IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

MISSISSIPPI BANKERS ASSOC., CONSUMER BANKERS ASSOC., AMERICAN BANKERS ASSOC., AMERICA'S CREDIT UNIONS, ARVEST BANK, BANK OF FRANKLIN, THE COMMERCIAL BANK,	
Plaintiffs,	No. 3:24-cv-0792-CWR-LGI
v.	
CONSUMER FINANCIAL PROTECTION BUREAU and the Acting Director of the Consumer Financial Protection Bureau, 1700 G. St. NW, Washington, DC 20552	
Defendants.	

MEMORANDUM OF LAW IN SUPPORT OF PROPOSED DEFENDANT-INTERVENORS' MOTION TO INTERVENE

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INTRODUCTION

The Consumer Financial Protection Bureau ("CFPB" or "Bureau"), pursuant to statutory authority granted to it by Congress, promulgated a rule to reduce fees and provide transparency when big banks provide overdraft lending services to their customers. That rule, entitled Overdraft Lending: Very Large Financial Institutions ("Overdraft Rule" or "Rule"), 89 Fed. Reg. 106768 (Dec. 30, 2024) (to be codified at 12 C.F.R. pts. 1105, 1026), is a boon to consumers with bank accounts and the organizations that support financial literacy, stability, and security. The Rule restricts the ability of very large financial institutions to capitalize on the short-term illiquidity of consumers in tough situations—families living paycheck to paycheck, who may be on a fixed income or receive an unexpected bill—and makes it easier for their customers to understand the terms of these services when they do choose to use them.

Very large financial institutions may still charge fees for overdraft credit services. Big banks have three choices: they can (1) charge a $5 fee to cover their costs for surprise overdraft fees, or more if they can show their costs are higher; (2) cover overdrafts through links to savings or credit cards; or (3) charge higher fees to make a profit by providing overdraft lines of credit with transparent pricing, time to pay, and other requirements that apply to credit cards. But the Mississippi Bankers Association, Consumer Bankers Association, American Bankers Association, America's Credit Unions, Arvest Bank, Bank of Franklin, and The Commercial Bank (collectively "Plaintiffs"), a collection of financial institutions and associations that lobby on their behalf, oppose the rule, because it makes it harder for them to profit from what are, in effect, predatory short-term loans. On the day the Rule was announced, more than two weeks before it was to be published in the Federal Register, Plaintiffs sued the Bureau to enjoin the Rule. Compl., ECF No.

1. Though the Rule is not scheduled to go into effect until October 1, 2025, Plaintiffs sought the extraordinary relief of a preliminary injunction immediately. Mot. Prelim. Inj., ECF No. 12.

To date, the Bureau has vigorously defended the Rule. *See* Mem. Opp'n Mot. Prelim. Inj., ECF No. 48. But MyPath and Mississippi Center for Justice, two financial counseling and economic justice organizations (collectively "Proposed Intervenors") have reason to believe this is about to change. On January 20, 2025, President Donald J. Trump was once again sworn into office, bringing with him a new administration. President Trump has repeatedly opposed the work of the Bureau. His advisors have stated that the CFPB should be shut down entirely and that the Overdraft Rule in particular should be rescinded. On February 1, 2025, he removed CFPB Director Rohit Chopra as Director of the CFPB. And by February 3, 2025, his new Acting Director had instructed all CFPB attorneys to seek stays in any pending litigation.

Proposed Intervenors thus move to intervene to defend the Overdraft Rule under Federal Rule of Civil Procedure 24(a)(2). Proposed Intervenors have acted promptly following the changes in administration and Bureau leadership, making their motion timely. They seek to intervene to protect their legally cognizable interest in the matter because they may be impaired by the disposition of this case. MyPath and Mississippi Center for Justice have an interest in preserving their limited resources intended to help their constituents, members, and clients navigate financial difficulties that will otherwise be diverted to address the loss of sensible overdraft regulation if this Court enjoins or vacates.

Alternatively, Proposed Intervenors seek permissive intervention under Federal Rule of Civil Procedure 24(b). Proposed Intervenors' motion is timely; and their defense shares issues of fact and law with that of Defendants Consumer Financial Protection Bureau and the current Acting Director ("Agency Defendants").

