United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510–6075

March 25, 2025

Mr. Jonathan Gould
Comptroller-Designate
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. Gould:

Congratulations on your nomination to serve as the Comptroller of the Currency. The Office of the Comptroller of the Currency (OCC) has a critical mission: to ensure national banks and federal savings associations operate in a safe and sound manner and are providing businesses and households with fair access to financial services. The OCC regulates, supervises, and enforces the law against the very largest banks in the country, including the five largest commercial banks. If the OCC fails to execute its statutory obligations, the rest of the economy will bear the consequences.

You currently serve as a partner at a private law practice in Washington, D.C. Previously, you served as Senior Deputy Comptroller and Chief Counsel at the OCC. You have also served in senior roles at Bitfury, the Senate Banking, Housing, and Urban Affairs Committee, Blackrock, and Promontory Financial Group. Your record as Chief Counsel at the OCC during the first Trump administration raises concerns that, if confirmed, you may pursue a Wall Street deregulatory agenda, block states from exercising their rights to protect their citizens from predatory practices by national banks, and let large banks off the hook when they violate the law. Your current role representing many national banks – which you would oversee as Comptroller – also raises questions about your ability to avoid real or perceived conflicts of interest while at OCC.

To address my concerns about your confirmation, as Ranking Member of the Senate Banking Committee, I have attached a series of questions below. I request that you review these questions and arrive prepared to answer them at your hearing, and that you provide detailed written responses prior to any Committee vote on your nomination. Your timely responses will help me and other members of the Senate assess your credentials and determine if you are the right person to steward our national banking system.

Regulation and Supervision

During your tenure as Senior Deputy Comptroller and Chief Counsel at the OCC, the agency proposed or finalized several major deregulatory rules that weakened safeguards for the largest banks in the country. Some of these efforts were executed jointly with the Federal Reserve Board and Federal Deposit Insurance Corporation (FDIC). Weakening these core banking safeguards in 2017-2020 helped cause the 2nd, 3rd, and 4th largest bank failures in U.S. history in the Spring of 2023, when First Republic, Silicon Valley Bank (SVB), and Signature Bank collapsed.[1] Several large national banks also experienced severe distress and may not have survived the following week absent the extraordinary government support provided to the banking sector, including uninsured deposit bailouts and Federal Reserve emergency lending facilities.[2]

I am concerned that you may pursue a similar deregulatory agenda as the OCC implemented in the first Trump administration, leaving the national banking system fragile and the economy exposed to another banking collapse.

1. In 2019, the OCC finalized a rule jointly with the Federal Reserve Board and FDIC that rolled back certain capital and liquidity rules for banks with $100 billion - $700 billion in assets.[3] SVB, Signature Bank, and First Republic Bank, which failed in Spring 2023, were all in this size category.
    a. Do you believe that material stress at, or the failure of, banks with $100 billion - $700 billion in assets can threaten the stability of the financial system?
    b. Do you believe that the 2019 rule played *any* role in the failure of these three banks and the broader instability in the banking system in Spring 2023?
    c. If not, do you believe it is coincidental that weakening supervision and regulation for banks of this size category directly preceded the 2nd, 3rd, and 4th largest bank failures in U.S. history, all banks within that size category?
    d. Do you believe it was appropriate for the OCC to generally reduce liquidity requirements for banks with $100 billion - $700 billion in assets?
    e. Do you believe it was appropriate for the OCC to generally allow banks with $250 billion - $700 billion in assets to opt-out of a capital treatment that required unrealized gains and losses in the available-for-sale securities portfolio to be reflected in capital levels?

---

[1] Board of Governors of the Federal Reserve System, Michael S. Barr, Vice Chair for Supervision, "Review of the Federal Reserve's Supervision and Regulation of Silicon Valley Bank," April 28, 2023, https://www.federalreserve.gov/publications/files/svb-review-20230428.pdf; Bloomberg, First Republic Becomes Second-Largest Ever US Bank Failure," Max Reyes, May 1, 2023, https://www.bloomberg.com/news/articles/2023-05-01/first-republic-ranks-as-second-largest-ever-us-bank-failure; Washington Post, "Three of the four largest-ever bank failures have happened since March," Luis Melgar and Hamza Shaban, May 1, 2023, https://www.washingtonpost.com/business/2023/03/13/bank-failure-size-svb-signature/.

[2] Financial Times, "Local Stress: The US regional banks under pressure," Stephen Gandel, Brooke Masters, Patrick Mathurin, and Alan Smith, May 6, 2023, https://www.ft.com/content/7a5c5956-6e93-4554-9699-0e8a5dd8e547.

