



Closing the Industrial Loan Company Loophole:

An Urgent Priority to Prevent
Systemic Risk and Consumer Harm

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The Industrial Loan Company (ILC) Loophole allows non-financial firms to own FDIC-insured depository institutions, which poses a serious threat to financial stability and creates the risk of losses to the FDIC Deposit Insurance Fund (DIF). ICBA urges Congress to pass legislation permanently closing the ILC loophole, just as Congress has closed past banking loopholes that threatened to undermine consolidated supervision and the separation of banking and commerce. Furthermore, the FDIC should use its existing statutory authority under the Federal Deposit Insurance (FDI) Act to deny the deposit insurance applications currently pending for ILCs.

- A loophole in the Bank Holding Company Act (BHCA) allows commercial companies and fintech companies to own or acquire industrial loan companies (ILCs) chartered by Utah and a handful of other states without being subject to federal consolidated supervision like banks, leaving a dangerous gap in safety and soundness oversight.
- ILCs are the functional equivalent of full-service banks. Commercial company ownership of ILCs will effectively combine banking and commerce, contrary to long-standing American economic policy of separating banking and commerce. Federal law prohibits all other full-service banks, whether federally or state chartered, from being owned by non-financial companies.
- Currently, there are 23 ILCs chartered in seven states and six pending applications before the FDIC.
- In the new era of Big Tech, AI, fintech, and crypto, we should be cautious before giving these companies yet more reach into the economic life of Americans by exploiting the ILC loophole.
- ICBA urges the FDIC to impose an immediate moratorium on the approval of deposit insurance for ILCs. FDIC approval of new ILC deposit insurance applications would put the solvency of the DIF, and ultimately the American taxpayer, at risk. The FDIC can and should deny the deposit insurance applications of ILCs that create an undue risk to the DIF or that fail to adequately meet the convenience and needs of the community.
- Congress should enact legislation to permanently close the ILC Loophole to prevent large commercial firms from increasing the level of systemic risk in the banking system.

Banks hold a unique place in the U.S. economy. Banking is not simply a business among other businesses. Banks serve as neutral arbiters of credit that make lending decisions based solely on a borrower's ability to repay. However, banks with commercial parent companies face an unavoidable conflict of interest because they are incentivized to lend to customers of their parent company to drive sales. This leads to a reduction of underwriting standards and increases the likelihood of failure.

The U.S. policy of separating banking and commerce, enshrined in the BHCA, must remain intact to protect the economy, maintain consumer and business confidence in banks, and prevent commercial firms from owning banks or bank-like entities. In an era dominated by



Big Tech, AI, fintech, and crypto, allowing these companies to control banks could amplify risks, threaten consumer privacy, enable AI-driven price manipulation, and increase fraud on an unprecedented scale.

The ILC charter, a full-service banking charter, exploits a BHCA loophole, allowing commercial firms to own FDIC-insured ILCs without Federal Reserve oversight or restrictions on non-banking activities. A moratorium on FDIC approval of new ILC deposit insurance, enacted in 2006 and extended by Congress in 2010, lapsed in 2013. In 2020, the FDIC approved ILC applications for Square Financial Services and Nelnet Bank, the first since 2006.

Since that time, GM, Ford, Stellantis, Nissan, Rakuten (the Amazon of Japan), Edward Jones, and OneMain Financial have all sought the ILC charter. If the FDIC fails to exercise its statutory authority to reject these applications, it will open the floodgates to a new wave of commercial and Big Tech applicants. Walmart and Home Depot have previously sought ILC charters, but the universe of potential applicants is not limited to Big Box stores and automakers. Big Tech companies like Meta, Apple, and X.com have previously made forays into the financial services industry, and it is easy to imagine them seeking an ILC charter to leverage the huge amounts of consumer data they possess. They could use this data to monitor consumer shopping habits and to market predatory credit products to their users.

Commercial companies choose to apply for ILC charters and not traditional bank charters because their parent companies wish to retain their current commercial activities, further engage in new activities unrelated to banking, and avoid consolidated supervision by the Federal Reserve as a bank holding company.

