



INSTITUTE OF INTERNATIONAL BANKERS

299 Park Avenue, 17th Floor
New York, N.Y. 10171
Telephone: (212) 421-1611
www.iib.org

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BY ELECTRONIC SUBMISSION

Chief Counsel's Office
Attn: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW, Suite 1E-216
Washington, DC 20219

Re: Comments on Proposed OCC Rules Regarding the Availability of OCC Information (Docket ID OCC–2026–0133)

The Institute of International Bankers (“IIB”) respectfully submits this letter in connection with the Office of the Comptroller of the Currency’s (“OCC”) proposed revisions to its rules on the disclosure of OCC information at 12 C.F.R. Part 4, Subpart B (the “Proposal”).¹

The IIB represents the U.S. operations of internationally headquartered financial institutions (“international banks”) from over 35 countries around the world.² The membership consists principally of international banks that operate branches, agencies, bank subsidiaries, and broker-dealer subsidiaries in the United States. Many IIB members maintain OCC-supervised national bank subsidiaries and Federal branches or Federal agencies, and therefore are subject to the OCC’s regulations governing the availability and release of supervisory information (the “OCC Information Regulations”).

The IIB strongly supports the OCC’s efforts to improve its information regulations, particularly the Proposal’s recognition that supervised entities should be able to disclose confidential supervisory information (“CSI”) without prior OCC approval in a broader range of

¹ OCC Rules Regarding the Availability of OCC Information, 91 Fed. Reg. 50610 (Aug. 5, 2026).

² IIB members perform a vital role in providing credit to U.S. businesses, comprising the majority of U.S. primary dealers, and enhancing the depth and liquidity of U.S. financial markets. Between 2020 and 2024, the U.S. operations of international banks underwrote more than \$11 trillion in U.S. financing representing more than 40% of the \$28 trillion in U.S. financing raised in the same period, including 36% of issuance done by U.S.-headquartered companies. In 2023 alone, IIB members lent more than \$1.3 trillion to U.S. companies, including over \$100 billion each to the technology and manufacturing sectors, supported more than \$2.3 trillion in trade finance volumes and managed over \$115 trillion in payments for U.S.-based companies or subsidiaries. As such, international banks have been, and will continue to be, vital contributors to the U.S. economy and financial system, serving as an important conduit directing international funding to the United States and facilitating cross-border payment and settlement activity. See Press Release, New IIB Study Shows Vital Role of International Banks in U.S. Economy (Nov. 21, 2024), available [here](#). The study referenced in the Press Release is available [here](#).

circumstances. The IIB nevertheless believes that several aspects of the Proposal would benefit from further refinement. In particular, certain provisions governing the sharing of CSI among affiliates, service providers, and governmental authorities do not fully account for the corporate structures and operating models commonly used by internationally headquartered banking organizations, as well as many U.S. banking organizations with significant cross-border operations. As a result, some of the Proposal's exemptions may be narrower in practice than intended and may create unnecessary operational burdens without corresponding supervisory benefits. Accordingly, the IIB recommends revisions that would make the proposed exemptions more workable, facilitate appropriate information sharing across banking organizations, and better align the final rule with the Proposal's stated objectives.

The IIB also encourages the OCC to continue working toward greater harmonization of CSI and information-disclosure frameworks among the federal banking agencies. The interests of the OCC, the Board of Governors of the Federal Reserve System ("Federal Reserve"), and the Federal Deposit Insurance Corporation ("FDIC") with respect to supervisory information are largely aligned. However, each agency maintains its own information disclosure framework, requiring many banking organizations to navigate multiple, and at times differing, requirements. More consistent standards would reduce compliance burden, improve operational efficiency, and decrease the risk of inadvertent violations arising from confusion about which standard applies.

The specific recommendations set forth below are intended to further these objectives while preserving the confidentiality and integrity of the supervisory process.

I. Definitions

While the IIB generally supports the definitions in the Proposal, including the key definitions of "non-public OCC information" and "confidential supervisory information," the IIB believes that certain definitions used in the Proposal would benefit from modifications to more appropriately reflect the way in which banks organize their operations, to better recognize the interest of supervised entities in the efficient disclosure of CSI, and to minimize burdens on supervised entities and the OCC.

A. The IIB Generally Supports the Proposed "Affiliate" Definition, but Modifications to the Exemption for Disclosures of CSI to Affiliates Are Necessary to Make it Consistent with the Purpose of the OCC Information Regulations

The IIB generally supports the proposed definition of "affiliate," which is consistent with the meaning of that term under the Bank Holding Company Act of 1956 ("BHC Act"). We appreciate the OCC's statement that it generally expects to interpret the term consistent with its meaning under 12 C.F.R. Part 225.³ The BHC Act definition and interpretations of affiliate are familiar to IIB members and many others. Using this as a base definition, therefore, should help simplify implementation of the OCC Information Regulations.

Separate from the definition of affiliate, however, the IIB believes that the exemption for disclosure of CSI to affiliates is incomplete, as it does not clearly permit an affiliate itself

³ Proposal at 50612, n.14.

(especially an internationally headquartered bank, parent holding company or similar entity that may employ personnel on behalf of a supervised entity and/or that are responsible for enterprise-wide risk management) to disclose CSI to other affiliates within the same banking organization. This issue, and the IIB's support for allowing the parent holding company of a supervised entity (including an internationally headquartered bank of which a branch or agency is part), to disclose CSI to the same extent as the supervised entity itself,⁴ is discussed in more detail in Part II.A.1 below.