ARGUMENT

I. Proposed Intervenors Have a Right to Intervene.

Proposed Intervenors are entitled to intervene as of right under Rule 24(a)(2) because (1) the motion to intervene is timely, (2) Proposed Intervenors assert an interest in the controversy, (3) the disposition of the case may impair or impede Proposed Intervenor's ability to protect that interest, and (4) that interest is not adequately represented by the existing parties. *La Union del Pueblo Entero v. Abbott*, 29 F.4th 299, 305 (5th Cir. 2022) (citing *Texas v. United States*, 805 F.3d 653, 657 (5th Cir. 2015)). Courts "allow intervention where no one would be hurt and the greater justice could be attained." *John Doe #1 v. Glickman*, 256 F.3d 371, 375 (5th Cir. 2001) (internal citation omitted). Proposed Intervenors have moved to intervene promptly, have a variety of material interests in the outcome of this case, and expect that the Defendants will not adequately represent their interests going forward.

A. This intervention motion is timely.

Proposed Intervenors' motion is timely. Rule 24(a)(2)'s timeliness requirement considers: (1) how long the potential intervenor knew or reasonably should have known of her stake in the case; (2) the prejudice, if any, the existing parties may suffer because the potential intervenor failed to intervene when she knew or reasonably should have known of her stake in that case; (3) the prejudice, if any, the potential intervenor may suffer if the court does not let her intervene; and (4) any unusual circumstances. *Glickman*, 256 F.3d at 376. Proposed Intervenors demonstrate timeliness under these considerations.

Proposed Intervenors "sought to intervene 'as soon as it became clear' that [their] interests 'would no longer be protected' by the parties in the case." *Cameron v. EMW Women's Surgical Ctr., P.S.C.*, 595 U.S. 267, 279 (2022) (quoting *United Airlines, Inc. v. McDonald*, 432 U.S. 385, 394 (1977)) (allowing intervention after appellate decision was rendered but before deadline to

seek review *en banc*). Timeliness analyses are "'contextual,' and should not be used as a 'tool of retribution to punish the tardy would-be intervenor, but rather [should serve as] a guard against prejudicing the original parties by the failure to apply sooner.'" *Ross v. Marshall*, 426 F.3d 745, 754 (5th Cir. 2005) (quoting *Sierra Club v. Espy*, 18 F.3d 1202, 1205 (5th Cir. 1994)). Proposed Intervenors have acted promptly to respond to the change in presidential administration and Bureau leadership and its impact on their interests in this action; their intervention at this stage would cause no prejudice to the parties.

The federal government has made its hostility to the Overdraft Rule clear. As discussed in Part I.C, *infra*, President Trump has repeatedly criticized the Bureau and its work, and the advisors he has charged with reforming government and cutting regulations have done the same, including by explicitly singling out the Overdraft Rule for criticism. In his first term, President Trump summarily dismissed the Acting Director of the CFPB in favor of his own appointee, and used his control of the Bureau to withdraw defense of Bureau policies, delay the promulgation of Congressionally mandated rules, and roll back rules that had already been published. If the experience of President Trump's first term is anything to go by, Intervenors can be confident that disfavored policies and regulations will go undefended in court.

Proposed Intervenors acted promptly in light of the recent change in administration and the subsequent change in CFPB leadership, and the impact of those developments on their interests in this action. The Trump administration's position could not affect the government's litigation positions until after January 20, 2025. Proposed Intervenors reasonably—and, as indicated by the government's continued defense of the Rule in response to Plaintiffs' motion for a preliminary injunction, *see* ECF No. 48, correctly—relied on the government's "continued defense of the [Rule] at least through the . . . election, and . . . even into the new year." *Cook Cnty. v. Texas*, 37