ICBA calls on Congress to amend the BHCA to permanently close the ILC loophole, as it has done with past banking loopholes, to uphold consolidated supervision and the separation of banking and commerce. ICBA also urges the FDIC to reject pending ILC applications that pose a risk to the DIF or fail to meet the convenience and needs of the community. The FDIC also should reinstate a moratorium on ILC deposit insurance approvals to allow thorough examination of the evolving financial services landscape, particularly fintech and crypto developments, to safeguard the FDIC insurance fund and the federal safety net.

This white paper will examine the principle of separating banking and commerce, the BHCA, the history and evolution of the ILC charter, and its potential to reshape American finance.

Part I: Why Preserving the Separation of Banking and Commerce is Important

With the enactment of the BHCA in 1956, Congress decided that it was important to limit bank holding companies to business activities that are financial in nature. Due to their exemption from the BHCA definition of a bank, ILCs are the most notable exception to this general rule. But why is the separation of banking and commercial activities important and why should it be preserved? Below we will examine the history of the prohibition of mixing banking and commerce and why it is more important than ever to maintain the separation.

What is an ILC?

ILCs are functionally identical to commercial banks. They are primarily chartered in Utah and a handful of other states.¹ They enjoy all the commercial and consumer lending powers of commercial banks. While they are state chartered, they are free to operate nationwide, and there is no ceiling on their asset size or cap on the number of ILC charters that may be issued. ILCs qualify for FDIC insurance because they meet the definition of “state bank” under the FDI Act: they are incorporated under the laws of a state and accept deposits (not limited to demand deposits). However, they are exempt from the definition of “bank” under the BHCA as amended, which explicitly exempts ILCs provided they (i) are chartered by a state that chartered ILCs as of 1987; and (ii) do not accept demand deposits; have assets of less than \$100 million; or have experienced no change in control since 1987.²

This is the ILC loophole that allows what are functionally full-service, federally insured commercial banks to be owned by commercial companies and to evade consolidated supervision. The only limitation on ILCs, that they cannot accept demand deposits, is easily circumvented by offering functionally equivalent negotiable order of withdrawal (NOW) accounts.³

Why Separate Banking and Commerce?

The principle of separating banking and commerce is a cornerstone of U.S. economic policy, first codified in the 1956 BHCA. The BHCA defined a “bank holding company,” established consolidated supervision, and restricted their activities to those closely tied to banking, effectively isolating banking from purely commercial enterprises. However, the Act included loopholes, some of which Congress later closed. As explored later in this paper, the ILC loophole, stemming from subsequent BHCA amendments, has become increasingly risky due to changes in the financial landscape, including the rise of financial technology companies and crypto, which present risks to the financial system as a whole but are less regulated than traditional banks or barely regulated at all.

Concerns about concentrated economic power and business combinations creating undue leverage predate the BHCA by decades and are deeply embedded in U.S. economic philosophy. In response to the 1929 stock market crash and the ensuing Great Depression,

the Glass-Steagall Act of 1933 barred banks from securities dealing, underwriting, and affiliating with securities firms, though it did not prevent nonbanking firms from owning commercial banks.

Despite these measures, the 1930s saw growing alarm over holding companies amassing excessive economic influence, prompting demands for congressional intervention. In 1938, President Franklin D. Roosevelt delivered a special message to Congress, advocating for stronger antitrust laws to curb the concentration of economic power in private businesses, including bank holding companies. Roosevelt was deeply concerned about the anti-democratic implications of economic monopolies, warning that “Close financial control, through interlocking spheres of influence over channels of investment, and through the use of financial devices like holding companies and strategic minority interests, creates close control of the business policies of enterprises which masquerade as independent units.”⁴ He pressed Congress to enact laws that would, among other measures, prohibit a holding company or any entity in which it has a financial stake from borrowing from or selling securities to a bank in which it holds shares.

