

Re: August 12, 2024 - Parent Companies of Industrial Banks and Industrial Loan Companies (RIN 3064–AF88)

October 11, 2024

Mr. James P. Sheesley  
Assistant Executive Secretary  
Attention Comments  
Federal Deposit Insurance Corporation  
550 17th Street, N.W.  
Washington, D.C. 20429

Dear Mr. Sheesley and FDIC Board Members,

As a defender and promoter of free markets and entrepreneurship, I have several concerns regarding the Federal Deposit Insurance Corporation’s (FDIC) proposed rule. It’s a significant departure from the current rules governing industrial bank parent companies, is duplicative, and ultimately unnecessary.

This rule runs counter to prior Congressional intent by essentially stopping the creation of new industrial loan companies (ILCs). Congress passed legislation in 1987 ([The Competitive Equality Banking Act](#)) that specified that ILC chartered in states with statutes requiring ILCs to be FDIC-insured as of March 5, 1987, “in order that such companies shall not be limited by provisions of the Bank Holding Company Act.” This was a clear intention by Congress to define the regulatory structure of ILCs, and they would understandably expect the FDIC to approve applicants for deposit insurance – including ILCs – when these applicants meet the statutory requirements set forth in the prior rules. But, this proposed rule would effectively prohibit the creation of new ILCs by creating a presumption that these institutions are unsafe and unstable – even with no data or evidence of this – directly running counter to Congressional intent.

On top of contradicting Congress, this rule is contradicting a prior FDIC policy, without changing any statutes. In 2021, the FDIC approved [a final rule](#) clarifying its treatment of ILC applications for deposit insurance. This new proposed rule reverses many of the FDIC’s own provisions with respect to ILCs treatment. The 2021 Final Rule states the following: *“The FDIC has not found that industrial banks pose unique safety and soundness concerns based on the activities of the parent organization. Industrial banks are subject to all of the same restrictions and requirements, regulatory oversight, and safety and soundness exams as any other type of insured depository institution. As such, the risks*

*posed are substantially similar to those of all other charter types.”* Now, despite no statute change and also no difference in safety and soundness regarding industrial banks, they’ve shifted significantly.

And this suggested change comes with no change in data. The Government Accountability Office (GAO) [studied](#) how financial institutions that are exempt from the Bank Holding Company Act impacts safety, security, or stability of these institutions or our financial system. They [found no systematic threat](#). Nothing has changed, yet the FDIC wants to make significant changes to give them more ability to regulate ILCs and industrial banks.

More broadly, the FDIC is once again trying to unnecessarily expand its role and reach. They already have enough to deal with, considering their widespread sexual harassment and other misconduct [noted in an independent report](#). The FDIC is stepping into a policymaking role with these proposed rules, which is Congress’ role. We don’t need unappointed bureaucrats making rules when they’re not held accountable to voters.

It appears to me that these rules are unnecessary and only add excessive regulations that run counter to current rules that are working just fine. Frivolous regulations just gum up the industry and ultimately the marketplace.

Sincerely,

Charles Sauer  
Founder and President of Market Institute

*The Market Institute is a 501c4 non-profit organization that specializes in taking complex issues and simplifying them.*