F.4th 1335, 1341-42 (7th Cir. 2022), *cert. denied sub nom.* 143 S. Ct. 565 (2023). But that changed on February 1, 2025, when President Trump fired CFPB Director Rohit Chopra. *See* Stacy Cowley, *Trump Administration Fires Consumer Bureau Chief*, N.Y. Times (Feb. 1, 2025), https://www.nytimes.com/2025/02/01/business/cfpb-rohit-chopra.html. Katherine Kraninger, President Trump's appointee to lead the CFPB in his first term, previewed what consumers could expect from his second: "There will be a pretty significant change from the direction the agency has been going in." Tony Romm, *Trump and GOP Eye New Limits on Consumer Financial Protection Bureau*, Wash. Post (Nov. 23, 2024), https://www.washingtonpost.com/business/2024/11/23/trump-republicans-cfpb/. That significant change in direction is now latent. Intervenors can no longer "count on [the government] to defend the challenged regulation . . . [and] must be allowed to intervene to ensure the regulation's continued defense." *Cook Cnty. v. Mayorkas*, 340 F.R.D. 35, 45 (N.D. Ill. 2021).

Proposed Intervenors filed this motion promptly, a mere three days after President Trump removed Director Chopra, and well within the lengths of time this Circuit has deemed timely. *See Rotstain v. Mendez*, 986 F.3d 931, 938 (5th Cir. 2021) (citing Fifth Circuit cases treating intervention as timely where intervenors delayed three weeks, one month, thirty-seven days, and forty-seven days past the accrual of their interest). And, in any event, intervention prior to Director Chopra's removal was unnecessary because the government would not be expected to act upon this changed policy position until after the change in administration could be reflected in Bureau leadership.

Intervention will cause no prejudice to the Court or the parties in this matter—this is the "most important consideration" in evaluating timeliness. *McDonald v. E.J. Lavino Co.*, 430 F.2d 1065, 1073 (5th Cir. 1970). Proposed Intervenors are not seeking to modify any pleading or

briefing schedules or any deadlines in this matter and have acted before Plaintiffs' pending motion for a preliminary injunction is decided. Should intervention be granted, Proposed Intervenors will file all briefs on the date the government's briefs would otherwise have been due. The only consequences that intervention will have for Plaintiffs "are those commonly associated with defending a ruling or judgment on appeal." *Ross*, 426 F.3d at 756. Such "inconveniences" do not constitute sufficient prejudice to deny intervention, *id*., and, in any event, were not created by the three days between Proposed Intervenors' interest diverging from that of the government and filing this motion.

B. Proposed Intervenors have a legally protectable interests in the existence and effective enforcement of the Overdraft Lending Rule.

MyPath and Mississippi Center for Justice, which provide financial counseling services to individual consumers within their communities, have an interest in the efficient pursuit of their core mission of helping people achieve financial security—a mission made more difficult by Plaintiffs' overdraft lending practices, and which would be eased by the Rule. If government will not defend the Rule, Intervenors must.

To successfully intervene, an intervenor must have a "direct, substantial, legally protectable interest" in a case. *Edwards v. City of Houston*, 78 F.3d 983, 1004 (5th Cir. 1996) (en banc) (quoting *New Orleans Pub. Serv., Inc. v. United Gas Pipe Line Co.*, 732 F.2d 452, 463 (5th Cir. 1984)). This is not a demanding standard: "an interest is sufficient if it is of the type that the law deems worthy of protection, even if the intervenor does not have an enforceable legal entitlement or would not have standing to pursue her own claim." *Texas*, 805 F.3d at 659. Rule 24(a) recognizes a broad range of interests. For example, the Fifth Circuit allowed intervention on the basis of petition organizers' longstanding advocacy against their mayor and city council, *City of Houston v. Am. Traffic Sols., Inc.*, 668 F.3d 291, 294 (5th Cir. 2012); and"[t]he interest

requirement may be judged by a more lenient standard if the case involves a public interest question or is brought by a public interest group." *Brumfield v. Dodd*, 749 F.3d 339, 344 (5th Cir. 2014) (internal citation omitted). "Property interests are the quintessential rights Rule 24(a) protects, but . . . Rule 24(a)(2) does not require 'that a person must possess a pecuniary or property interest to satisfy the requirement of Rule 24(a)(2).'" *La Union*, 29 F.4th at 305 (quoting *Mothersill D.I.S.C. Corp. v. Petroleos Mexicanos, S.A.*, 831 F.2d 59, 62 (5th Cir. 1987)).