B. The Proposed Definition of "Service Provider" Should Be Expanded to Include Service Providers of a Parent Holding Company or Internationally Headquartered Bank (and Not Just of a Supervised Entity), but Should Not Add New Burdens Compared to Existing OCC Practice for Sharing with Attorneys or Auditors

The OCC is proposing to add a new definition of "service provider" to the OCC Information Regulations and has requested comment on which definition of "service provider" (*i.e.*, the definition included at proposed Section 4.11, or the alternative definition proposed in Question 4) would be clearer.⁵ The IIB supports the OCC's clarification that a service provider does not include a customer or financial counterparty, and also supports the critical recognition that the definition of "service provider" is not itself limited solely to U.S.-based persons.⁶ However, the proposed definitions are limited to service providers that are "hired by or partnered with" (or alternatively have a "contractual relationship with") the supervised entity (or depository institution) itself. This limitation does not account for a common practice among banking organizations, where a parent holding company or internationally headquartered bank itself, or an affiliate such as a service company affiliate, may contract with a service provider for the benefit of not only the parent holding company, but also its subsidiaries.⁷ The IIB is, therefore, concerned that this limitation makes the definitions too narrowly drawn and will create significant unnecessary process delays, harm efficiency, and hinder frank discussions of supervisory concerns.⁸ Instead, the IIB believes that the definition of service provider should be modified to include a person "hired by or partnered with the supervised entity or ***a holding company or other affiliate of such supervised entity***" under the proposed definition or "has a contractual relationship with a depository institution ***or a holding company or other affiliate of such supervised entity***" under the alternate definition proposed in Question 4.⁹ At a minimum, if the OCC does not adopt

⁴ See Proposal at 50618 (discussing disclosure of CSI to holding companies of supervised entities).

⁵ Proposal at 50626.

⁶ If the definition of "service provider" were limited to U.S.-based persons, then the IIB believes that the definition would be unworkable for a number of reasons (including the need for internationally headquartered banking organizations and others to both select and have the benefit of the most qualified advice and service providers, and the additional burden of needing to appropriately verify the U.S. person status of the service provider).

⁷ Some banking organizations may have a single legal entity within the organization that is not an internationally headquartered bank or parent/holding company to contract with unaffiliated parties to provide various services for the entire banking organization.

⁸ Proposed Sections 4.10(a)(4), (6), and (11).

⁹ In response to the OCC's proposed alternative definition of service provider, the IIB believes it would be inappropriate to include specific references to "depository institution," and believes any definition should instead use the term "supervised entity" for consistency with the remainder of the Proposal.

the modifications to the definition of service provider above, the IIB believes any final OCC Information Regulations must clarify that the phrase “partnered with the supervised entity” will cover agreements entered into by a holding company or other affiliate of a supervised entity where the supervised entity benefits from such services.

Additionally, the IIB believes it is important for supervised entities to continue to be able to disclose CSI to attorneys and auditors (including independent auditors) without prior request to the OCC. Therefore, any final OCC Information Regulations should ensure that such sharing is permissible and should not place additional requirements on it. Under the existing OCC rules regarding release of non-public OCC information, the OCC allows information sharing with attorneys and auditors without subjecting such sharing to requirements similar to a qualifying confidentiality agreement.¹⁰ Continuing this existing approach is appropriate because both attorneys and auditors operate under established rules of professional conduct and owe professional obligations to their clients, including obligations of confidentiality.¹¹ Attorneys and auditors, especially those who regularly work with banking organizations, understand well the restrictions on and importance of properly handling CSI. What’s more, attorneys and auditors may face disciplinary sanctions and loss of license if they violate rules of professional conduct governing confidential information. To the extent the OCC may be concerned with misuse of CSI by attorneys or auditors, OCC regulations already provide the OCC with significant tools to address any such misconduct.¹² Furthermore, the law and supervisory practice provide the OCC access to auditors and their work papers.¹³ It is therefore unnecessary, and potentially a hinderance, to the effective management of supervised entities for the OCC to impose additional restrictions on their ability to share necessary information (which may include CSI) with their attorneys or auditors.¹⁴

C. The OCC Should Define Parent Holding Company to Better Facilitate Sharing of Information Within Modern Banking Organizations

The Proposal does not include a definition of “parent holding company.” Adding this definition is important to provide banking organizations with clarity, particularly if the OCC adopts the IIB’s recommendation in response to the OCC’s specific request for comment, that a

¹⁰ 12 C.F.R. § 4.37(b)(2).

¹¹ See, e.g., Model Rules of Pro. Conduct r. 1.6(a) (Am. Bar Ass’n 2026) (“A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent . . .”) and Am. Inst. of Certified Pub. Accts., AICPA Code of Professional Conduct § 1.700.001, Confidential Client Information Rule (2025) (“A member in public practice shall not disclose any confidential client information without the specific consent of the client.”).

