as a rule that would revise the supervisory framework for the issuance of MRAs and other supervisory communications. The OCC and the FDIC also issued a proposed rule that would prohibit the agencies from (i) criticizing or taking adverse action against an institution on the basis of reputation risk, and (ii) encouraging banks to terminate customer relationships on the basis of the customer’s political, social, cultural, or religious views, or constitutionally protected speech, or solely on the basis of politically disfavored but lawful business activities perceived to present reputation risk. Moreover, in a recent speech, Comptroller of the Currency Gould argued that the FDIC’s requirements for large bank resolution plans were not authorized by statute and that the Federal Reserve’s approach to large bank resolution had relied inappropriately on guidance as opposed to notice-and-comment rulemaking.

In another 2025 development, the Federal Reserve Board finalized changes to its supervisory rating framework for large bank holding companies, with the effect that a firm with no more than one deficient-1 rating can still be considered “well managed.” This will result in fewer so-called 4(m) Agreements under which financial holding companies are restricted in making non-bank acquisitions because they do not have well-managed status.

5. Further Limits on Independent Agencies

Other than the OCC, which was created decades before any other federal bank regulator as part of the Treasury Department, independence has traditionally been the hallmark of the federal banking agencies. The independent administrative state, however, came under significant pressure from the Trump administration in 2025. President Trump, for example, has fired two Democratic Federal Trade Commissioners, and the case has arrived at the Supreme Court, which will decide whether the termination requirement of “inefficiency, neglect of duty, or malfeasance in office” in the Federal Trade Commission Act violates the President’s Article II powers.

The administration has taken other measures with respect to the federal banking agencies. No Democrats have been appointed to the Board of Directors of the FDIC, and so the FDIC Board consists of three Republicans: Chairman Hill and the two *ex officio* members, Comptroller of the Currency Gould and Acting Director of the Consumer Financial Protection Bureau (CFPB) Russell Vought.

At the CFPB, Acting Director Vought has sought to terminate most of the agency’s staff and has taken the position that the CFPB no longer has a funding source, on the grounds that its statutory funding source under the Dodd-Frank Act — the “combined earnings” of the Federal Reserve System — is currently zero. These actions have been challenged in federal court by the National Treasury Employees Union, with the outcome of the case currently unclear. With the litigation pending, Acting Director Vought recently submitted a funding request for the first quarter of 2026.

Most significantly, President Trump has sought to remove Federal Reserve Board Governor Lisa Cook under the “for cause” termination provision in the Federal Reserve Act. The Supreme Court is scheduled to hear arguments in this case this week.

In a 2024 case, the Supreme Court held that the Dodd-Frank Act’s limitations on the power of the President to remove the CFPB Director were unconstitutional. A majority of the Supreme Court showed a degree of sympathy for executive power in this area, but the CFPB’s structure is, of course, *sui generis*. Whether or not there are further changes at the highest levels, all of the bank regulators are seeking meaningful reductions (e.g., 25%-30% for the OCC and FDIC) in agency staff that will undoubtedly reduce the extent of regulatory and supervisory action. The beneficiaries will likely continue to be community and medium-sized banks, although large banks and large non-bank financial companies will undoubtedly benefit from the CFPB’s staff reductions.

6. Increased Use of Novel Bank Charters

Last year saw a greatly increased number of applications for *de novo* bank charters. Many of these were in the digital assets space, but others had more traditional business plans. Fourteen applications for national banks were filed with the OCC. In December, a Utah industrial bank application was filed with the Utah Department of Financial Institutions and the FDIC. In addition to the growth in filings, the relevant federal banking regulators sped up the process for conditional approval of the new applications.

An area of focus was OCC-chartered national trust banks used for digital asset activities. A national trust bank is an uninsured institution that engages in fiduciary and related activities. Because it is not a "bank" within the meaning of the Bank Holding Company Act of 1956, it has the advantage of not making its controlling shareholders subject to supervision and regulation by the Federal Reserve Board. In December 2025, the OCC approved five applications for national trust banks to be engaged in a broad range of digital assets activities, including:

- Custody and safekeeping activities
- Ancillary custody services, such as settlement and clearing
- Exchange, brokerage, and trading-related activities, including operating an exchange, trade execution, recordkeeping, valuation, tax services, and reporting services
- Fiduciary agent, paying agent, and exchange agent activities
- Wallet platform services
- Transfer services for digital assets and fiat currency
- Key management
- Staking services
- Escrow services
- Collateral trustee and reserve management services
- Stablecoin issuance
- Issuance of gold-backed digital assets

A principal issue for 2026 is the degree to which the OCC may further expand the list of permissible business activities for national trust banks, and whether other market participants would challenge such expansion. Attempts by prior Comptrollers of the Currency to expand novel charters, particularly for fintech companies, have been controversial, with some ending up in litigation over the extent of the OCC's chartering authority.