[3] Office of the Comptroller of the Currency, Federal Reserve System, and Federal Deposit Insurance Corporation, Federal Register Notice, "Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements," November 1, 2019, https://www.federalregister.gov/documents/2019/11/01/2019-23800/changes-to-applicability-thresholds-for-regulatory-capital-and-liquidity-requirements.

f. Do you agree with the OCC's *Director's Book* that bank directors should "dissent on the record and consider actions to protect the bank's interests" if the bank's board is concerned that the holding company is engaging in practices that may harm the bank?[4]

2. In 2023, the banking agencies proposed revisions to the risk-weighted capital framework to address glaring deficiencies in the existing rules, especially with respect to risky trading activities and the losses banks face due to operational failures.[5] The rule was generally aligned with the international Basel III "Endgame" agreement.[6]
   a. Do you intend to finalize this rule?
   b. Do you believe the Basel Committee on Banking Supervision plays a useful role in preventing a global race to the bottom on capital rules?
   c. Do you believe that financial crises in other countries can spill over to the U.S. banking system? Has that happened previously in U.S. history?
   d. Do you believe banks are currently undercapitalized against significant trading risks in their capital markets activities?
   e. What is the total volume of operational risk losses banks have had in the past 10 years? What part of the capital framework is intended to capture such losses?
   f. Given your previous statements on the Basel III Endgame process, do you commit to performing quantitative impact analyses and issuing multiple rounds of proposals for public comment for any rule that would impact large bank capital levels?

3. In 2018, the OCC and Federal Reserve proposed to weaken the enhanced supplementary leverage ratio (eSLR), one of the most important post-financial crisis improvements to capital requirements for the eight largest Wall Street banks.[7] The proposal was never finalized and would have reduced loss-absorbing buffers at Wall Street banks by an astounding $121 billion.[8] Wall Street banks could have increased dividends and buybacks, operated with more debt, and become far more vulnerable to failure.
   a. Do you believe the eSLR has improved the safety and soundness of national banks that are systemically important to the global financial system?

[4] Office of the Comptroller of the Currency, "Director's Book: Role of Directors for National Banks and Federal Savings Associations," November 2020, pp. 35, https://www.occ.gov/publications-and-resources/publications/banker-education/files/directors-book.html.
[5] Office of the Comptroller of the Currency, Federal Reserve System, and Federal Deposit Insurance Corporation, Federal Register Notice, "Regulatory Capital Rule: Large Banking Organizations and Banking Organizations With Significant Trading Activity," September 18, 2023, https://www.federalregister.gov/documents/2023/09/18/2023-19200/regulatory-capital-rule-large-banking-organizations-and-banking-organizations-with-significant.
[6] Bank for International Settlements, "Governors and Heads of Supervision finalise Basel III reforms," press release, December 7, 2017, https://www.bis.org/press/p171207.htm.
[7] Office of the Comptroller of the Currency and the Federal Reserve System, Federal Register Notice, "Regulatory Capital Rules: Regulatory Capital, Enhanced Supplementary Leverage Ratio Standards for U.S. Global Systemically Important Bank Holding Companies and Certain of Their Subsidiary Insured Depository Institutions; Total Loss-Absorbing Capacity Requirements for U.S. Global Systemically Important Bank Holding Companies," April 19, 2018, https://www.federalregister.gov/documents/2018/04/19/2018-08066/regulatory-capital-rules-regulatory-capital-enhanced-supplementary-leverage-ratio-standards-for-us.
[8] *Id.*

b. Did the 2008 financial crisis and the complete failure of the risk-weighted capital regime demonstrate that leverage capital requirements are an important safeguard to ensure the stability of the banking system?
c. Would you oppose a second attempt at weakening the eSLR and reducing Wall Street banks' loss-absorbing buffers by more than $100 billion?
d. Did you have any concerns with the 2018 proposal?
e. Do banks' investments in Treasury securities carry any liquidity, operational, or market risk? If Treasury securities were exempted from the leverage ratio, which part of the capital framework would provide a buffer against losses on Treasury securities? Do you oppose exempting Treasuries and other assets from the leverage ratio?

4. In 2019, the OCC and four other financial regulatory agencies rolled back the Volcker Rule, which had been put in place after the 2008 financial crisis to prevent banks from gambling in financial markets.[9] In 2020, the agencies then further weakened the Volcker Rule by eroding prohibitions on bank investments in hedge funds and private equity funds.[10]
    a. Do you believe the economic analysis conducted to justify these two rulemakings was thorough? If so, please quote from the analyses to support your response.
    b. Do you believe rulemakings that strengthen banking safeguards and rulemakings that weaken banking safeguards should meet the same economic analysis standards?
    c. Do you believe that it is prudent for banks to monitor hedging transactions on an ongoing basis or solely at the point of execution?
    d. Is it possible for banks to engage in proprietary trading strategies using securities classified as available-for-sale or derivatives accounted at fair value, but not listed in the trading book?
    e. In the past, have banks ever manipulated the accounting treatment of securities and derivatives with respect to assigning them to the trading account, available-for-sale, and hold-to-maturity categories?
    f. Did bank investments in, and relationships with, hedge funds and private equity funds contribute to banking sector stress in the 2008 financial crisis?
    g. Do you believe bank investments in, and relationships with, hedge funds and private equity funds pose safety and soundness risks?