¹² See, e.g., 12 C.F.R. § 19.190 (“This subpart also covers other disciplinary sanctions—censure, suspension, or debarment—against individuals who appear before the OCC in a representational capacity either in an adjudicatory proceeding under this part or *in any other matters connected with presentations to the OCC relating to a client’s rights, privileges, or liabilities*. This representation includes, but is not limited to, the practice of attorneys and accountants.”) (emphasis added); see also 12 C.F.R. § 19.243 (removal, suspension, or debarment of those providing audit services).

¹³ See 12 U.S.C. §§ 481 and 1831m(g)(3).

¹⁴ To the extent that the OCC determines to treat attorneys and auditors as a “service provider,” the IIB believes at a minimum the OCC should modify the exemption for disclosure of CSI to service providers to eliminate the requirements that attorneys or auditors execute a qualifying confidentiality agreement.

parent holding company be able to share CSI to the same extent as a supervised entity. To help facilitate such information sharing, the IIB proposes the following definition:

Parent holding company means any person that controls, directly or indirectly, a supervised entity. A parent holding company of a branch or agency of a foreign bank includes the foreign bank of which such branch or agency is part.

This definition would include intermediate holding companies—including intermediate holding companies of internationally headquartered banking organizations under the Federal Reserve’s Regulation YY—that are typical of modern banking organizations, not just the top-tier holding company. The clarification that a parent holding company of a branch or agency of an internationally headquartered bank includes the internationally headquartered bank itself ensures that there is no confusion that the parent bank should be treated as a parent holding company, even though it is legally the same entity as the branch or agency. Adding this definition, in conjunction with expanding the CSI disclosure exemptions as discussed below, would better facilitate the efficient sharing of information within a banking organization when necessary or appropriate for business purposes and also assist the efficacy of the supervisory process.

II. Exemptions for Disclosure of CSI

The IIB appreciates the continued recognition by the OCC that supervised entities must have the ability to disclose CSI to certain persons in a number of circumstances without request to the OCC, and that such disclosure is critical to the efficient operation and safety and soundness of banking organizations. Despite this recognition by the OCC, however, the IIB believes, as described below, that the Proposal must be modified in a number of ways to better and more appropriately reflect the way in which banks (including internationally headquartered banks) organize their operations, to better recognize the interest of supervised entities in the efficient disclosure of CSI, and to minimize burden on supervised entities and the OCC.

As an initial and important matter, the Proposal seeks to broaden the ability of supervised entities to disclose CSI without OCC approval by providing a number of critical exemptions, but then caveats the ability to make such disclosure only “[w]hen necessary or appropriate for the efficacy of the supervisory process.”¹⁵ Limiting disclosure of CSI to only those circumstances related to the efficacy of the supervisory process not only narrows the discretion currently allowed under the OCC’s information rules,¹⁶ but also introduces significant uncertainty as to whether and when this standard would be satisfied (especially because it may be difficult for supervised entities, as compared to the OCC itself, to determine with certainty when something is necessary for the supervisory process) and may frustrate the ability of supervised entities and others to benefit from the proposed exemptions. For instance, it may not be clear in all instances that sharing information with proposed counterparties to a business combination is necessary or appropriate for the efficacy of the supervisory process, although sharing such information would clearly be necessary or

¹⁵ Proposed Section 4.14(b)(1).

¹⁶ Current OCC Information Regulations permit a national bank, Federal savings association, or holding company (including any director, officer, or employee thereof) to disclose non-public OCC information (including CSI) “when necessary or appropriate for business purposes.” See 12 C.F.R. § 4.37(b)(2).

appropriate for business purposes and as part of each party's risk management operations. The IIB therefore believes any final OCC Information Regulations must permit such disclosure of CSI not only when necessary or appropriate for the efficacy of the supervisory process, but also, consistent with current OCC regulations and practice, when necessary or appropriate for business purposes, including legitimate risk management purposes.

A. The Final Rule Should Clarify That CSI May Be Shared Among Authorized Affiliates Within the Same Banking Organization

The Proposal would permit a supervised entity to disclose CSI to its affiliate without OCC approval. The IIB broadly supports this important exemption, which will help supervised entities provide affiliates with important information in a timely manner and without the delays associated with obtaining prior OCC approval. The exemption recognizes that unnecessary information barriers within a banking organization can impede effective oversight, risk management, and decision-making. The exemption also is an important step toward recognizing that banking organizations, like other business organizations, often make decisions across multiple affiliated entities and therefore benefit from the ability to share supervisory information in an appropriate and controlled manner.

1. *The Exemption Should Clearly Permit an Affiliate of the Supervised Entity, in Particular a Parent Holding Company, to Disclose CSI to Other Affiliates, Subject to the Same Standards Applicable to the Supervised Entity Itself*

While the exemption for disclosure of CSI to affiliates is welcome and helpful, the Proposal does not expressly address whether an affiliate that receives CSI from a supervised entity may share that information with another affiliate within the same banking organization where doing so is necessary or appropriate for business purposes, including legitimate risk-management, or supervisory purposes. The IIB believes any final rule would benefit from clarification that such sharing is permissible, and subject to the same limitations (*i.e.*, when such disclosure is necessary or appropriate for business purposes), confidentiality protections, and standards that apply to the supervised entity.