The Bank Holding Company Act

During the 1940s and 1950s, diversified bank holding companies expanded significantly in both number and scale. The Transamerica Corporation exemplified this trend, controlling 46 banks, a substantial portion of Bank of America, an insurance company, real estate and oil development ventures, and a fish packing business by the early 1950s. This backdrop shaped Congress’s deliberations on the BHCA.

The BHCA, enacted in 1956, pursued two primary goals: (1) preventing the integration of banking and commerce and (2) stopping holding companies from evading restrictions on interstate banking. Both objectives addressed the dangers of concentrated economic power across states and industries.

The BHCA’s second goal—maintaining the separation of banking and commerce—remains as critical today as it was 60 years ago and has taken on new urgency in the era where the power of large corporations like Big Tech companies is rising.

Holding companies of banks existed before the BHCA, but the 1956 Act clarified that a bank holding company is any entity owning 25 percent or more of the shares of two or more banks or exercising comparable control over voting rights, including through direct ownership or the ability to influence share voting. For the Act’s purposes, a bank was defined as any institution accepting deposits and issuing loans. Today, the definition of a bank holding company has been amended to include any company that controls a single bank, either through ownership of more than 25% of the voting shares, control of a majority of the board of directors, or by determination of the Federal Reserve Board.

All bank holding companies must register with the Federal Reserve, submit to its consolidated regulation and supervision, provide regular reports, and undergo direct examinations. The Federal Reserve wields significant enforcement authority over these entities, which are subject to capital adequacy requirements and must act as a “source of



strength” for their banking subsidiaries. By virtue of their exemption from the BHCA, the parent companies of ILCs are not subject to any holding-company-level supervision by the Federal Reserve.

In addition, the BHCA addressed the mixing of banking and commerce by restricting permissible activities and investments of bank holding companies to banking, managing or owning banks, and a limited set of activities determined to be “closely related to banking.” The BHCA required all bank holding companies to divest themselves of ownership in any firms that were involved in nonbank activities, i.e., commercial and industrial businesses.

The basic framework of the BHCA has endured for more than 60 years, though it has been updated through amendments to reflect the evolution of the U.S. financial marketplace.

Amendments to the BHCA Have Reaffirmed the Separation of Banking and Commerce

Since passage of the BHCA, Congress has taken steps to reaffirm the separation of banking and commerce, close loopholes in the definition of a bank, and inadvertently open new loopholes that, as industry has evolved, have posed serious threats to the U.S. economy. A brief review of the history will help explain how we got where we are today and clarify the need to close the ILC loophole for good.

The first amendments to the BHCA were in 1966, when Congress narrowed the scope of the Act by redefining “bank” to refer only to institutions that accepted demand deposits, or deposits that may be withdrawn at any time and do not require prior notice of withdrawal to be given to the depository institution. This created a loophole for commercial companies to own bank-like subsidiaries provided these subsidiaries did not accept demand deposits. In 1970, Congress amended the BHCA to close the single-bank holding company loophole. In the original BHCA, a bank holding company had to control two or more banks. Congress made this change following a dramatic rise in the number of single-bank holding companies. The 1970 amendments also opened a new loophole by defining a bank as an entity that both accepts demand deposits and makes commercial loans. In the years following the 1970 amendments, a number of “non-bank banks” arose that either did not accept demand deposits or did not make commercial loans but otherwise functioned much like commercial banks. Household names such as Sears, J.C. Penney, Aetna, Merrill Lynch, and Gulf & Western acquired non-bank banks for a variety of purposes such as credit card lending and in-house payments processing.

Pressure from the Federal Reserve, the small business community, and financial market participants, including ICBA and community banks, led to enactment of the Competitive Banking Equality Act (CEBA) in 1987. CEBA closed the “non-bank bank” loophole, though it grandfathered existing non-bank banks.

Significantly, CEBA also exempted from the definition of “bank” certain categories of financial institutions, including ILCs, credit card banks, limited-purpose trust companies, credit unions, and savings associations (or thrifts). Congress exempted these institutions because they were small and local institutions that engaged in a limited scope of activities and primarily focused on consumer financial services.