5. One of the causes of the 2008 financial crisis was exorbitant executive compensation packages that incentivized wild risk-taking.[11] If the bets paid off, executives would rake

[9] Federal Reserve System, "Agencies finalize changes to simplify Volcker rule," press release, October 8, 2019, https://www.federalreserve.gov/newsevents/pressreleases/bcreg20191008a.htm.
[10] Office of the Comptroller of the Currency, Federal Reserve System, Federal Deposit Insurance Corporation, Commodity Futures Trading Commission, and Securities and Exchange Commission, Federal Register Notice, "Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds," July 31, 2020, https://www.federalregister.gov/documents/2020/07/31/2020-15525/prohibitions-and-restrictions-on-proprietary-trading-and-certain-interests-in-and-relationships-with.
[11] ECGI, "The Wages of Failure: Executive Compensation at Bear Stearns and Lehman 2000-2008," Lucian A. Bebchuk, Alma Cohen, and Holger Spamann," November 26, 2009, https://papers.ssrn.com/sol3/papers.cfm?

in tens of millions of dollars. If the bets went bust, the rest of the economy would suffer the consequences and taxpayers would be required to clean it up. Section 956 of the Dodd-Frank Act mandated regulators, including the OCC, to jointly prescribe rules prohibiting risky bonus arrangements.[12] After proposals in 2011, 2016, and 2024, the rule remains unfinished.

a. Do you believe regulators must finalize Congressionally mandated rules?
b. Do you commit to finalizing a strong executive compensation rule?
c. Do you believe the banking agencies' 2010 executive compensation guidance, completed one month before the Dodd-Frank Act was passed, satisfies the legal requirement to prescribe rules or guidelines under Section 956? Is a guideline a distinct legal term from guidance under the federal banking laws?
d. Based on the public information available, do you believe executive compensation packages played a role in the failure of SVB?
e. As a general matter, do you believe compensation arrangements influence behavior of bank executives?

6. Distinct from its rulemaking authority, the OCC supervises national banks for compliance with relevant laws and regulations. Supervisors can spot issues before they fester into bigger problems that threaten the safety and soundness of the bank.
   a. What is your philosophy for bank supervision? Do you think supervisors should engage in box-checking exercises or should they make substantive judgments as to the prudence of banks' risk-related decisionmaking?
   b. Should supervisors be empowered to quickly escalate issues to bank management?
   c. Do you believe supervisors should use formal and informal supervisory communications, such as matters requiring attention, or should supervisors exclusively utilize formal enforcement actions against banks?
   d. Please review the FDIC Office of Inspector General and Federal Reserve Board post-mortems of SVB.[13] What do you see as key supervisory failures? Do you agree that certain supervisory changes implemented by former Federal Reserve Vice Chair Quarles tied supervisors' hands and prevented them from timely addressing risks?
   e. Did Comptroller Otting undergo a careful budget review process, or did he approve bloated budgets with excess supervisory staff?
   f. Is it important for the OCC to have the necessary staff and resources to execute its mission?

7. Climate change clearly poses material financial risks to the national banking system. More frequent and severe weather events, and chronic changes to the climate, threaten

abstract_id=1513522.

[12] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, Section 956.

[13] Federal Deposit Insurance Corporation, Office of Inspector General, "FDIC Readiness to Resolve Large Regional Banks," https://www.fdicoig.gov/sites/default/files/reports/2024-12/Final%20Report%20EVAL-25-02%20FDIC%20Readiness%20to%20Resolve%20Large%20Regional%20Banks.pdf; Board of Governors of the Federal Reserve System, Michael S. Barr, Vice Chair for Supervision, "Review of the Federal Reserve's Supervision and Regulation of Silicon Valley Bank," April 28, 2023, https://www.federalreserve.gov/publications/files/svb-review-20230428.pdf.

physical collateral, undermine cash flows backing a variety of loan types, and could increase losses on national bank balance sheets.[14] In addition, the shift to a low-carbon economy could undermine the value of loans and bonds tied to carbon-intensive industries.[15] In 2023, the OCC jointly finalized supervisory principles to ensure banks have appropriate risk management frameworks to identify and mitigate climate-related financial risks.[16]

a. Do you believe that climate change poses material risks to national banks?
b. Do you believe national banks should account for climate-related financial risks when underwriting loans or investing in other debt obligations? For example, should national banks consider sea-level rise and severe storms when underwriting commercial real-estate loans in coastal regions? Is it appropriate for national banks to factor energy price assumptions into business loans to oil and natural gas companies?
c. Do climate-related disruptions in the availability and affordability of property insurance have any knock-on effects for national banks?
d. Do you commit to maintaining the 2023 Principles for Climate-Related Financial Risk Management for Large Financial Institutions?

8. In 2021, the OCC tried and failed to finalize its Fair Access Rule just days before President Biden was sworn in.[17] The rule would have effectively forced large national banks to lend to politically favored industries, such as oil and gas companies or gun manufacturers, even if providing such services was counter to prudent risk management.[18]
    a. Do you believe regulators should engage in credit allocation, as contemplated by the Fair Access Rule?
    b. Do you believe the Dodd-Frank Act's amendment to the mission statement of the OCC, adding "fair access to financial services,"[19] granted the OCC legal authority to prescribe the Fair Access Rule?
    c. Do you believe that it is fair for national banks to set minimum balance fees and monthly account maintenance fees that prevent low-income Americans from accessing deposit accounts? Do you believe that, given the mission to ensure fair access to financial services, the OCC has an obligation to prohibit such practices?
    d. Do you believe that it is fair for national banks to debank customers due to overdraft usage? Do you believe that, given the mission to ensure fair access to financial services, the OCC has an obligation to prohibit such practices?