This clarification is particularly important for banking organizations that utilize centralized service-company structures, shared-services arrangements, or enterprise-wide risk management functions. In these organizations, personnel responsible for legal, compliance, audit, risk management, BSA/AML, sanctions, accounting, and other support functions may be employed by an affiliate that provides services across multiple entities within the organization. Clarifying that CSI may be shared among affiliates that support the supervised entity would facilitate more efficient and comprehensive responses to supervisory matters and avoid unintentional violations of the OCC Information Regulations due to technical employment issues, while still maintaining appropriate protections for supervisory information. Unless amended, the Proposal could also be read to expose individual personnel to criminal liability for foot-faults when disclosing CSI to an

affiliate, which is inconsistent with the administration’s policy against the overcriminalization of federal law.¹⁷

This lack of clarity poses a particular challenge for internationally headquartered banking organizations, whose personnel often support multiple affiliated entities within the same organization, including the supervised entity, parent holding company, and affiliated service companies. Absent clarification, organizations may need to devote significant time to determine whether particular individuals or affiliates may receive and further share CSI in connection with supervisory matters. This could create unnecessary uncertainty, delay the preparation of examination responses and remediation efforts, and impede the efficient sharing of information within the organization without providing a meaningful supervisory or confidentiality benefit.

For these reasons, the IIB recommends that the OCC clarify that an affiliate that lawfully receives CSI from a supervised entity may share that information with another affiliate that is supporting the supervised entity, subject to the same limitations (*i.e.*, when such disclosure is necessary or appropriate for business purposes), confidentiality, and use restrictions that apply to the supervised entity itself. While the IIB believes that a relatively broad ability for one affiliate of a supervised entity to share CSI with other affiliates is appropriate, at a minimum, this clarification should apply to parent holding companies (including the internationally headquartered bank of which a branch or agency is part) and affiliated service companies that provide legal, compliance, audit, risk-management, or similar support services. Such clarification would reduce unnecessary information silos, promote more efficient and coordinated responses to supervisory matters, and better reflect the operating structures used by modern banking organizations, while preserving the confidentiality and integrity of the supervisory process.

2. *The OCC Should Allow the Parent Holding Company/Internationally Headquartered Bank, as Well as Other Affiliates of the Supervised Entity, to Disclose CSI to the Same Extent as the Supervised Entity*

As discussed above, it is of particular importance that all affiliates of the supervised entity, including the parent holding company and internationally headquartered bank of which a branch or agency is part, be able to share CSI received from a supervised entity with other affiliates of the supervised entity. However, it would also be greatly beneficial if the parent holding company were able to share CSI to the same extent as the supervised entity itself. For example, it would be beneficial if a parent holding company/internationally headquartered bank could permissibly disclose CSI to its attorneys when working to remedy a supervisory issue. The IIB agrees with the OCC that supervisory matters at a supervised entity are closely entwined with those at the parent holding company, such that the interests of the parent holding company and the supervised entity with respect to CSI are aligned.¹⁸ The IIB therefore supports the exception contemplated in Question 11 in the Proposal (“Should the OCC adopt an exception allowing the parent holding

¹⁷ See, e.g., Executive Order 14294, “Fighting Overcriminalization in Federal Statutes” (May 9, 2025).

¹⁸ Proposal at 50618.

company of a supervised entity to disclose CSI to the same extent as the supervised entity can under 12 C.F.R. 4.14(b)?”).¹⁹

The IIB also supports extending this exemption to any other affiliate of the supervised entity when necessary or appropriate for business purposes, not just the parent holding company. It would be beneficial and important, for example, for a service company affiliate of a supervised entity to be able to share CSI with its own attorneys or auditors without prior OCC approval. Much like the parent holding company/internationally headquartered bank itself, the attorney or auditor may be providing the affiliated service company with services in connection with the supervised entity’s remediation efforts (e.g., by providing legal advice related to compliance deficiencies or BSA/AML screening tools). Allowing the affiliated service company to share CSI with the attorney or auditor directly and without prior OCC approval would improve the efficiency and speed of the remediation process, as well as facilitate better risk management and reduce the burden on supervised entities while also maintaining the effectiveness of the OCC supervisory process and appropriate confidentiality.

The IIB believes it important to remember that any disclosure of CSI by an affiliate would only be permissible to the extent that the supervised entity itself would be able to disclose the CSI. This means that even where any such sharing would be permissible, it would remain subject to the same limitations (i.e., when such disclosure is necessary or appropriate for business purposes), confidentiality protections,²⁰ and standards that apply to the supervised entity.

3. *The OCC Should Not Limit the Exemption to Disclosures to Domestic Affiliates*

The OCC has specifically requested comments on whether the exemption for disclosure of CSI to affiliates should be limited to domestic affiliates.²¹ The IIB does not support, and strongly opposes, limiting the exemption to domestic affiliates. Such a limitation would disadvantage not only internationally headquartered banks, but also domestic banks with meaningful international operations. The IIB agrees with the OCC that the OCC’s historical limitations on disclosures of information to international affiliates were unnecessary, and that the benefits of disclosure to such affiliates far outweigh any risks. Furthermore, the IIB agrees that restrictions on information sharing with an international affiliate, particularly an internationally headquartered holding company or internationally headquartered bank of which a supervised entity is part, would interfere with the ability of such non-U.S. entity to properly oversee, as well as act as a source of financial and managerial strength for, or otherwise provide support to, a supervised entity. Allowing a supervised entity to disclose CSI only to its domestic affiliates, but not its international affiliates, would also be inconsistent with the principle of national treatment that has generally applied to the regulation of internationally headquartered banks in the United States. The material affiliates of supervised entities that are part of internationally headquartered banking organizations

¹⁹ *Id.* at 50627.