Today, several of these charter types have been expanded beyond the original limited scope that once justified their exemption from the BHCA. For example, credit unions, by shedding meaningful restrictions on the common bond of their members, have become much larger in size and now look much more like taxpaying commercial banks. Recently, the crypto industry has also been pushing to exceed the statutory boundaries of the limited-purpose national trust charter to facilitate the issuance of stablecoins that will compete with banks for deposits.

However, the ILC exemption from the BHCA remains the most notable. Because ILCs can offer FDIC-insured NOW accounts that function like demand deposits, the ILC charter is the only way for commercial firms to own a depository institution that has a broad swath of lending powers and is insured by the FDIC. FDIC insurance allows commercial firms to reduce their borrowing costs and grow to massive scale, despite the fact that their commercial ownership introduces new risks to the broader financial system.

Subsequent amendments to the BHCA, the Gramm-Leach-Bliley Act of 1999, and the Dodd-Frank Act of 2010 have reaffirmed the separation of banking and commerce. Congress has consistently acted to close loopholes in the Act and prevent the mixing of banking and commerce, only allowing exceptions for limited, narrowly focused institutions.

It is time for Congress to revisit the BHCA and close the ILC loophole, which threatens to undermine the BHCA and permit mixing of full-service banking and commerce.

Part II: The ILC Loophole Introduces Systemic Risk and Threatens the DIF

ILCs are a threat to safety and soundness primarily because their commercial owners are exempt from consolidated supervision.

Consolidated Supervision

One of the two key provisions of the BHCA is consolidated supervision of the holding company and its affiliates as a group (the other is the separation of commercial activities from banking). According to the Federal Reserve's Bank Holding Company Supervision Manual: "Financial trouble in one part of an organization can spread rapidly to other parts of the organization; moreover, large [bank holding companies] increasingly operate and manage their businesses on an integrated basis across corporate boundaries. Risks that cross legal entities or that are managed on a consolidated basis cannot be monitored properly through supervision directed at any one of the legal entity subsidiaries within the overall organization." This is the rationale for consolidated supervision of the parent company and its subsidiaries. Consolidated supervision "allows the Federal Reserve to understand the organization's structure, activities, resources, and risks, as well as to address financial, managerial, operational, or other deficiencies before they pose a danger to the [bank holding company's] subsidiary depository institutions."⁵

The Parent Companies of ILCs are Not Subject to Consolidated Supervision

Because ILCs are exempt from the BHCA, ILC parent companies are not subject to consolidated supervision by the Federal Reserve. The FDIC, as regulator of the ILC subsidiary, does have very limited authority to examine the commercial parent. However, this authority is not equivalent to the Federal Reserve's consolidated supervision of bank holding companies or financial holding companies. According to the Government Accountability Office, "Federal Reserve officials noted that no federal regulator was assigned to look at the health of the entire holding company for an exempt institution... creating a potential regulatory 'blind spot.'"⁶ The FDIC's authority to examine the commercial parent is limited to what affects the ILC. The FDIC would need a complete picture of the commercial parent, its risk management practices, and its capital standards to ensure commercial ownership does not threaten the federal safety net.

Without Consolidated Supervision, It Is Unclear If Commercial Parent Companies of ILCs Can Act as a Source of Strength

Under U.S. banking law, the parent company of an insured depository institution is expected to serve as a "source of financial strength" to its subsidiary. This means that the parent company must have the ability to inject cash into a struggling bank under its control. Conversely, regulators must ensure that if the parent company experiences difficulties, it will not drain the bank's liquidity to prop itself up. A subsidiary bank must not be a source of strength to its holding company. Holding companies are created to strengthen safety and soundness, not weaken it. This doctrine has been in effect for bank

holding companies for several decades. It was formalized in the Dodd-Frank Act and extended to thrift holding companies and to non-financial parents of insured depositories, including ILCs.