"The 'interest' test is primarily a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process." *Ceres Gulf v. Cooper*, 957 F.2d 1199, 1203 n.10 (5th Cir. 1992) (quoting *Nuesse v. Camp*, 385 F.2d 694, 700 (D.C. Cir. 1967). MyPath and Mississippi Center for Justice have an interest in the Rule because it will make their pursuit of their missions and core work easier, allowing them to conserve resources for other aims. "Non-property interests are sufficient to support intervention when, like property interests, they are concrete, personalized, and legally protectable." *Id.*; *see Jurisich Oysters, LLC v. U.S. Army Corps of Eng'rs*, No. CV 24-106, 2024 WL 3639528, at *1 (E.D. La. Aug. 2, 2024) (finding environmental advocacy groups interest in an action about a National Marine Fisheries Service preservation project based on "local concerns for restoration and protection of the marshlands, people, animals, fisheries, and plants of southeastern Louisiana" sufficient to allow intervention, but initially finding it adequately represented), *on reconsideration*, No. CV 24-106, 2024 WL 4346410 (E.D. La. Sept. 30, 2024) (allowing environmental groups to intervene base on their particularized interest in local preservation).

MyPath is a non-profit organization whose mission is to foster pathways for upward economic mobility by connecting youth from under-resourced communities with opportunities to bank, save, and build credit and financial confidence as they earn their first income. Libby Decl.

(Ex. A) ¶¶ 2, 5. MyPath provides direct financial counseling to up to five hundred young people in the San Francisco Bay Area, and helps thousands more with financial education and access to basic non-custodial banking services. *Id.* ¶ 5. It provides direct financial assistance to qualifying participants in its programs, like young people coming out of foster care or from low-income census tracks; offers one-on-one financial coaching to help young people set goals, get bank accounts, build credit, and manage their money; and gets young people banked by connecting them with qualifying low-fee non-custodial bank accounts as a way to introduce the benefits of banking without the risks. *Id.* ¶¶ 4-6. MyPath is a non-profit organization with limited resources, and it must make difficult choices about how to focus and expend those resources in effectuating its mission. *Id.* ¶¶ 2, 15, 16.

MyPath's work is meaningfully impaired by under-regulated overdraft fees. Many of the young people MyPath helps are unbanked. *Id.* ¶ 9. MyPath seeks to counsel them on how to enter the banking system to enhance their financial stability. *Id.* ¶ 5. Their constituents resist banking in part because they fail to see the benefits and have lost trust in financial institutions, in part due to negative experiences with hidden fees, including overdraft fees. *Id.* ¶¶ 10, 11. Such fees diminish their confidence in the system. *Id.* ¶ 9. That lack of confidence makes MyPath's financial coaching harder, requiring more time to advise those same people. *Id.* ¶ 10.

But with the Overdraft Rule in place, it would reduce the fees banks charge for overdraft services and increase transparency, making it easier for MyPath to succeed in its counseling mission. The Rule would enable MyPath to serve individuals more efficiently because they will face one less barrier to keeping their accounts current, allowing them to build trust in the banking system. *Id.* ¶ 12. Where banks choose to charge fees beyond the five dollar "breakeven" threshold, the disclosures required by the rule would make it easier for MyPath to advise its participants on

how to engage with overdraft credit products that may prove beneficial in managing their finances and building credit, enabling MyPath to spend more staff time on other mission critical activities. *Id.* ¶ 15. Finally, the Rule would make MyPath's mission of connecting more young people with non-custodial bank accounts with minimal fees easier, because with limits on overdraft fees as the baseline, more bank accounts would qualify as "safe" options for young people that need guidance and minimal risk. *Id.* ¶ 11. In short, the Rule furthers MyPath's mission of creating access to banking opportunity and wealth creation for youth. *Id.*