²⁰ Because an affiliate would only be able to share CSI to the same extent as a supervised entity, and because a supervised entity would need to enter into a qualifying confidentiality agreement with a service provider or other non-affiliate in order to disclose CSI under one of the exemptions, an affiliate would similarly need to enter into a qualifying confidentiality agreement with a service provider or other non-affiliate in order to disclose CSI.

²¹ Proposal at 50618.

are mostly international, while those of supervised entities that are part of domestic banks are mostly domestic. Limiting the exemption to just domestic affiliates would therefore prevent supervised entities that are part of internationally headquartered banking organizations from sharing information with their material affiliates, while those that are part of domestic banks would largely be free to do so.

B. The Exemption for Disclosure of CSI to Service Providers Should Not Be Limited to Service Providers Incorporated in the United States, and the Exemption for Consultants and Attorneys of a Potential Counterparty Should Not Be Limited to U.S.-Based Persons

The Proposal would permit a supervised entity to disclose CSI to a service provider without prior OCC approval only if the service provider is incorporated in the United States.²² This limitation is a new requirement not imposed under the OCC's existing information-disclosure framework. It is, therefore, difficult to reconcile this new requirement with the Proposal's stated objective of modernizing and reducing unnecessary burden.²³ If implemented, the requirement would also make certain disclosure exemptions less useful in practice and could impede the efficient sharing of information necessary to support legitimate business, risk-management, and supervisory discussions between the OCC and supervised entities.²⁴

Many OCC-supervised institutions operate as part of globally integrated banking organizations that maintain foreign affiliates, foreign offices, and cross-border operating structures. In these organizations, service arrangements are frequently established through enterprise-wide contracts entered into by a parent holding company, head office of an internationally headquartered bank, or affiliated service company for the benefit of multiple entities across the organization. In many cases, an OCC-supervised entity may rely on those arrangements even though it is not itself the contracting party. The IIB is particularly concerned that the Proposal could disrupt these existing shared-services arrangements. For example, a banking organization may have a global engagement with a consultant, technology provider, auditor, or other service provider retained by the parent organization under contractual provisions that already address the handling of CSI. Under the Proposal, it is unclear whether a supervised entity could continue to rely on such arrangements without seeking OCC approval if the service provider is not incorporated in the United States. This could create significant operational inefficiencies, require restructuring of existing contractual arrangements, and impede the ability of banking organizations to leverage enterprise-wide resources when addressing supervisory matters.

The OCC has stated concerns about "data security, challenges with enforcing data confidentiality in foreign jurisdictions, and the increasing volume and role of data in business operations."²⁵ The IIB agrees these are important considerations. However, those concerns can be

²² Proposed Section 4.14(b)(ii)(A).

²³ Proposal at 50630 ("The OCC expects the proposal, if finalized, will be a deregulatory action under Executive Order 14192 because it would result in potential cost savings for OCC-supervised banks.").

²⁴ Proposed Sections 4.10(a)(4), (7), (8), (11), and (12).

²⁵ Proposal at 50619.

appropriately addressed through confidentiality obligations and other safeguards applicable to the recipient of the information, rather than through a categorical limitation based on the jurisdiction of incorporation of the service provider.²⁶ Accordingly, the IIB believes the OCC should remove the proposed requirement that a service provider be incorporated in the United States in order for a supervised entity to rely on the exemption for disclosure of CSI to service providers.

C. The Exemption for Disclosure of CSI to Potential Counterparties to a Transaction Is Appropriate, but Should Be Expanded to Cover Other Transaction Structures That Are Not Business Combinations Under OCC Regulations

The IIB supports the exemption for disclosures to potential counterparties to certain business combinations. As the OCC notes, the inability to share CSI with these counterparties is problematic, hindering due diligence and leading to irresolvable information asymmetries between the parties that make the transaction less efficient and potentially riskier. The IIB supports expanding this exemption as contemplated in Question 10 in the Proposal (“Should the OCC extend the business counterparty exception to additional types of business combinations beyond those covered by the proposed exception or to other types of corporate transactions, such as the purchase or sale of assets or other acquisitions?”), as doing so would better achieve the OCC’s goal of facilitating legitimate M&A activity.

The IIB supports expanding this exemption to include any transaction structure a supervised entity may choose that serves a legitimate business need, regardless of whether it falls within the definition of business combination or other combination under 12 C.F.R. § 5.33(d)(2) or (10) (though the exemption should, at the very least, include all combinations under those subsections). A supervised entity’s ability to rely on this exemption should not depend on whether the particular transaction structure falls within the precise definitions of business combination/other combination under 12 C.F.R. § 5.33. For example, were a bank holding company to offer to purchase the stock of a national bank, the transaction would not fall within 12 C.F.R. § 5.33, but the parties (and the OCC) would clearly benefit from the ability to share CSI. Other transactions, such as a national bank’s sale of a particular asset line (rather than the sale of all or substantially all of a national bank’s assets) similarly may not fall within the scope of 12 C.F.R. § 5.33, but would also benefit from this exemption. In particular, the IIB requests that this exemption be modified to include all legitimate business transaction structures (not just those specifically contemplated under 12 C.F.R. § 5.33), as well as to specifically permit a supervised entity to share CSI with a potential counterparty where the counterparty is negotiating a transaction with the parent holding company of the supervised entity (including an international holding company). Because much M&A activity takes place at or involves the holding company level, expanding the exemption in this manner would reduce burden and make it practically available in more instances.