[14] Department of the Treasury, Financial Stability Oversight Council, "Report on Climate-Related Financial Risk," October 2021, https://home.treasury.gov/system/files/261/FSOC-Climate-Report.pdf.
[15] *Id.*
[16] Office of the Comptroller of the Currency, Federal Reserve System, and Federal Deposit Insurance Corporation, Federal Register Notice, "Principles for Climate-Related Financial Risk Management for Large Financial Institutions," October 30, 2023, https://www.federalregister.gov/documents/2023/10/30/2023-23844/principles-for-climate-related-financial-risk-management-for-large-financial-institutions.
[17] Office of the Comptroller of the Currency, "OCC Finalizes Rule Requiring Large Banks to Provide Fair Access to Bank Services, Capital, and Credit," press release, January 14, 2021, https://occ.gov/news-issuances/news-releases/2021/nr-occ-2021-8.html
[18] Letter from Public Citizen to Acting Comptroller Brooks, January 4, 2020, https://www.citizen.org/wp-content/uploads/Public-Citizen-Final-Fair-Access-Rule-Comment-OCC-2020-0042.pdf.
[19] Office of the Comptroller of the Currency, "About Us," https://www.occ.treas.gov/about/index-about.html.

e. Do you believe that national banks have an obligation to provide deposit accounts to low-income Americans?
f. Do you believe that it is fair for national banks to debank customers based on flawed dossiers compiled by data brokers? Do you believe that, given the mission to ensure fair access to financial services, the OCC has an obligation to prohibit such practices?
g. Do you believe it is fair for national banks to debank customers based on their skin color, sex, religion, political views, or speech? Do you believe that, given the mission to ensure fair access to financial services, the OCC has an obligation to prohibit such practices?

9. The largest national banks are even larger and more complex than they were in 2008 when they were bailed out to avoid another Great Depression.[20]
    a. Do you believe the Too-Big-To-Fail (TBTF) problem has been solved? Do very large national banks benefit from an implicit government guarantee and enjoy an unfair funding advantage over community banks?
    b. Do you have confidence that if one of the four largest national banks failed, it would not destabilize the banking system and inflict severe harm on the broader economy?
    c. What steps would you take to finally address the TBTF problem?

10. In 2024, J.P. Morgan launched Chase Media Solutions, a media company that appears to leverage sensitive transaction data to feed targeted advertising products.[21] In previous years, some national banks have acquired dinner reservation companies, travel platforms, and other companies that offer services far afield from the business of banking.
    a. Are you concerned that national banks are engaging in activities that extend beyond the business of banking?
    b. Do you believe it is appropriate for national banks to launch media organizations?
    c. What was "finder authority"[22] initially intended to cover? Do you believe e-commerce platforms are equivalent to bank branch bulletin boards?
    d. Will you launch a review of the current list of permissible national bank activities and rescind past interpretive letters if you find those activities have been stretched beyond the legal bounds of the National Bank Act?

11. In the wake of the Spring 2023 bank failures, the FDIC published a report outlining potential options for deposit insurance reform.[23]
    a. Do you believe small businesses should have a completely safe place to keep their money for payroll, operating expenses, and other transactions?
    b. Do you think it is appropriate that large businesses with uninsured deposits at SVB and Signature Bank were protected by the government, while small

[20] CBS News, "Years after the housing crash, the specter of 'too big to fail' still haunts the banking industry," Aimee Picchi, March 21, 2023, https://www.cbsnews.com/news/too-big-to-fail-banks-2008-financial-crisis-credit-suisse-silicon-valley-bank/.
[21] J.P. Morgan Chase, "Chase Media Solutions," https://www.chase.com/mediasolutions/home.
[22] 12 CFR § 7.1002
[23] Federal Deposit Insurance Corporation, "Options for Deposit Insurance Reform," https://www.fdic.gov/analysis/options-deposit-insurance-reforms/report/options-deposit-insurance-reform-full.pdf.

businesses with accounts at local community banks sometimes lose their uninsured deposits when the bank fails?

c. Would you support bipartisan efforts to increase deposit insurance limits for small business transaction accounts?

12. Do you believe that the deterioration in a bank's reputation could result in negative financial consequences for the bank? Are you concerned that the OCC's recent announcement that it will no longer examine for reputational risk will make it more likely that a Credit Suisse-style reputational failure takes down a large national bank?

13. What current or emerging risks constitute your top concerns for the safety and soundness of the national banking system?

Bank Merger Review

From 2018-2020, during your tenure as Chief Counsel, the OCC approved 143 bank mergers and denied zero.[24] Over the last four decades, the OCC and other banking regulators have failed to rigorously review bank mergers to ensure unlawful transactions are not approved. This lax merger review has left the banking sector highly concentrated, which has inflicted serious harms on consumers and small businesses. In the wake of bank consolidation, the cost of credit has increased, availability of credit has decreased, branches have been shut down, customer service has deteriorated, and interest paid on deposit accounts has declined.[25]

This trend started to turn around over the last four years, but given your record at the OCC, I fear a return to rubber stamping deals. It is especially troubling given that a mega-merger application to create the largest credit card bank in the country, Capital One's acquisition of Discover, would be sitting on your desk.[26]

1. Do you believe consumers and small businesses have been well-served by the substantial increase in consolidation of the banking sector over the last four decades?