One area of controversy in 2025 was the extent to which national trust banks can engage in non-fiduciary — as opposed to fiduciary — custody of client assets. The OCC argued that national banks had long engaged in such activities, while other constituencies claimed that such activities were impermissible under governing statutes. In the first week of January 2026, the OCC issued a proposed rule that would clarify its position that non-fiduciary activities are permissible for national trust banks as activities related to trust company operations.

Another issue for 2026 relates to the speed of processing applications, with increased efficiency being an important goal of the Trump administration. It bears watching whether all the federal bank regulators will achieve this goal, particularly in the acquisition context; in this regard, it is noteworthy that the OCC and the Federal Reserve Board issued their approvals of a substantial deal between regional banks very promptly in December 2025 and the first part of January 2026 respectively. And although 2025 saw a fairly short period of time elapse between filing and conditional approval of certain national bank charters at the OCC, how quickly the recently approved institutions will be able to satisfy the conditions necessary for commencing business is unclear.

7. New Federal Reserve Payment Accounts

An issue related to innovative bank charters is the availability of master accounts at the Federal Reserve Board. Such accounts permit holders to make use of the Federal Reserve Board's payment system, among other benefits, and as a result, they are viewed as particularly valuable by institutions in the payments and digital assets space.

Prior to 2025, the Federal Reserve Board was hesitant to permit master accounts to be used by banks whose holding companies were not subject to Federal Reserve Board supervision and regulation, which included many fintech and digital asset institutions. The Federal Reserve Board also succeeded in litigation when it was sued for acting arbitrarily and capriciously for failing to approve a master account application from a bank focused on the digital asset industry.

As part of a more friendly approach to digital assets among bank regulators generally, in late December 2025 the Federal Reserve Board requested public input on a new type of Federal Reserve account, called a "payment account," which eligible financial institutions could use for the limited purpose of clearing and settling their payments. The Federal Reserve Board stated that in order to support innovation and promote a safe and efficient payment system, the new payment account would be tailored to meet the limited needs of eligible financial institutions seeking payments and settling services. This tailoring could result in lower risk to the payment system, and as a result, requests for payment accounts could generally receive a streamlined review.

A payment account would be distinct from a master account in that it (i) would not pay interest, (ii) would not have access to Federal Reserve credit, and (iii) would be subject to balance caps, among other differences. Additionally, a payment account would not expand or otherwise change legal eligibility for access to payments services from the Federal Reserve, whose services are generally available only to depository institutions and Federal Reserve member banks.

If the Federal Reserve Board does approve payment accounts, acritical issue will remain: how onerous it will be in practice for firms that do not have the Federal Reserve Board as a holding company supervisor to obtain such accounts. This is particularly relevant for state-chartered institutions in states that have only recently seen an upsurge in new bank charters. In these states, the Federal Reserve Board may have questions about the extent to which state supervisors monitor critical risks, such as money laundering. Historically, state-chartered banks without a federal holding company regulator have faced the highest hurdles in obtaining master accounts, as in the Federal Reserve's 2022 Master Account Guidelines.

8. Stablecoin Regulatory Implementation

In July 2025, President Trump signed the GENIUS Act, which establishes a legal regime for payment stablecoins, into law. It will become effective on the earlier of January 18, 2027 or 120 days after the date on which a primary federal payment stablecoin regulator — any of the Federal Reserve Board, OCC, FDIC, or National Credit Union Administration — issues final implementing regulations.

The statute states that each primary federal payment stablecoin regulator, the Secretary of the Treasury, and each state payment stablecoin regulator must promulgate regulations “as appropriate” through notice-and-comment rulemaking within one year of enactment.

