



# Common Sense Initiative

Mike DeWine, Governor  
Jon Husted, Lt. Governor

Joseph Baker, Director

## Business Impact Analysis

Agency, Board, or Commission Name: Department of Commerce – Division of Financial Institutions

Rule Contact Name and Contact Information: John Coady 614-644-6516  
John.Coady@com.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Bank, 2024 Five-year review

Rule Number(s): 1301:1-1-02; 1301:1-1-05; 1301:1-2-01; 1301:1-3-01; 1301:1-3-04; 1301:1-3-06; 1301:1-4-04; 1301:1-4-06; 1301:1-4-11; 1301:1-4-12; 1301:1-4-16

Date of Submission for CSI Review: 1/14/2025

Public Comment Period End Date: 1/31/2025

**Rule Type/Number of Rules:**

New/\_\_\_ rules

No Change/\_\_\_ rules (FYR? \_\_)

Amended/ 11 rules (FYR? 11)

Rescinded/\_\_\_ rules (FYR? \_\_)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

**77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117**

**CSIPublicComments@governor.ohio.gov**

### **Reason for Submission**

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☐ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☒ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☒ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

### **Regulatory Intent**

2. Please briefly describe the draft regulation in plain language.  
*Please include the key provisions of the regulation as well as any proposed amendments.*

#### **1301:1-1-02**

This rule details how interested parties may obtain information about banking commission meetings. The changes update the rule to bring its provisions into line with current practices.

#### **1301:1-1-05**

This rule authorizes and establishes reimbursement rates for banks that have to provide customer financial records to any party. Updates to the rates are due to inflation.

#### **1301:1-2-01**

This rule provides a method for computing capital by adopting the federal standard. Amendments update the reference to the federal rule.

#### **1301:1-3-01**

This rule details the lending limits for state banks, an amendment updates a reference to federal law.

#### **1301:1-3-04**

This rule adopts the federal Regulation O, 12 C.F.R Part 215, which explains the authority and conditions necessary for a state bank to extend credit to its insiders. Amendments update the reference to the federal rule.

**1301:1-3-06**

This rule details the conditions under which revenue bonds are permissible investments. Amendments update the reference to the federal rule.

**1301:1-4-04**

This rule requires a bank to obtain prior written consent before purchasing its own stock. An amendment corrects a typo and allows a waiver on certain information required to obtain consent.

**1301:1-4-06**

This rule details the requirements to a change in bank control as set forth in R.C. 1115.06. Amendments update the reference to the federal rule.

**1301:1-4-11**

This rule describes the process and requirements for relocation of a banking office. The amendment reduces the information needed to complete the request.

**1301:1-4-12**

This rule describes the process for closing a bank. The amendments separate long term and short term closures and sets out to reduce requirements for short term closures.

**1301:1-4-16**

This rule applies the federal meaning for “institution-affiliated party” to R.C. 1105.11. Amendments update the reference to the federal rule.

**3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

1301:1-1-02

Authorized By: 1121.03

Amplifies: 121.22, 1123

1301:1-1-05

Authorized By: 9.02, 1121.03

Amplifies: 9.02

1301:1-2-01

Authorized By: 1121.03

Amplifies: 1101.01

1301:1-3-01

Authorized By: 1121.03

Amplifies: 1109.22

1301:1-3-04

Authorized By: 1121.03

Amplifies: 1109.23, 1109.24

1301:1-3-06

Authorized By: 1121.03

Amplifies: 1109.32

1301:1-4-04

Authorized By: 1121.03

Amplifies: 1113.12, 1107.13

1301:1-4-06

Authorized By: 1121.03

Amplifies: 1115.06

1301:1-4-11

Authorized By: 1121.03

Amplifies: 1117.04

1301:1-4-12

Authorized By: 1121.03

Amplifies: 1117.04

1301:1-4-16

Authorized By: 1121.03

Amplifies: 1105.11

- 4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

***If yes, please briefly explain the source and substance of the federal requirement.***

Several of the rules in this package incorporate by reference requirements applicable to all federally insured banks.

1301:1-3-04 applies 12 C.F.R. Part 215, or “Reg O” to Ohio chartered banks. Reg O prohibits banks from extending credit to insiders when the loan is made on terms unavailable to the public.

- 5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not Applicable.

- 6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

These regulations are designed to create a safe financial system for Ohio consumers and for Ohio chartered banks. Section 1121.03 of the Revised Code delegates discretion and rulemaking authority to the Superintendent to assure that the supervision and regulation of Ohio chartered banks may be flexible and responsible to changes in economic conditions and in practices. These administrative rules are necessary for the Division to administer and enforce the Ohio Bank Code, found at R.C. Title 11. The administrative rules clarify the requirements set out in the banking code.

- 7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The Division will measure the success of the regulations by tracking rules that generate questions about interpretation from licensees and prospective licensees. Additionally, the Division will take note of questions and comments from staff regarding a rule’s meaning or operation.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No

### **Development of the Regulation**

- 9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

On October 21, 2024, the Division sent the Community Bankers Association of Ohio (CBAO) and the Ohio Banker’s League (OBL) advanced copies of the draft version of the changes for review and comments. The Division recommended that the stakeholders could

share the copies with and solicit comments from the stakeholder's members (Ohio chartered banks).