2. How do you approach the convenience and needs of the community when reviewing a bank merger application? Do you believe public engagement in the merger review process is important?

3. How do you approach the competitive effects analysis when reviewing a bank merger application?

[24] Office of the Comptroller of the Currency, "2018 Annual Report," 2018, https://www.occ.gov/publications-and-resources/publications/annual-report/files/2018-annual-report.html; Office of the Comptroller of the Currency, "2019 Annual Report," 2019, https://www.occ.gov/publications-and-resources/publications/annual-report/files/2019-annual-report.html; Office of the Comptroller of the Currency, "2020 Annual Report," 2020, https://www.occ.gov/publications-and-resources/publications/annual-report/files/2020-annual-report.html.
[25] Duke Law Journal, "Reviving Bank Antitrust," Jeremy Kress, December 2022, https://scholarship.law.duke.edu/dlj/vol72/iss3/1/.
[26] Letter from Senator Warren et al. to Acting Comptroller Hsu and Vice Chair Barr, November 20, 2024, https://www.warren.senate.gov/newsroom/press-releases/warren-ocasio-cortez-lawmakers-warn-regulators-of-capital-ones-abusive-past-ahead-of-proposed-acquisition-of-discover.

4. Please review the Department of Justice's 2023 Merger Guidelines and its 2024 Banking Addendum. Do you agree with the DOJ's approach to analyzing the competitive effects of bank merger transactions?

5. Congress added the financial stability factor to the Bank Merger Act in 2010.
   a. Why do you believe Congress added this statutory factor in the wake of the 2008 financial crisis?
   b. What type of transaction would fail to satisfy the financial stability factor?
   c. Do you agree with the OCC's 2023 merger approval order in the J.P. Morgan-First Republic transaction[27] that invoked the financial stability factor to justify a Wall Street bank growing larger and more interconnected?

6. Do you believe it is inappropriate for the OCC to ever deny a merger application? When was the OCC's last bank merger denial Order?

7. Do you commit to conducting retrospective analyses of approved mergers to evaluate how the competitive landscape and community were impacted following the transaction?

8. If the Federal Reserve or FDIC communicated to a bank that they intended to deny a merger application, would you consider approving the application if the banks inverted the deal to switch regulators? Does "charter flipping" or similar "regulator shopping" behavior concern you?

States' Rights

The OCC has a history of ignoring states' rights, especially with respect to states' ability to protect their citizens from predatory behavior by national banks. For example, the Financial Crisis Inquiry Commission found that the OCC's preemption framework blocked state efforts to address the proliferation of predatory subprime mortgages.[28] In response, Congress enacted Section 1044 of the Dodd-Frank Act to establish new guardrails to prevent a repeat of the agency's abuses.[29] The OCC has largely ignored this law and continued its pre-crisis approach to preemption.[30] During your tenure as Chief Counsel, the OCC further entrenched its disregard of Section 1044. In addition, the OCC previously attempted, including during your tenure, to grant special charters to fintech companies that do not take deposits.[31] The purpose of this special

[27] Letter from Office of the Comptroller of the Currency to J.P.Morgan Chase, May 1, 2023, https://www.occ.gov/topics/charters-and-licensing/app-by-jp-morgan-chase-bank.pdf.
[28] Financial Crisis Inquiry Commission, "The Financial Crisis Inquiry Report," February 25, 2011, pp. 113, https://www.govinfo.gov/content/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf.
[29] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, Section 1044.
[30] Letter from Senator Warren et al. to Acting Comptroller of the Currency Michael Hsu, December 15, 2023, https://www.warren.senate.gov/newsroom/press-releases/warren-6-senators-to-bank-regulator-dont-block-states-efforts-to-defend-consumers-from-harmful-bank-practices.
[31] Office of the Comptroller of the Currency, "OCC Begins Accepting National Bank Charter Applications From Financial Technology Companies," press release, July 31, 2018 https://www.occ.gov/news-issuances/news-releases/2018/nr-occ-2018-74.html.

charter was apparently to provide fintech companies with a mechanism to preempt state protections against predatory lending practices.

1. Do you agree that the OCC's overbroad approach to preemption, including preempting states' efforts to curb risky subprime mortgages, contributed to the 2008 financial crisis?

2. Is the OCC permitted to preempt a state consumer financial law in any circumstance outside of the three specific circumstances outlined in Section 1044 of the Dodd-Frank Act?

3. In 2020, the OCC published Interpretive Letter #1173 which stated that "An OCC action that has only indirect or incidental effects on a state consumer financial law is not a preemption determination."[32] Please cite the provision of Section 1044 that supports this assertion.

4. During your tenure, how many times did the OCC consult with the Consumer Financial Protection Bureau (CFPB) pursuant to the requirements under Section 1044?

5. More than 13 years have passed since the effective date of the Dodd-Frank Act. During that time period, how many 5-year lookbacks has the OCC conducted of its preemption determinations? How many were conducted during your tenure?