Mississippi Center for Justice is a public interest law firm and economic justice organization that fights against all forms of predatory lending on behalf of the communities it serves. Merchant Decl. (Ex. B) ¶ 4. Like MyPath, MCJ is a non-profit organization that must make difficult decisions with limited resources. *Id.* ¶ 2. MCJ provides assistance to low-income Mississippians through advice, advocacy, and direct legal services, including a consumer financial assistance hotline, debt collection response assistance, and foreclosure prevention services. *Id.* ¶¶ 5, 6. MCJ provides financial education materials to its members and performs grassroots outreach to help Mississippians get banked through its New Roots Credit program. *Id.* 8, 9. In the course of that work, MCJ educates its members about overdraft fees by distributing materials on how they work and how to avoid them, and has advocated through its New Roots Credit to get at least one bank to offer services without overdraft fees. *Id.* ¶¶ 8, 9, 10. Sensibly regulated fees would reduce the financial burden on those individuals that MCJ helps and simplify MCJ's work. *Id.* ¶ 13. Finally, the Rule furthers with MCJ's mission more broadly: to eliminate predatory lending and achieve economic justice for Mississippians.

Both organizations deal with the challenges overdraft fees present for their members and participants in their mission to help their communities achieve financial stability by providing

advice on financial pitfalls, including overdraft fees. Their jobs are made more difficult by the time and resources they spend helping their constituents avoid them and improve their financial well-being. Libby Decl. (Ex. A) ¶¶ 5, 7, 13; Merchant Decl. (Ex. B) ¶¶ 4, 5, 7, 8, 9, 10, 13. And overdraft fees penalize their constituents, adding to the challenge: overdraft fees are a common reason low-income individuals lose access to banking once they have it. 89 Fed. Reg. at 106773 n. 65 ("30 million checking accounts were involuntarily closed from 2001-2005 due to excessive overdrafts . . . The CFPB's supervisory experience suggests that overdraft-related involuntary closures remain prevalent in today's market.") (citing Dennis Campbell et al., *Bouncing Out of the Banking System: An Empirical Analysis of Involuntary Bank Account Closures*, 36 J. Banking & Fin. 1224 (2012)). Proposed Intervenors' interests meet the standard for Rule 24(a)(2).

C. Proposed Intervenors' interests will be impaired if Plaintiffs succeed.

As detailed above, Proposed Intervenors have a significant interest in having the Overdraft Rule take effect, precisely the outcome Plaintiffs seek to prevent. A robust defense of the Rule is necessary to protect this interest. Absent intervention, there is a meaningful risk that the Rule will be inadequately defended in this litigation, increasing the likelihood of an adverse outcome. It is also reasonable to expect that the government could acquiesce to an adverse ruling or efforts by plaintiffs to delay via this litigation timely implementation of the Rule, both of which would impair Proposed Intervenors' interests.

The government may acquiesce in such a manner on the ground that it intends to undertake a new rulemaking. Of course, the Bureau could decide to revisit its own lawfully promulgated rule, including changing compliance dates—but to do so, it must follow the APA procedures for issuing a new or revised regulation. *See* 5 U.S.C. § 553; *see also, e.g.*, *Clean Water Action v. EPA*, 936 F.3d 308, 314 (5th Cir. 2019) (explaining that "modification of effective dates is itself a rulemaking" that requires compliance with APA procedures). If the CFPB attempts to circumvent

these APA requirements by delaying implementation of the Final Rule via these proceedings (for example, by agreeing to a stay of the compliance dates), it would impede Intervenors' ability to protect their interests. Involvement in this litigation is necessary for Proposed Intervenors to seek protect their interest against those possibilities.

D. The CFPB will not adequately represent Intervenors' interests going forward.

Proposed Intervenors satisfy Rule 24(a)'s inadequacy requirement. The burden of proving that the existing parties do not adequately represent Intervenors' interests is minimal. *Glickman*, 256 F.3d at 380. "The potential intervener need only show that the representation *may* be inadequate." *Id.* (quoting *Espy*, 18 F.3d at 1207); *see Brumfield*, 749 F.3d at 346 ("We cannot say for sure that the state's more extensive interests will *in fact* result in inadequate representation, but surely they might, which is all that the rule requires."); *id.* (lack of unity in all objectives supports finding of inadequate interest); *Heaton v. Monogram Credit Card Bank of Ga.*, 297 F.3d 416, 425 (5th Cir. 2002). Lack of adequate representation can be shown even in cases where the intervenor's interest "may diverge in the future, even though, at [the time of intervention] they appear to share common ground." *Heaton*, 297 F.3d at 425. Here, that showing is amply made. While this Circuit presumes adequate representation when a "putative representative is a governmental body," *Texas*, 805 F.3d at 661 (quoting *Edwards*, 78 F.3d at 1005), that presumption may be overcome when an intervenors' "'interest is in fact different from that of the [governmental entity] and that the interest will not be represented by [it].'" *Texas*, 805 F.3d at 662 (quoting *Edwards*, 78 F. 3d at 1005).

