



April 20, 2026

The Honorable Jonathan V. Gould  
Comptroller of the Currency  
Office of the Comptroller of the Currency  
Attn: Bank Appeals Process  
400 7th St., SW  
Washington, DC 20219

Re: Response to Notice of Proposed Rulemaking to established revised procedures for the Bank Appeals Process

Dear Comptroller Gould,

On behalf of the American Fintech Council (AFC),<sup>1</sup> I submit this comment letter in response to the Office of the Comptroller of the Currency's (OCC) Notice of Proposed Rulemaking regarding revisions to the Bank Appeals Process (Proposed Rulemaking).<sup>2</sup> AFC appreciates the OCC's continued commitment to ensuring that supervised entities have access to a fair, independent, and effective mechanism for challenging material supervisory determinations.

AFC is a standards based organization and the largest and most diverse trade association representing financial technology companies and innovative banks. On behalf of more than 150 member companies and partners, AFC promotes a transparent, inclusive, and customer centric financial system by supporting responsible innovation and encouraging sound public policy. AFC's membership includes a broad range of institutions subject to OCC supervision and therefore has direct and practical experience with supervisory processes, including examination findings, supervisory determinations, and associated dispute resolution mechanisms.

The OCC's proposal represents an important opportunity to strengthen confidence in the supervisory appeals framework by enhancing independence, clarifying standards of review, and improving transparency. As discussed below, AFC supports the OCC's efforts to modernize the appeals process and offers recommendations to ensure that the framework is accessible, credible, and effective in practice.

## **I. AFC Supports Establishing a Clearly Articulated De Novo Standard of Review to Promote Fairness and Confidence in the Appeals Process**

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<sup>1</sup> American Fintech Council's (AFC) membership spans banks, non-bank lenders, payments providers, EWA providers, loan servicers, credit bureaus, and personal financial management companies.

<sup>2</sup> Office of the Comptroller of the Currency, "Bank Appeals Process," Federal Register 91, no. 31 (February 17, 2026): 7163–7180, <https://www.federalregister.gov/documents/2026/02/17/2026-03086/bank-appeals-process>.

A clearly articulated standard of review is essential to ensuring that the appeals framework operates as a robust mechanism for independent reconsideration rather than as a process that merely reaffirms or replicates the underlying supervisory determination without meaningful independent analysis. The absence of such clarity has, over time, contributed to a perception that appeals are unlikely to yield a different outcome, which in turn discourages institutions from engaging with the process and undermines its intended function as an avenue for impartial review.

Adoption of a *de novo* standard would meaningfully recalibrate this dynamic by requiring the reviewing authority to consider the matter anew, without deference to prior conclusions. This approach would not only strengthen procedural fairness but also reinforce the integrity of supervisory decision making by ensuring that contested determinations are subject to rigorous and independent scrutiny. Where institutions have confidence that their arguments will be evaluated impartially on the merits, the appeals process is more likely to be utilized in a manner that brings forward well founded causes of action regarding the application of supervisory standards.

Over time, a well-functioning *de novo* review process can contribute to greater consistency across supervisory outcomes by clarifying how standards are interpreted and applied in practice. It would also create a structured mechanism through which supervisory interpretations can be refined over time, while preserving the authority of examiners to make initial determinations. In this respect, the standard of review is not merely a procedural feature, but a central determinant of whether the appeals framework commands credibility among regulated entities.

## **II. AFC Supports the Creation of an Independent Appeals Board to Strengthen Institutional Credibility and Decision Making**

The establishment of an Appeals Board as the ultimate decision-making authority would represent a significant structural improvement to the existing framework and has the potential to materially enhance both the independence and perceived legitimacy of the appeals process. A multi member body would introduce a level of deliberate rigor that is inherently distinct from single decision maker models, particularly where the issues under consideration involve complex supervisory judgments and competing interpretations of regulatory standards.

The inclusion of individuals with relevant experience outside of the OCC would further strengthen this structure by introducing perspectives that are not shaped by the same institutional incentives or supervisory hierarchies that informed the original determination. This diversity of viewpoint is especially important in matters where the dispute turns on the application of judgment rather than purely technical compliance with established rules.

To ensure that the Appeals Board fulfills its intended role, the framework should incorporate clear and well-defined safeguards that preserve independence in both form and substance. Eligibility criteria and conflict of interest standards should be articulated with sufficient precision to prevent any direct or indirect involvement in the underlying supervisory determination. Transparency in the selection and appointment of term appointees would further reinforce confidence in the integrity of the process, particularly where qualifications and selection criteria

are publicly understood. In addition, the use of staggered terms would promote continuity and institutional knowledge while avoiding the perception that Board composition may shift in response to particular matters under review.