6. In *Cantero v. Bank of America, 602 U.S. 205 (2024),* the Supreme Court expressly rejected "a categorical test" and held that "Dodd-Frank's preemption standard" requires "a practical assessment of the nature and degree of the interference caused by a state law."[33] Do you agree with the Supreme Court's decision in *Cantero*?

7. At the oral argument in *Cantero,* Justice Gorsuch wondered, "Is the OCC ever going to get around to doing that which Dodd-Frank directs it to do?"[34] Do you commit to finally implementing Section 1044 of the Dodd-Frank Act, including initiating the mandatory 5-year review, exclusively preempting state consumer financial law in the three specific circumstances outlined in law, and consulting with the CFPB before preempting multiple states' laws?

8. Does the OCC have the authority under the National Bank Act to grant special charters to nonbank companies that lend and do not take deposits?

9. If the OCC granted a special charter to a fintech company, would state regulators still be able to subject the fintech company to protections against predatory lending practices?

10. Do you intend to revive this type of charter and review new applications?

[32] Office of the Comptroller of the Currency, Interpretive Letter 1173, December 2020, https://www.occ.gov/news-issuances/news-releases/2020/nr-occ-2020-176a.pdf.
[33] Cantero v. Bank of America, 602 U.S. 205 (2024).
[34] Transcript of Oral Argument at pp. 54, Cantero v. Bank of America, 602 U.S. 205 (2024).

Crypto Assets

During your tenure as Chief Counsel, the OCC attempted to haphazardly integrate the crypto asset market into the national banking system, granting permission for national banks to directly engage in a range of crypto-related activities.[35] The Biden administration prevented banks from engaging in unsafe and unsound crypto-related activities, which averted a banking crisis after FTX blew up and crypto asset markets melted down in 2022.[36] The OCC under Acting Comptroller Rodney Hood has already picked up where you left off, throwing the doors of the national banking system and the federal safety net open to risky crypto-related activities by reinstating interpretive letters that were published in 2020 and early 2021.[37]

1. What safeguards are necessary to ensure that stress in the crypto asset market does not infect the national banking system?

2. Do you believe it's appropriate to apply heightened liquidity requirements to deposits placed at a national bank by a stablecoin issuer? Do you believe there should be concentration limits placed on a national bank's ability to accept deposits from entities or industries that are themselves vulnerable to runs?

3. Is it possible for a bank to hold crypto assets on its balance sheet, as principal, in a safe and sound manner?

4. Do you believe that crypto asset custody activities pose greater risk than custodying traditional real or financial assets?

5. Does the complexity of the ByBit hack pose any concerns about permitting national banks to custody crypto assets?

6. How can national banks ensure that nodes, validators, and other network participants on distributed ledgers they are participating in are not terrorist organizations, cartels, or sanctioned countries like Russia or Iran?

7. Just over a year after Anchorage Digital was granted a national bank charter during your tenure, the OCC issued a comprehensive enforcement action against the company for severe deficiencies in its anti-money laundering framework.[38] When the OCC reviewed

[35] Office of the Comptroller of the Currency, Interpretive Letter 1170, July 2020, https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2020/int1170.pdf; Office of the Comptroller of the Currency, Interpretive Letter 1172, October 2020, https://www.occ.treas.gov/topics/charters-and-licensing/interpretations-and-actions/2020/int1172.pdf; Office of the Comptroller of the Currency, Interpretive Letter 1174, January 2021, https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-2a.pdf.

[36] Office of the Comptroller of the Currency, Interpretive Letter 1179, November 2021, https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2021/int1179.pdf. *(Note: This Interpretive Letter was published in 2021 and was rescinded in 2025).*

[37] Office of the Comptroller of the Currency, Interpretive Letter 1183, March 2025, https://occ.gov/topics/charters-and-licensing/interpretations-and-actions/2025/int1183.pdf.

[38] Office of the Comptroller of the Currency, "OCC Issues Consent Order Against Anchorage Digital Bank," press release, April 21, 2022, https://www.occ.gov/news-issuances/news-releases/2022/nr-occ-2022-41.html.

Anchorage Digital's charter application, did you have any concerns with its anti-money laundering framework? How did a bank with such severe anti-money laundering weaknesses obtain a charter?

8. The OCC also granted Paxos and Protego conditional charters during your tenure; however, neither bank was able to meet the terms of the charter, and the conditional approval expired.[39] Do you think the OCC's vetting process for these charters needs to be strengthened, given that these companies with serious deficiencies fell through the cracks and obtained conditional charters anyway?

Community Reinvestment Act

The Community Reinvestment Act (CRA) is a critical civil rights statute that was enacted to combat "redlining," a practice in which banks would accept deposits from communities of color and low- and moderate-income communities but refuse to lend in those communities. This practice drained resources from these communities over many decades. The CRA reaffirmed that banks are publicly chartered institutions that have an obligation to meet the needs of all communities.

During your tenure as Chief Counsel, the OCC jammed through a rule that would have completely undermined the effectiveness of the CRA and reduced bank investment in communities across the country.[40] It would have diluted CRA exams into a single dollar figure, incentivizing banks to engage in the most profitable high dollar projects instead of actual community investment. The Biden administration rescinded the misguided rule and jointly finalized a version that would hold banks to a higher standard.[41] The banking industry then sued to block the rule,[42] presumably to avoid meeting the banking needs of communities of color and low- and moderate-income communities.