The IIB also submits that it is not appropriate for the OCC to limit the exemption for disclosures to a potential counterparty’s consultants and attorneys to just U.S.-based consultants

²⁶ *OCC’s Gould: Bank Regulation Should Not Distract Banks from Business Challenges*, ABA Banking J. (Sept. 16, 2025) (“Banks are in the business of taking and managing risks. That’s their job. They serve a social function,” Gould said.), <https://bankingjournal.aba.com/2025/09/occs-gould-bank-regulation-should-not-distract-banks-from-business-challenges/>.

and attorneys. The IIB disagrees with the OCC’s statement that “a supervised entity has control over whom it hires as a consultant or attorney” and that there are necessarily “many U.S.-based options.”²⁷ First, the exemption intends to allow disclosure of CSI to the consultants and attorneys of the *potential counterparty*, not the supervised entity, so the ability of a supervised entity to control who it hires is inapposite to this exemption. Second, in the IIB’s experience, M&A counterparties, much like supervised entities themselves, regularly need to rely on non-U.S. attorneys and consultants, because these persons have expertise that U.S.-based attorneys and consultants may not have. M&A transactions often involve highly complex foreign legal, corporate, accounting, and other considerations, which U.S.-based personnel or firms may not be able to meet. Even if U.S.-based personnel or firms are able to provide the advice, the counterparty may not have an existing relationship with that party or may deem a non-U.S. provider preferable for its own legal, risk, or other reasons. Indeed, in some areas—such as certain foreign law—it may not even be possible for a U.S. person to provide the potential counterparty with advice at all. For these reasons, the IIB supports expanding this exemption to any attorneys or consultants of a potential counterparty to a business combination or other transaction.

D. The Exemption for Disclosure of CSI to Trade Associations Is Appropriate, But Should Better Accommodate Their Functions and Reflect the Status of the Supervised Entity as a Member of Such Association

The IIB supports and appreciates the exemption permitting disclosure of CSI to financial services trade associations, and other trade associations of which a supervised entity or its parent holding company is a member, for the limited purposes of anonymizing and aggregating information and advocating on behalf of their members. Trade associations play an important role in facilitating informed dialogue between regulated institutions and their supervisors, identifying common supervisory concerns, and developing industry feedback on regulatory proposals and supervisory practices. The IIB also generally supports the safeguards included in the exemption, including the requirements for confidentiality protections, defined purposes, and limitations on the use of disclosed information, which appropriately balance the need for meaningful industry engagement with the confidentiality of the supervisory process.

The IIB believes, however, that the exemption should specify that a supervised entity may only share CSI with a trade association where the supervised entity or its parent holding company is a member. This clarification will enable supervised entities to disclose CSI for the purposes contemplated by the Proposal (*e.g.*, advocating for the best interests of the supervised entity and other members of the trade organization) in a more efficient manner.

The IIB also requests that the OCC confirm that the exemption permits a trade association to aggregate and analyze CSI together with information derived from other supervisory, regulatory, and non-confidential sources when doing so is necessary to support industry analysis, policy development, and advocacy. Similarly, the IIB requests confirmation that advocacy on behalf of members includes not only direct engagement with governmental agencies, but also the development of policy, compliance, operational, and supervisory analyses that inform such advocacy efforts.

²⁷ Proposal at 50621.

Finally, while the IIB appreciates the OCC's desire to ensure that disclosures made under this exemption are appropriately limited in scope and duration, the IIB believes that a fixed time limitation may not be suitable in all circumstances. Financial services trade associations engage in a variety of data collection, benchmarking, policy analysis, and advocacy activities that may differ significantly in duration and complexity. Depending on the nature of the project, information gathering and analysis may occur over an extended period, including where regulatory proposals are revised, repropose, or subject to multiple rounds of engagement, much of which is outside of the control of a trade association.

Accordingly, the IIB recommends that the OCC adopt a more flexible approach that permits disclosure arrangements to remain in effect for a period reasonably related to the purpose for which the information is being collected and used. At a minimum, the OCC should expressly permit parties to renew or extend an agreement where the requirements of the exemption continue to be satisfied and the information remains necessary for the permitted purpose. Such an approach would provide appropriate flexibility while maintaining the safeguards intended by the exemption and reducing unnecessary administrative burden on supervised entities and trade associations.

E. The Exemption for Disclosure of CSI to Government Agencies Should Allow Disclosure to Certain International Government Agencies with Supervisory or Regulatory Authority Over a Supervised Entity or its Parent Holding Company

The IIB supports the Proposal's effort to facilitate disclosure of CSI to other governmental authorities with supervisory responsibilities related to supervised entities. The IIB particularly supports mechanisms that allow supervised entities to share information efficiently with the Federal Reserve and the FDIC, as banking organizations routinely operate under the supervision of multiple banking agencies with overlapping supervisory interests.