However, without consolidated supervision, regulators cannot effectively enforce the source of strength requirement for commercial parent companies of ILCs. The FDIC's authority to examine an ILC's parent is confined to operations that directly impact the ILC. Furthermore, the FDIC lacks jurisdiction to inspect non-financial affiliates of the holding company (sibling entities to the ILC), yet the collapse of such an affiliate could strain the parent and undermine its capacity to support the ILC. Lastly, ILC holding companies are not subject to the same rigorous risk management and capital requirements imposed on bank holding companies.

Current regulations govern transactions among affiliates, including quantitative limits, collateral requirements, consistency with safe and sound practices, and a requirement that transactions occur on market terms. However, without consolidated supervision of the holding company, these restrictions have limited value. Monitoring inter-affiliate transactions under a commercial holding company for conflicts of interest will strain the resources of the FDIC, which does not have a dedicated staff of examiners trained in holding company supervision. In addition, commercial holding companies of ILCs would likely resist efforts by the FDIC to monitor such transactions by arguing that they do not directly affect the ILCs.

Even if ILC parents were subject to consolidated supervision, banking regulators lack the expertise to effectively oversee commercial ILC parent companies, whose governance, risk management, financial practices, and accounting differ fundamentally from those of financial institutions. Picture a bank examiner attempting to evaluate a vast commercial conglomerate spanning diverse industries or a tech giant like Amazon, Google, or Meta—companies that are rapidly reshaping traditional business models. Such an examiner would be ill-equipped for the task.

Risk to the DIF

ILCs—particularly those with large commercial parent companies—are more likely to present an outsized risk to the DIF than traditional banks. Commercial companies seeking an ILC charter generally intend to use their bank subsidiary to lend to the customers or affiliates of the parent company. This creates an unavoidable conflict of interest that foreseeably leads to the reduction of underwriting standards to increase the sales of the commercial parent company or the profitability of its affiliates. Reducing underwriting standards or offering incentives to drive the parent company's sales increases the risk of insolvency of the ILC, which ultimately creates the risk of losses to the DIF.

ILCs owned by commercial firms—especially those formed to finance their parent company's customers—lack the same incentive to price credit risk accurately. A traditional bank earns a profit only when a loan is repaid. By contrast, an ILC's commercial parent can profit both from the loan's repayment and from the sale of its products. For example, an ILC owned by a car manufacturer may approve loans that other lenders would reject simply to boost vehicle sales.



The FDIC itself acknowledged the risk of ILCs that are deeply intertwined with their parent companies in 2024, saying “[t]he FDIC’s experience during the 2008–2009 Financial Crisis showed that business models involving an IDI inextricably tied to and reliant on the parent and/or its affiliates creates significant challenges and risks to the [Deposit Insurance Fund or] DIF, especially in circumstances where the parent organization experiences financial stress and/or declares bankruptcy.”⁷

Any losses to the DIF will ultimately need to be repaid by other banks that do not present the same risks as commercially owned ILCs or by the taxpayer in the form of a bailout. The FDIC can and should prevent this outcome by using its existing authority under the FDI Act to deny the deposit insurance applications of commercially owned ILCs that present an outsized risk to the DIF.

At the time that Congress created the ILC loophole in 1987, ILCs were very small institutions and operated with limited powers. Their primary business was making small loans to industrial workers. The largest ILC had assets of \$410 million, and the average ILC had assets of \$45 million. In 1987, states were not actively chartering new ILCs, and Utah had imposed a moratorium on new charters. What's more, there were restrictions on interstate banks that effectively blocked the expansion of ILCs. Congress could not have envisioned the expanding scope of ILCs that would occur in the ensuing decades.