Whether all of the regulators will meet this deadline is unclear, as the rulemaking will be a considerable task, as shown by a few examples of what is contemplated. The Secretary of the Treasury has authority to promulgate regulations concerning the issuance and treatment of payment stablecoins as well as regulations imposing AML and sanctions requirements. The primary federal payment stablecoin regulators and state payment stablecoin regulators are required to promulgate capital, liquidity, and risk management standards. The Federal Reserve Board is authorized to promulgate regulations on the statute’s anti-tying requirements. The Stablecoin Certification Review Committee, made up of the Treasury Secretary, the Chair or Vice Chair for Supervision of the Federal Reserve Board, and the FDIC Chairman, must issue regulations on the ownership of payment stablecoin issuers by domestic public commercial companies and foreign commercial companies.

Because payment stablecoins are viewed as akin to deposits, the resulting regulatory regime will likely be adapted from existing federal banking law and regulation, with respect to both US domestic payment stablecoin issues and extraterritorial issues. In 2025, one rule proposal under the GENIUS Act was issued: the FDIC’s proposed regulation relating to the process for a subsidiary of an FDIC-insured depository institution subject to its jurisdiction to apply to become a permitted payment stablecoin issuer.

9. New Approaches to Money Laundering

The Trump administration’s deregulatory agenda could carry over to supervision and enforcement of AML laws and regulations, which many banks, particular small- and medium-sized banks, have criticized as overly onerous. Last year saw the rescission or suspension of a variety of AML provisions. For example, the Financial Crimes Enforcement Network (FinCEN):

- exempted US companies and US persons from beneficial ownership information reporting requirements imposed pursuant to the Corporate Transparency Act;
- delayed the effective date of the final AML rule for investment advisers and exempt reporting advisers by two years, to January 1, 2028; and
- postponed its rule requiring reporting on high-risk residential real estate transfers from December 1, 2025, to March 1, 2026.

In addition, FinCEN released several FAQs on the Suspicious Activity Report (SAR) filing process in an attempt to reduce burdens with respect to “structuring” SARs; continuing activity reviews; and documentation with respect to a bank’s decision not to file a SAR.

Reportedly, larger-picture reforms are also being considered, including:

- giving the Treasury Department, via FinCEN, the ability to influence findings by bank regulators of Bank Secrecy Act violations in cases where Treasury viewed the violations to fall on the line of technical violations; and
- permitting FinCEN to consider the extent to which a bank had previously provided useful information to law enforcement when responding to a bank regulator’s finding of violations.

Administration officials have argued, as they have with respect to bank safety and soundness examination, that current enforcement of AML rules does not sufficiently focus on material AML risks and that banks are spending too many resources in attempting to meet supervisory expectations. Federal regulators can be expected to seek to address these concerns as the year progresses.

10. Whither Federal Consumer Law?

The Trump administration's efforts to shrink the CFPB are currently stayed pending resolution of a lawsuit on the legality of the government's actions. The US Court of Appeals for the District of Columbia Circuit is due to hear the case *en banc* on February 24, 2026. Whatever the outcome of the case, the CFPB has significantly reduced operations, limiting examinations, terminating enforcement actions, and ceasing to extend its jurisdiction further into the non-bank sector. This approach is likely to continue.

An issue for 2026, therefore, is whether other actors will step in to the vacuum the CFPB is creating. Notably, the Dodd-Frank Act permits state attorneys general to enforce certain provisions of federal consumer law, although the precise scope has not been fully litigated. In 2022, the CFPB issued an interpretive rule that broadly interpreted the power of state attorneys general in this regard.

In May 2025, however, the CFPB rescinded this interpretation in favor of a narrower one, under which state attorneys general may enforce only Title X of Dodd-Frank and the CFPB's regulations thereunder — such as UDAAP violations — but not the substantive provisions of federal consumer financial law, such as the Equal Credit Opportunity Act. In addition, the CFPB stated that the Dodd-Frank Act contemplates joint, not parallel, state and CFPB action, although states may undertake independent enforcement or regulatory action when the CFPB has not initiated its own action against an entity.

Nevertheless, with the constriction of the CFPB's activities, some state attorneys general will likely seek broad enforcement power, leaving it to the courts to determine whether their actions are appropriate.

On the flip side of these federal-state issues, in late 2025 the OCC issued a proposed preemption determination that would expand federal power. Under the proposed determination, the National Bank Act would preempt New York's General Obligations Law Section 5-601, which requires interest to be paid on certain mortgage escrow accounts, and the laws of 11 other states with substantively equivalent terms. The OCC is unlikely to shrink from issuing further preemption determinations as circumstances warrant in 2026.

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