The IIB is concerned, however, that the Proposal's procedures remain unnecessarily burdensome for routine supervisory communications. Banking organizations frequently receive substantially similar requests from multiple prudential regulators regarding the same activities, risks, or remediation efforts. Requiring supervised entities to navigate different procedures for sharing substantially the same information with different financial regulatory agencies may create unnecessary delay and administrative burden without a corresponding supervisory benefit. The IIB therefore recommends that the OCC further streamline disclosures to the Federal Reserve and FDIC and, at a minimum, harmonize the applicable procedures for such disclosure. As an example of such streamlining, the OCC may wish to consider adopting a presumption that a supervised entity may disclose CSI to the Federal Reserve or FDIC without any waiting period, at least so long as certain minimum requirements are satisfied (*e.g.*, so long as the information is identified as CSI and made available to the regulator under an assurance of privacy and/or agreement that the Federal Reserve or FDIC will not use the CSI for any purpose other than in its normal supervisory process).

The IIB also believes that internationally active banking organizations should be permitted to share CSI with their primary home-country prudential supervisors when those supervisors have a legitimate supervisory interest in the information. Home-country supervisors of internationally headquartered banking organizations routinely oversee the consolidated organization and, in many cases, maintain ongoing supervisory coordination arrangements with the OCC and other U.S.

banking regulators. Consistent with longstanding legal requirements and principles of supervisory cooperation regarding disclosure of information,²⁸ the final rule should recognize the importance of facilitating appropriate information sharing with such supervisors. This could be done by allowing supervised entities to disclose CSI to any home-country supervisor, meaning a governmental entity or entities in the home country of a parent holding company/internationally headquartered bank of which a supervised entity is part, that has responsibility for the supervision and regulation of such company.²⁹

If the OCC determines that broader disclosure to governmental authorities is not appropriate, the IIB strongly recommends that the final rule, at a minimum, permit disclosures to those home-country supervisors of internationally headquartered banking organizations that have been determined by the Federal Reserve to be subject to comprehensive consolidated supervision (“CCS”).³⁰ The CCS framework already contemplates ongoing supervisory oversight of the worldwide operations of an internationally headquartered banking organization and provides significant comfort that the home-country supervisor not only is part of a credible regulatory framework, but also has a legitimate and continuing supervisory interest in the information.³¹

To the extent a governmental authority seeks access to OCC CSI outside the limited circumstances described above, the existing process under which a requesting agency engages directly with the OCC remains the more appropriate framework through which such information requests should be handled. This approach should help minimize the extent to which supervised entities and their affiliates are forced to negotiate or manage information sharing between different regulators, while still enabling the OCC to maintain oversight of appropriate access by other regulators to OCC CSI.

F. The Qualifying Confidentiality Agreement Definition Is Overly Prescriptive and Unworkable, Particularly for Internationally Active Banking Organizations

The IIB agrees that appropriate safeguards should apply when confidential supervisory information is disclosed pursuant to the exemptions contained in the Proposal. A confidentiality

²⁸ See, e.g., 12 U.S.C. § 3109; 12 U.S.C. § 1828(x).

²⁹ See 12 C.F.R. § 211.21(q) (defining the term “home country supervisor” for a foreign bank for purposes of the International Banking Act of 1978 and the Federal Reserve’s Regulation K).

³⁰ This would mean such disclosure is limited to those supervisors that the Federal Reserve has determined supervise or regulate the internationally headquartered bank in a manner similar to how a U.S. bank is regulated and that the regulator receives sufficient information on the worldwide operations of the internationally headquartered bank (including the relationships of the bank to any affiliate) to assess the internationally headquartered bank’s overall financial condition and compliance with law and regulation.

³¹ Allowing disclosure of CSI to a home-country supervisor may in fact be required, and at a minimum would seem necessary or appropriate for business purposes, because part of any CCS determination requires consideration of the extent to which the home-country supervisor: (i) ensures the foreign bank has adequate procedures for monitoring and controlling its activities worldwide; (ii) obtains information on the condition of the foreign bank and its subsidiaries and offices outside the home country through regular reports of examination, audit reports, or otherwise; and (iii) obtains information on the dealings and relationship between the foreign bank and its affiliates, both foreign and domestic. See 12 C.F.R. § 211.24(c)(ii).

agreement can serve an important role in ensuring that recipients understand the confidential nature of the information and the limitations on its use and further disclosure. However, the proposed definition of a qualifying confidentiality agreement (“QCA”) is unnecessarily prescriptive and would create and impose substantial new operational and contractual burdens on supervised entities and their service providers. This would include, for example, the need to identify and renegotiate existing confidentiality agreements that were entered into in good faith to comply with existing rules, including those under the current OCC Information Regulations.

Rather than imposing numerous detailed contractual requirements to ensure continued confidentiality of CSI, the IIB believes the OCC’s objectives could better be achieved through a more principles-based approach, consistent with existing OCC practice and the approaches taken by other federal banking agencies. At a minimum, a QCA should require recipients to treat CSI in accordance with applicable OCC requirements, including to state the person’s awareness of, and agreement to abide by, the prohibition on dissemination of CSI, and to not use the information for any purpose other than the purpose for which it was disclosed. The more detailed and prescriptive requirements contained in the Proposal would, however, impose significant new implementation burdens while providing limited additional protection for CSI.