**10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

On November 8, 2024, the Division met with the CBAO and discussed the proposed change and no change packages generally. Based on suggestions in the meeting, the Division made changes to 1301:1-4-04. No written comments were provided.

On November 22, 2024, the OBL provided response the advanced copy. The OBL did not have any see any substantive issues and had no other comments.

The Division received no comments from Ohio chartered banks.

**11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

N/A

**12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**  
*Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

Given that these regulations are subject to their five-year review, every rule was reviewed and considered as part of the process.

The Division considered the proposed rules in connection with the FDIC regulations and other federal banking regulations. The Division's proposed rules seek to provide clarity and guidance to Ohio chartered banks while making the Ohio charter an attractive alternative to a federal charter.

**13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

The Division is the primary regulator of state-chartered banks.

**14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

The rules have been available to stakeholders throughout the review process and will continue to be available to them through the Division's website throughout the JCARR process. Once finalized, the regulations will be brought to the attention of stakeholders at

every available opportunity. Additionally, Division staff will be trained on the regulations to ensure their consistent application.

### **Adverse Impact to Business**

**15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**

**a. Identify the scope of the impacted business community, and**

These rules will directly impact all Ohio chartered banks.

**b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.*

#### **1301:1-1-02- NA**

#### **1301:1-1-05 - NA**

#### **1301:1-2-01**

The federal requirement provides 2 options for qualifying community banks to use for computing capital. The banks will have to calculate and decide which option is better for them. A state bank may expend minimal time and resources to comply with the rule, such effort is standard across the industry and helps ensure the bank's safety and soundness. Failure to comply with the rule would impact a banks rating and may lead to enforcement actions and civil penalties.

#### **1301:1-3-01**

While a state bank may expend minimal time and resources to comply with the rule, such effort is standard across the industry and helps ensure the state bank's safe and sound operation.

#### **1301:1-3-04**

This rule incorporates the federal "Reg O" regulations. Compliance with Reg O does require the bank to undertake certain steps outside of its normal processes in order to make loans to insiders. The additional steps are meant to protect the bank and its investors from the influence of the insider. However, if the bank is not making loans to insiders, there bank's processes are not impacted by this rule. Failure to comply with the rule would impact a banks rating and may lead to enforcement actions and civil penalties.

**1301:1-3-06**

This regulation broadens the investments a bank can make but requires that the additional investments comply with the federal definition of “investment grade.” Additional, de minimis time, would be needed to ensure the additional investments qualify. Failure to comply with the rule would impact a bank's rating and may lead to enforcement actions and civil penalties.

**1301:1-4-04**

A bank may expend minimal time and resources when submitting information to the Superintendent when it wants to purchase its own shares.

**1301:1-4-06**

This rule describes the requirements for a bank change of control. Change of control, or mergers and acquisitions are complex transactions and typically require the parties to exchange substantial capital to complete the transaction. The new owners of an Ohio chartered bank may change the bank's policies and business plan; a high level of scrutiny is justified in order to maintain the safety and soundness of the financial system. The current rule keeps Ohio chartered banks in line with federally chartered banks. The amendment updates an outdated reference.

**1301:1-4-11**

This rule requires banks to expend a minimal amount of time and effort to comply within they relocate a bank branch. The amendment slightly reduces the information banks need to provide.

**1301:1-4-12**

This rule describes the notices a bank needs to provide when closing a branch. Notices may take time and effort to create but are meant to ultimately protect the bank's customers. The amendment is meant to clarify the current rule and provide a lower compliance burden for temporary closures.

**1301:1-4-16**

NA

16. Are there any proposed changes to the rules that will **reduce** a regulatory burden imposed on the business community? Please identify. *(Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors).*

1301:1-4-04 Provides a waiver request process whereby a bank may comply with the rule while submitting less information.



1301:1-4-11 (A)(4) reduces information required when relocating a banking office.

**17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

While some of the proposed rules may have an adverse impact on Ohio chartered banks, the regulations are necessary to maintain the safety and soundness of the banking system, and for the Division to meet its statutory mandate to ensure the laws relating to Ohio chartered banks are executed and enforced. The 2023 collapse of Silicon Valley Bank (a California chartered state bank), Signature Bank (a New York chartered state bank), and Silvergate Bank (a California chartered state bank), demonstrate the continued need for effective regulation of depository institutions, as well as the widespread impact weak depository institutions can have on the economy as a whole. Finally, any proposed changes to the regulations as part of this five-year review will not increase compliance obligations in a meaningful way.

**Regulatory Flexibility**

**18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

No. These rules must be applied evenly in order to ensure the safety of soundness of Ohio chartered banks.

**19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

The Division does not typically fine banks for “paperwork violations”; instead, the Division focuses on ensuring compliance with regulatory requirements and curing safety and soundness issues.

**20. What resources are available to assist small businesses with compliance of the regulation?**

The Division widely publicizes to stakeholders the fact that its staff is available generally for assistance directly via phone or email. Additionally, because of the unique nature of the supervisory relationship, Ohio chartered banks have ongoing, long-standing relationships with certain Division staff. Finally, many of the most commonly requested forms and applications referenced in the rules are available from the Division’s website.