1. Do you believe decades of redlining inflicted severe harm on communities of color and low- and moderate-income communities?

2. Do you believe redlining and other discriminatory lending practices are still a problem in the national banking system?

3. Will you defend the 2023 CRA final rule in court?

[39] Office of the Comptroller of the Currency, New Bank Charter Application for Paxos National Trust (2020-NE-Charter-318305), https://apps.occ.gov/CAAS_CATS/CAAS_Details.aspx?FilingTypeID=2&FilingID=318305&FilingSubtypeID=1093; Office of the Comptroller of the Currency, Conversion Application for Protego Trust Bank (2020-HQ-Conversion-318271), https://apps.occ.gov/CAAS_CATS/CAAS_Details.aspx?FilingTypeID=23&FilingID=318271&FilingSubtypeID=1115.

[40] Office of the Comptroller of the Currency, Federal Register Notice, "Community Reinvestment Act Regulations," June 5, 2020, https://www.federalregister.gov/documents/2020/06/05/2020-11220/community-reinvestment-act-regulations.

[41] Office of the Comptroller of the Currency, Federal Reserve System, and Federal Deposit Insurance Corporation, Federal Register Notice, "Community Reinvestment Act," February 1, 2024, https://www.federalregister.gov/documents/2024/02/01/2023-25797/community-reinvestment-act.

[42] Texas Bankers Association et al v. Office of the Comptroller of the Currency et al (2024).

4. Did you express any concerns to Comptroller Otting about his effort to weaken the CRA by distilling exams into a single dollar figure that incentivizes banks to focus on profits instead of the community's needs?

5. Do you believe that all changes to CRA regulations should be done jointly with the FDIC and Federal Reserve?

6. Do you believe that 98%+ of national banks[43] actually do enough in their communities to justify a passing CRA grade or do the exams suffer from grade inflation?

Enforcement

Many large national banks have recently engaged in egregious law violations. Several of the banks are notorious repeat offenders that have broken the law multiple times in the last decade. Slap on the wrist fines have become a simple line item on a bank's income statement–just another cost of doing business. Wells Fargo, JPMorgan Chase, Citibank, Bank of America, and TD Bank are some of the large national banks that have been subjected to OCC enforcement actions in recent years for a variety of legal violations, including anti-money laundering deficiencies, risk management failures, and trading abuses.[44] All of these banks have also been subjected to serious enforcement actions by the CFPB for consumer law violations. Banks and their executives must face real accountability if we are going to break this cycle of repeated law breaking. Personal fines, industry bans, and criminal referrals to the Department of Justice, along with asset caps, divestitures, and other structural remedies are vital.

1. Why do you think large national banks have not been deterred by past enforcement actions and continue to break the law?

2. Are you willing to fine executives directly, use the OCC's authority under 12 U.S.C. 1818(e) to remove executives from their roles and ban them from the banking industry, and make criminal referrals to the Department of Justice, where appropriate?

[43] National Community Reinvestment Coalition, "Do CRA Ratings Reflect Differences in Performance: An Examination Using Federal Reserve Data," Josh Silver and Jason Richardson, May 27, 2020, https://ncrc.org/do-cra-ratings-reflect-differences-in-performance-an-examination-using-federal-reserve-data/.

[44] Office of the Comptroller of the Currency, "OCC Issues Cease and Desist Order, Assesses $450 Million Civil Money Penalty, and Imposes Growth Restriction Upon TD Bank, N.A. for BSA/AML Deficiencies," press release, October 10, 2024, https://www.occ.treas.gov/news-issuances/news-releases/2024/nr-occ-2024-116.html; Office of the Comptroller of the Currency, "OCC Assesses $250 Million Civil Money Penalty Against JPMorgan Chase Bank, N.A. Related to Bank's Trade Surveillance Program," press release, March 14, 2024, https://www.occ.gov/news-issuances/news-releases/2024/nr-occ-2024-25.html; Office of the Comptroller of the Currency, "OCC Amends Enforcement Action Against Citibank, Assesses $75 Million Civil Money Penalty," press release, July 10, 2024, https://www.occ.gov/news-issuances/news-releases/2024/nr-occ-2024-76.html; Office of the Comptroller of the Currency, "OCC Issues Enforcement Action Against Wells Fargo Bank," press release, September 12, 2024, https://www.occ.treas.gov/news-issuances/news-releases/2024/nr-occ-2024-99.html; Office of the Comptroller of the Currency, "OCC Issues Cease and Desist Order Against Bank of America for BSA Deficiencies, December 23, 2024, https://www.occ.treas.gov/news-issuances/news-releases/2024/nr-occ-2024-140.html.

3. When do you think it is appropriate to move beyond fines and impose structural remedies on national banks, including asset caps, divestitures, and activity limitations?

4. Do you believe the OCC has evenly administered penalties to large and small national banks?

5. Do you think it is appropriate for the Department of Justice to carefully structure criminal charges to avoid causing large national banks to lose their charters under 12 U.S.C. 93(d) when they are found to have engaged in money laundering? Will you pursue charter termination under separate authorities if the Department of Justice engages in such behavior?