National Financial Policy Should Not Be Driven by a Quirk in Utah State Law

In 1997, Utah lifted its moratorium on the chartering of new ILCs, allowed ILCs to call themselves 'banks,' and permitted them to exercise virtually all of the powers of state-chartered commercial banks. Utah, and to a lesser extent Nevada, began to actively charter new ILCs and promote ILCs as a method for companies to acquire a bank while evading the requirements of the BHCA. As noted above, Congress closed the unitary thrift loophole in 1999. Because of this, commercial firms shifted their focus to the ILC as the last available method of acquiring banking powers.⁸ Utah is overwhelmingly the source of these new ILC charters. Most of the other states that previously granted ILC charters later imposed limitations on ILCs, and the entities that can operate them or no longer offer the ILC charter.

Today, there are 23 active ILCs charters. Total ILC assets grew from \$25.1 billion in 1997 to \$247.7 billion in 2025. The largest ILC has \$116.3 billion in assets, dwarfing the size of the average community bank. There were six ILCs with assets over \$10 billion, and 14 with assets of more than \$1 billion.

A loophole in the BHCA, paired with the aggressive use of the ILC charter by a handful of states, should not be allowed to remake the national financial services landscape. The FDIC should reimpose its moratorium on deposit insurance applications for ILCs, and Congress should debate commercial ownership of financial institutions.

Part IV: ILCs Increase the Consolidation of Corporate Power and Harm Consumers

The barrier that has existed between banking and commerce since 1956 serves to disperse economic power. Consolidation is occurring in the commercial, non-financial sector and, separately, in the banking and financial sector at a rapid pace. There is a wealth of academic research that suggests that greater concentration of corporate power leads to higher consumer prices, lower wages, lower economic growth, and less innovation.

But the scale of consolidation is kept in check by the barrier between banking and commerce. Lifting this barrier would only promote rampant consolidation across industries, creating mega-firms at a yet larger scale. In an era of increasing power for Big Tech and other large corporate conglomerates, do we want to give them yet more reach into the economic life of America?

Credit Allocation and Market Distortion

Beyond the safety and soundness risks already noted, merging commercial and banking entities would distort fair credit allocation. An ILC owned by a commercial firm would not operate as a neutral lender. The parent company could pressure the ILC to withhold loans from its competitors—despite their creditworthiness—or steer financing to the parent’s customers and suppliers, reserving the best terms for them. A denied competitor might then seek its own ILC to access FDIC-insured deposits and stay viable, triggering a chain reaction. Competitive forces could rapidly proliferate parent-ILC pairings, leading to entire industries financed by insured deposits. Smaller firms unable to charter or acquire an ILC would be acquired themselves, accelerating market consolidation.⁹

If this is allowed to occur as a result of the ILC loophole, businesses that should have access to credit based on the value of their ideas and the economic promise they hold will struggle to obtain credit. The concentration of economic power would change the character of commercial life because large commercial firms would be unlikely to offer credit to start-ups and small businesses that may eventually grow large enough to compete with them. Consumers could also suffer by being coerced into receiving credit products from a small pool of large commercially controlled lenders that, by virtue of their dominant market position, would have greater power to dictate the terms of the loans.

Are We Ready for an Age of Mega-Conglomerates?

In the 1950s, as previously noted, TransAmerica alarmed the American public and policymakers as an example of the unchecked power of conglomeration. Imagine a new breed of mega-conglomerates with tentacles into technology, retail sales, various business and consumer services, as well as commercial and investment banking, insurance, investment advisory and management, and more. What kind of economic and political power would such conglomerates hold over the lives of ordinary Americans?

Consumers and workers would be vulnerable to price and wage manipulation. Are our antitrust laws robust enough to keep super conglomerates in check? The dominance of such firms would be especially harmful for the thousands of small and rural communities that are currently served by a diversity of small businesses and community banks.

If large corporations, including Big Tech firms, are permitted to enter the business of banking via the ILC Loophole, the potential exists for them to rapidly scale to become too-big-to-fail financial institutions. Given the recent history of corporate censorship of speech and politically motivated debanking, it is unwise to allow these firms to gain even more power over the financial lives of Americans.