The IIB believes it is inappropriate and impractical to require that every QCA be governed by the laws of the United States or a State thereof. Banking organizations routinely enter into agreements that are governed by non-U.S. law, particularly where a service provider, transaction counterparty, or parent organization is located outside the United States. Requiring separate stand-alone agreements solely to satisfy a governing-law requirement would create additional burden without materially advancing the OCC’s stated objectives. Moreover, the enforceability concerns identified by the OCC can be addressed through other provisions of the agreement without mandating a specific governing law.³²

The IIB likewise believes it is inappropriate to require every recipient of CSI to acknowledge that it is subject to OCC enforcement authority or qualifies as an institution-affiliated party (“IAP”). Not all persons who may receive information pursuant to a QCA would independently qualify as an IAP under existing law, and the Proposal should not require recipients to make legal conclusions regarding their regulatory status as a condition of receiving information. Such a requirement may discourage qualified service providers from supporting supervised entities while providing limited additional protection for confidential supervisory information.³³ Existing confidentiality restrictions, limitations on use, and notification obligations provide more appropriate safeguards.³⁴

³² See Proposal at 50623.

³³ See, e.g., Executive Order 14294, *supra* note 17.

³⁴ For instance, the Federal Deposit Insurance Act includes as an IAP any consultant who participates in the conduct of the affairs of an insured depository institution, as well as any independent contractor who knowingly or recklessly participates in certain violations or actions that cause, or are likely to cause, more than a minimal financial loss to or significant adverse effect on an insured depository institution. See 12 U.S.C. §§ 1813(u)(3), (4). Not every person with whom a supervised entity enters into a confidentiality agreement, however, would meet this definition, either because it is not clear they are participating in the conduct of the affairs of a supervised entity, or because they

The Proposal also appears to assume that a supervised entity itself must be a direct party to every QCA. That assumption does not reflect the operational structures commonly used by modern banking organizations. In many cases, service arrangements are entered into by a parent holding company, head office of an internationally headquartered bank, or affiliated service company on behalf of multiple entities within the organization. The IIB therefore recommends that the OCC clarify that a QCA may be entered into by a supervised entity or any affiliate thereof acting for the benefit of the supervised entity. The IIB further recommends that the OCC clarify that a QCA need not be a separate stand-alone agreement and may instead be incorporated into a broader service, confidentiality, engagement, or transaction agreement. Such a modified approach would preserve confidentiality protections while avoiding unnecessary duplication and administrative burden.³⁵

Finally, as stated in Section II.B above, the IIB believes attorneys and auditors should not be required to enter into a QCA in order for the supervised entity to be able to share CSI with such professionals, consistent with past and current OCC practices.

III. Additional Comments

A. The IIB Is Unclear on Why a Separate Disclosure Exemption for Shareholders Owning Greater Than 50 Percent of the Voting Shares of a Supervised Entity Is Necessary

The OCC requested comment on whether it should provide a specific exemption to permit a supervised entity to disclose CSI to a shareholder that owns in excess of 50 percent of the voting stock of the supervised entity (Question 16). The IIB is unsure why such an exemption is necessary, and believes it may in fact produce confusion, because if a person already owns in excess of 50 percent of the voting stock of a supervised entity, the shareholder would be an affiliate as defined under the Proposal, and the supervised entity should be able to disclose CSI to this shareholder in reliance on the existing exemption to disclose CSI to affiliates.

B. The OCC Should Be Required to Provide Notice to a Submitter Prior to Voluntarily Disclosing CSI Under Proposed Section 4.13(b)(1)

The Proposal contemplates that the OCC may, on its own initiative without any request from another person, and for any reason based on its sole discretion, disclose non-public OCC information (including CSI). On the other hand, if a person files a request for non-public OCC information that is confidential commercial information pursuant to the Freedom of Information Act, then the Proposal requires the OCC to generally provide the submitter of that information with prompt written notice of the receipt of such request, and the submitter has 10 business days

are not certain to participate in any manner in conduct that causes or is likely to cause one of the identified harms to a supervised entity.

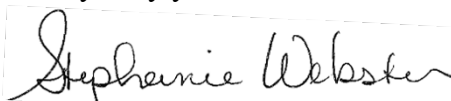
³⁵ The IIB notes that if preferable, instead of changing the definition of QCA, the OCC could address this situation by adding a provision clarifying that a parent holding company or internationally headquartered bank of which a supervised entity is part may not only share CSI to the same extent as the supervised entity itself, but may also enter into a QCA as if it were a supervised entity.

to provide the OCC with a detailed statement of objection to disclosure of the information.³⁶ The IIB believes that CSI regarding a supervised entity should be afforded at least the same basic treatment as confidential commercial information in that, prior to the release of either set of information, the supervised entity should be provided no less than 10 business days' notice and the ability to explain why the release of such information is not appropriate.

* * *

We appreciate your consideration of our comments and would also appreciate the opportunity to discuss any of these recommendations, or any other matters related to international banks, at your convenience. If we can answer any questions or provide any further information, please contact me at 646-213-1149, swebster@iib.org.

Very truly yours,

A handwritten signature in cursive script that reads "Stephanie Webster". The signature is enclosed in a thin, light gray rectangular border.

Stephanie Webster
General Counsel
Institute of International Bankers

³⁶ See Proposed Section 4.20.