6. As a general matter, what type of misconduct do you think warrants terminating a large national bank's charter?

7. Do you intend to maintain or strengthen the OCC's 2023 revisions to its enforcement manual[45] that created an escalation framework for national banks with persistent weaknesses?

DOGE and Regulatory Independence

Recent reporting suggests the Trump administration is considering abolishing the FDIC and merging it, along with the Federal Reserve's supervision and regulation function, into the OCC or other parts of Treasury.[46] Reportedly, these moves would be made without Congressional action and include drastic staffing cuts. These ideas echo policy proposals authored by some senior White House officials that are overseeing the administration's financial services policies. One such official, Mark Calabria, has advocated that "government-provided deposit insurance should be phased out fully."[47] The White House has also issued an executive order requiring independent agencies to submit significant rulemakings and budget decisions to the White House Office of Management and Budget (OMB), and bank regulators are in the process of proposing massive staff reductions as required by the White House Office of Personnel Management and OMB.[48]

---

[45] Office of the Comptroller of the Currency, "OCC Revises Bank Enforcement Manual to Address Actions Against Banks with Persistent Weaknesses," press release, May 25, 2023, https://www.occ.gov/news-issuances/news-releases/2023/nr-occ-2023-49.html.

[46] Wall Street Journal, "Trump Advisers Eye Bank Regulator Consolidation After Targeting CFPB," Gina Heeb, Brian Schwartz, and Anna Maria Andriotis, February 11, 2025, https://www.wsj.com/finance/regulation/trump-advisers-eye-bank-regulator-consolidation-after-targeting-cfpb-85055a2e.

[47] The Heritage Foundation, "Prosperity Unleashed," 2017, pp. 24, https://www.heritage.org/sites/default/files/2017-02/01_ProsperityUnleashed_Chapter01.pdf.

[48] Federal Register Notice, "Ensuring Accountability for All Agencies," February 24, 2024, https://www.federalregister.gov/documents/2025/02/24/2025-03063/ensuring-accountability-for-all-agencies; Office of Personnel Management and Office of Management and Budget, "Guidance on Agency RIF and Reorganization Plans Requested by *Implementing The President's "Department of Government Efficiency" Workforce Optimization Initiative*," memorandum, February 26, 2025, guidance-on-agency-rif-and-reorganization-plans-requested-by-implementing-the-president-s-department-of-government-efficiency-workforce-optimization-initiative.pdf

1. As a member of the FDIC Board of Directors, do you believe that federal deposit insurance should be "phased out fully"?

2. Does the OCC currently have the legal authority to administer the Deposit Insurance Fund? If so, please explain.

3. Does the OCC currently have the legal authority to regulate, supervise, or enforce against state-chartered banks? If so, please explain.

4. Do you intend to submit all significant rulemakings to OMB? Do you intend to submit the OCC's budget to OMB for approval?

5. When you previously served as Senior Deputy Comptroller and Chief Counsel at the OCC, did the agency under the leadership of Comptroller Otting or Acting Comptroller Brooks submit significant rulemakings to OMB? Did the agency under the leadership of Comptroller Otting or Acting Comptroller Brooks submit the OCC's budget to OMB for approval?

6. Do you believe that funneling all major decisions through the White House will decrease the politicization of the OCC?

7. Do you have the authority to effectively repeal the National Bank Act by setting a $0 budget and terminating all the agency's employees?

8. Please list all the OCC's statutorily mandated functions. Do you intend to fulfill each function, including by ensuring adequate staff to do so?

Ethics and Conflicts of Interest

You have a range of banking sector clients that either currently have, or would reasonably expect to have, regulatory, supervisory, or enforcement business before the OCC. I am concerned you may continue to view these banks as your clients. Your former boss, Comptroller Otting, described national banks as the OCC's "customers."[49]

1. Do you agree with your former boss, Comptroller Otting, that banks are the OCC's "customers"?

2. Should you be confirmed, do you commit to recusing yourself in all matters related to your former clients for a period of four years?

3. In the past 12 months, have you advised any clients on any matters related to national bank chartering, licensing, mergers, permissible activities, regulation, supervision, or enforcement? If so, please list the client and the relevant matters.

[49] Wall Street Journal, "OCC Chief Lays Out New Posture on Banks," Lalita Clozel, April 9, 2018, https://www.wsj.com/articles/occ-chief-wants-to-cater-better-to-our-customersthe-banks-1523298973.

4. Should you be confirmed, will you commit to immediately divesting from owning securities, such as stock, stock options, and bonds, of banks or savings associations or their affiliates, such as bank holding companies and savings and loan holding companies?

5. Would you approve a merger transaction if so directed to by the White House, including after the applicant made a payment to the President, a member of his family, or to his related business interests?

6. Do you commit to a 4-year cooling off period from representing any national banks, or their affiliates or holding companies, following the conclusion of your service as Comptroller?

The OCC is one of the most important regulatory agencies in government. A failure to execute the agency's mission could mean economic catastrophe for working families–foreclosures, lost jobs, depleted savings, and economic scars that last generations. I look forward to your responses.

Sincerely,

Elizabeth Warren
Ranking Member
Committee on Banking,
Housing, and Urban Affairs