Banking and Finance Law Daily Wrap Up, DIRECTORS, OFFICERS AND EMPLOYERS—Better Markets urges Fed, FDIC to use inflation for insider-lending limits, (Nov. 10, 2026)

Banking and Finance Law Daily Wrap Up

By John M. Pachkowski, J.D.

Comments challenge quadrupling insider loan thresholds.

Better Markets, the "Wall Street watchdog," has submitted separate comments to the Federal Reserve Board and Federal Deposit Insurance in connection with the agencies' proposed rulemakings to amend their regulations governing insider loans.

The Fed's proposed rulemaking would amend Regulation O, which has not been comprehensively updated since 1979. Among other things, the proposed rulemaking would: update dollar-based thresholds and indexes them to economic growth going forward; address unnecessary applications of Regulation O to passive interests in companies held by investment funds; and incorporate long-standing regulatory interpretations. The FDIC's proposed rulemaking would amend 12 C.F.R. §337.3 by: increasing the maximum amount of credit that an FDIC-supervised institution may extend to one of its executive officers from $100,000 to $400,000; increasing the maximum amount of credit that an FDIC-supervised institution may extend to one of its insiders, requiring approval by the board of directors, from $500,000 to $2,000,000; and establishing an indexing methodology to automatically adjust such thresholds every five years to reflect the cumulative change in economic growth and inflation (see *Banking and Finance Law Daily*, Aug. 3, 2026).

In its comments to the Fed, Better Markets recommended that the Fed adjust Regulation O insider-lending thresholds for inflation using the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), all items, U.S. city average, not seasonally adjusted, and not nominal gross domestic product (GDP). Better Markets noted that indexing to GDP "would not restore the thresholds' original stringency; in fact, it would permanently loosen them, and then loosen them further every five years through a ratchet that only moves in one direction." It added, "Any relaxation beyond an inflation adjustment—whether in the dollar thresholds, the spouse exception, or the fund-complex relief—should be justified on its own terms, with evidence about the risk of the transactions being exempted, rather than inferred from the growth of the economy."

The comments to the FDIC also called on the agency to adjust its thresholds using the CPI-W. Better Markets also recommended that the FDIC retain dollar limits alongside the percentage-of-capital limits, and coordinate with the Fed so that the two agencies adopt the same inflation-based method and indexing approach.

Phillip Basil, Director of Economic Growth and Financial Stability for Better Markets also issued a statement in connection with the comment letters. Basil noted, "Congress has long-established safeguards to address the strong incentive for banks to ignore basic risk management when making loans to their own executive officers, directors, and principal shareholders. That's the very reason so-called insider lending contributed to hundreds of bank failures in the 1980s. Having strong limits on such lending remains critically important, and yet the Fed and FDIC have dramatically increased the limits without justification." He added, "Instead of conducting the necessary analysis to assess the risks of each type of insider lending in the context of historical insider loan defaults, the agencies simply proposed to increase the existing thresholds by adjusting for growth in gross domestic product. That measure has no bearing on whether a director's loan from a community bank warrants a second look from its board. The agencies must go back to the drawing board to protect hard-working depositors from bank executives abusing their position."

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Companies: Better Markets

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