CLIENT ALERT

OCC and FDIC Rescind Interagency Leveraged Lending Guidance

DECEMBER 12, 2025

On December 5, 2025, the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) issued a joint statement (the Statement) rescinding the Interagency Guidance on Leveraged Lending, issued March 2013 (the 2013 Guidance), as well as the Frequently Asked Questions for Implementing March 2013 Interagency Guidance on Leveraged Lending, issued February 2014 (the 2014 FAQs). The Federal Reserve, which co-signed both documents, has not yet indicated whether it will follow suit, but one would expect larger state-chartered banks that are members of the Federal Reserve System (and thus supervised by the Federal Reserve) to lobby the Federal Reserve for equal treatment on this important issue to maintain a level playing field with their national bank and state-chartered, FDIC-supervised bank competitors.

The Statement marks what could be a significant shift in the regulatory landscape for banks engaged in leveraged lending and comes amid the continued prevalence of the private credit market and other non-bank lending.

BACKGROUND

The 2013 Guidance and corresponding 2014 FAQs outlined supervisory expectations for financial institutions originating leveraged loans and included at least three key elements:

1. *De Facto Leverage Threshold*. While the 2013 Guidance did not impose a bright-line leverage limit, the 2014 FAQs were interpreted, by supervisors and practitioners, to mean that transactions with total debt-to-EBITDA levels above 6.00x would "raise concern," which effectively created a leverage ceiling for many financial institutions involved in leveraged lending.
2. *Repayment Capacity*. The 2013 Guidance, as expounded upon by the 2014 FAQs, suggested a "50% in 5–7 years" principle: borrowers were expected to demonstrate the ability to repay or amortize a "meaningful" portion of their debt over the loan's life based on base-case cash flow projections.
3. *Capital Requirements*. The 2013 Guidance and 2014 FAQs did not establish or modify capital requirements for leveraged lending. Instead, they relied on the existing risk-based capital requirement regulatory frameworks (including Basel III) to suggest that banks ensure leveraged lending exposure was supported by adequate capital (or risk supervision).

Though market participants questioned the enforceability of the 2013 Guidance and 2014 FAQs, these standards significantly influenced internal credit policies, risk management, and syndication practices across the leveraged lending market.

RATIONALE FOR RECISSION

In the Statement, the OCC and FDIC stated that the 2013 Guidance and 2014 FAQs "were overly restrictive," limiting banks' ability to apply internal risk-management frameworks. In addition, the agencies noted that the 2013 Guidance and 2014 FAQs played an important part in "pushing [leveraged lending] outside of the regulatory perimeter," e.g., to the private credit and other non-bank financial markets.

POST-STATEMENT CONSIDERATIONS

The Statement raises at least three considerations for the leveraged lending landscape going forward.

1. *Principles for "Safe and Sound" Lending.* In the Statement, the OCC and FDIC set forth a list of eight "general principles for safe and sound lending," including the type of considerations banking institutions should consider when assessing, originating, and syndicating leveraged loans. For example, the OCC and FDIC recommend that each institution have "clearly defined risk appetite," "tailor its risk management practices based on the quantity of the risk inherent" in leveraged lending, and establish their own definitions of what constitutes a leveraged loan.
2. *Agencies Still Involved.* The OCC and FDIC noted that, despite their withdrawal from the 2013 Guidance, examiners will continue to evaluate underwriting, risk ratings, and the adequacy of loan-loss reserves, but without reference to numerical leverage thresholds or prescriptive repayment metrics. Expectations will instead align with general "safe and sound lending" principles and be tailored to the size, complexity, and risk profile of each institution's leveraged lending activities.
3. *Competitive Dynamics with Private Credit Market.* Although the agencies' recission may enable banks to operate with greater flexibility, many market participants believe that competitive dynamics—rather than intra-agency guidance—have been the primary driver of the private credit market's growth. Banks may continue to remain constrained by capital requirements, liquidity considerations, syndication risk, and investor appetite for higher-leveraged structures. If banks remain constrained by the foregoing, then it is unclear if the Statement will have an immediate impact on traditional institutional lenders' willingness to pursue higher-leveraged credits that have gravitated to private lenders in recent years.

With decades of experience in the broadly syndicated and private credit markets, Winston & Strawn's global finance practice is well-positioned to continue to advise clients on all types of leveraged finance transactions. From our expertise in traditional leveraged finance, including representations of banks, direct lenders, private equity sponsors, and sponsor-backed companies, to our market-leading advice in fund finance, Winston & Strawn provides best-in-class services to clients participating in every corner of the leveraged lending landscape. Deep technical credit skills, expertise in financial regulatory matters, constant exposure to innovative structuring, and client-first attitude differentiate us as the first call for bank and private credit market participants.

Please contact David Baroni, Andrew B. Jacobs, or Carl Fornaris for further information on the matters discussed in this Client Alert.

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Authors

Andrew B. Jacobs

David Baroni

Carl Fornaris

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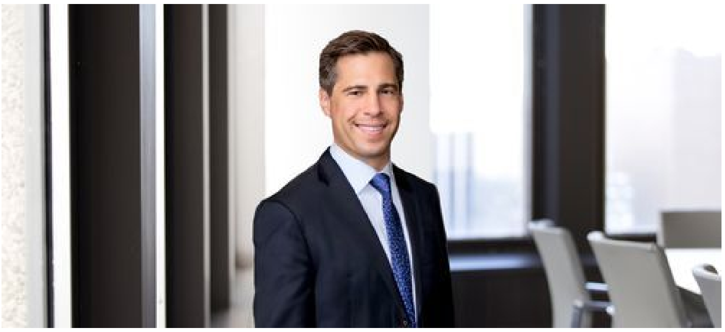

Andrew B. Jacobs

David Baroni

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