Big Tech and Crypto Pose New Risks

There are thousands of U.S. fintech and crypto firms deeply involved in non-financial commercial activities. Many of these would no doubt welcome the opportunity to obtain an ILC charter with deposit insurance to obtain low-cost deposit funding while retaining and expanding their commercial ventures.

The integration of these technology and banking firms would not only result in an enormous concentration of financial and technological assets; it also would pose conflicts of interest and privacy concerns to our banking system. With Square and Nelnet Bank becoming ILCs, it is only a matter of time before large technology firms like Google, Amazon, Facebook, Apple, or Microsoft apply for an ILC charter.

What will happen when social media giants extend their reach into our financial lives? Big Data tracks our movements; our friends, families, and associates; our religious and political affiliations and views; and our internet browsing and shopping history. This data is already used (some would say abused) for marketing products and services and for targeted political messages—sometimes by nefarious actors. Adding personal financial data—such as monthly paycheck direct deposits, account balances, expense patterns, political contributions, history of late fees, and transaction records—would take targeted marketing to a whole new level. Moreover, this financial data could be sold to third-party data aggregators.

Will Underwriting Based on Creditworthiness Be Replaced By Underwriting Based on Behavior?

This data could be used to discriminate in lending and other financial services. Will your credit or insurance offerings be based on your social profile? What about your lifestyle, travel, shopping habits, and friends? The opinions you post and even the opinions your friends post, parsed finely enough and filtered through an algorithm, may correlate with your credit risk or your likelihood of filing an insurance claim.

Consider the potential for price discrimination even for non-financial products. As Karen Petrou has observed: “One specific danger of a company like Amazon getting into finance is the possibility of analytics-based price manipulation. A consumer might try to buy a pair of sneakers and be offered a more expensive pair of sneakers because Amazon knows



how much money he or she has. It's watching your payment speed, estimating your pain threshold, and all of a sudden prioritizing products based on what it thinks it knows about what you can afford.”¹⁰

We believe this would be a step well beyond the comfort zone of most Americans. Dominant social media-commercial-financial mega-firms would have unprecedented reach into our private lives. Such a change should not be made without careful deliberation by the FDIC and by Congress.

ILCs Do Not Serve Community Needs

Commercially owned ILCs primarily exist to serve the interests of their parent company and do not reinvest in their community in the same way community banks do. Many of the current applicants for ILCs propose to have their Community Reinvestment Act exams conducted as limited-purpose banks—meaning that while they will take deposits and make loans nationwide, they will only be evaluated for meeting the community development needs of the county where they have their main office. A limited-purpose bank is currently defined as “a bank that offers a narrow product line...to a regional or broader market” that has been designated as a limited-purpose bank.¹¹ This narrow CRA evaluation makes it more difficult for the FDIC to fully assess whether the prospective institutions are serving the convenience and needs of low- and moderate-income consumers and small businesses in the communities where they are actually doing business.

The FDIC must carefully examine whether proposed ILCs will offer deposit and credit services to low- and moderate-income customers, scrutinize their CRA plans and fair lending history, and assess their ability to meet unmet market needs without destabilizing existing institutions. After considering these factors, the agency should use its existing authority under the FDI Act to deny the deposit insurance applications of ILCs that are created to enhance the profitability of their parent company rather than meeting the convenience and needs of the community.

Conclusion

The ILC loophole threatens the core U.S. policy of separating banking and commerce by allowing commercial firms to own FDIC-insured banks without Federal Reserve oversight. This undermines financial stability, creates conflicts of interest, weakens underwriting standards, and risks losses to the Deposit Insurance Fund and taxpayers.

ILCs have grown from small lenders into major institutions, enabling large commercial firms to pursue banking powers while evading consolidated supervision at the holding company level. This paves the way for Big Tech and fintech conglomerates to dominate finance, distort credit markets, exploit consumer data, and accelerate corporate consolidation.

Congress must close the loophole by amending the BHCA, and the FDIC should deny pending applications and impose a moratorium. Only decisive action will protect the financial system, preserve fair competition, and prevent banking from serving commercial interests over the public good.