Taken together, these structural considerations would support the Appeals Board in functioning as a credible and authoritative forum for the resolution of supervisory disputes, rather than as an extension of the supervisory process itself.

### **III. AFC Supports Enhancing Transparency Through Publication of Appeals Decisions While Preserving Supervisory Confidentiality**

The publication of redacted Appeals Board decisions would represent a meaningful step toward improving transparency in how supervisory standards are interpreted and applied. Greater visibility into the reasoning underlying supervisory outcomes would yield significant benefit to both regulated entities and the broader financial system. Publication of decisions can promote consistency in supervisory outcomes by providing clear and articulable insight into how similar issues have been evaluated in prior appeals. It also allows institutions to better understand the evidentiary and analytical considerations that inform OCC decision making, thereby improving compliance and reducing unnecessary disputes. At the same time, AFC emphasizes the importance of maintaining appropriate safeguards to protect confidential supervisory information. Redaction practices should be sufficiently robust to prevent the identification of individual institutions while still preserving the substantive value of the published decisions. AFC further recommends that the OCC consider periodic summaries or compilations of appeals outcomes that identify recurring themes or areas of supervisory focus. Such summaries could enhance the practical utility of published decisions without compromising confidentiality.

### **IV. AFC Supports Procedural Enhancements That Improve Accessibility and Reduce Barriers to Appeal**

Procedural design plays a determinative role in whether the appeals framework is meaningfully accessible in practice. While the proposed rule appropriately preserves core timelines and filing requirements, certain aspects of the process warrant refinement to ensure that they do not inadvertently discourage participation.

The requirement that a bank's board of directors formally approve the initiation of an appeal, although well intentioned, introduces a level of formality that may not be necessary to ensure institutional alignment. In practice, this requirement can create delay and operational friction, particularly in circumstances where supervisory determinations require timely response. Allowing appeals to be authorized by senior executive management, subject to appropriate internal governance and oversight, would maintain accountability while aligning more closely with how institutions manage other supervisory interactions.

Flexibility with respect to filing deadlines remains equally important. The continued recognition of good faith efforts to resolve disputes through informal dialogue reflects a pragmatic understanding of supervisory relationships and should be preserved. Institutions should not be

placed in the position of choosing between engaging constructively with supervisory staff and preserving their right to pursue a formal appeal.

Protections against retaliation are likewise central to the credibility of the framework. Even where formal safeguards exist, the effectiveness of those protections depends on the extent to which institutions are confident that invoking the appeals process will not adversely affect their supervisory relationship. Continued emphasis on independence, coupled with clear and consistently applied non-retaliation principles, is therefore essential to ensuring that the process can be utilized without hesitation.

## **V. AFC Supports a Balanced Approach to Scope and Jurisdiction That Preserves the Integrity of the Appeals Process**

The OCC's general approach to defining appealable and non-appealable matters, including the continued exclusion of formal enforcement actions and rulemakings, appropriately preserves the distinct roles of supervisory appeals and formal adjudicatory processes.

At the same time, AFC encourages the OCC to ensure that the scope of appealable matters remains sufficiently broad to capture determinations that have a material impact on supervised entities. In particular, AFC supports the inclusion of examination ratings, matters requiring attention, and other conclusions reflected in reports of examination, as these determinations often carry significant operational and strategic implications.

AFC also supports the OCC's proposal to extend access to the appeals process to a broader set of supervised entities, including those not expressly covered by the statutory framework governing appeals of material supervisory determinations under 12 U.S.C. § 4806.<sup>3</sup> This approach would promote consistency and fairness across the OCC's supervisory jurisdiction.

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AFC appreciates the OCC's engagement on this rulemaking and its efforts to refine a framework that sits at the intersection of supervisory authority and institutional accountability. A well calibrated appeals process should not only provide a mechanism for resolving discrete disputes, but also reinforce broader confidence in the consistency, transparency, and fairness of supervisory oversight.

The proposed reforms represent a meaningful step toward achieving these objectives. With the targeted refinements described above, the OCC can further ensure that the appeals process functions as a credible and effective safeguard, while remaining appropriately aligned with the agency's mandate to promote safety and soundness.

AFC stands ready to engage further as the OCC considers these issues and remains available as a resource in support of the agency's ongoing efforts.  
Sincerely,

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<sup>3</sup> 12 U.S.C. § 4806 (requiring federal banking agencies to establish an independent intra agency appellate process for material supervisory determinations).

A handwritten signature in black ink, reading "Ian P. Moloney". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Ian P. Moloney  
Chief Policy Officer  
American Fintech Council