There is every reason to believe this administration will be hostile to actions by the Bureau opposed by large financial institutions. Upon taking office in 2017, President Trump summarily dismissed the Acting Director of the Bureau. *See English v. Trump*, 279 F. Supp. 3d 307 (D.D.C. 2018). Thereafter the Bureau paused implementation of the recently-promulgated payday lending

rule for two years, *see* Press Release, Consumer Fin. Prot. Bureau, *Public Statement Regarding Payday Rule Reconsideration and Delay of Compliance Date* (Oct. 26, 2018), https://www.consumerfinance.gov/about-us/newsroom/public-statement-regarding-payday-rule-reconsideration-and-delay-compliance-date/, and subsequently revoked its substance. Payday, Vehicle Title, and Certain High-Cost Installment Loans, 85 Fed. Reg. 44382 (July 22, 2020) (codified at 12 C.F.R. pt. 1041). It is reasonable to anticipate that the current administration will similarly abandon existing Bureau priorities, including the Overdraft Rule.

Indeed, they already have. President Trump's allies want to "delete" the CFPB, *see* Elon Musk (@elonmusk), X (Nov. 27, 2024, 12:35 AM), https://x.com/elonmusk/status/1861644897490751865, and have singled out the Overdraft Rule, describing it as a "ridiculous" and "illicit" rule that "goes far beyond the scope of what the CFPB was created to regulate in the first place. . . . The new administration can & should nullify this overreach." Vivek Ramaswamy (@VivekGRamaswamay), X (Dec. 26, 2024, 7:53 AM), https://x.com/VivekGRamaswamy/status/1872264387299299507. And now, the President has removed Director Chopra despite the fact that his term was scheduled to continue until later 2026 in order to make way for a new agenda at the Bureau. Rohit Chopra (@chopraCFPB), X (Feb. 1, 2024, 9:00 AM), https://x.com/chopracfpb/status/1885689592046559408?t=ivzOVxfQJUmJOzCR7TpPHQ. Just yesterday, counsel for the CFPB filed an emergency notice in pending litigation regarding the Bureau's Section 1071 data collection rule, explaining that "Counsel for the CFPB has been instructed not to make any appearances in litigation except to seek a pause in proceedings." Status Report, *Tex. Bankers Ass'n v. Consumer Fin. Prot. Bureau*, No. 24-40705 (Feb. 3, 2025), ECF No. 117. And the new Acting Director has called for the CFPB to "suspend the effective dates"

for all final rules that have not yet taken effect—including the Final Rule. Evan Weinberger, *Bessent Freezes Most CFPB Work Upon Taking Control of Agency*, Bloomberg L. (Feb. 3, 2025), https://news.bloomberglaw.com/banking-law/bessent-pauses-cfpb-litigation-new-rules-as-he-takes-the-reins.

Further, the government does not represent beneficiaries of the Overdraft Rule and is not bound by their interests in its litigation decisions. Absent those client obligations, it may make decisions based on changed policy preferences, other constituent interests, or conservation of resources. That divergence of interest might easily ripen into a divergence of representation. So even if the Court "cannot say for sure that the state's more extensive interests will in fact result in inadequate representation," it is clear that "they *might*, which is all that the rule requires." *Brumfield*, 749 F.3d at 346 (emphasis added).

II. Alternatively, Proposed Intervenors Should Be Granted Permission to Intervene.

Permissive intervention is also appropriate. Rule 24(b) allows this Court to "permit anyone to intervene" who has filed a "timely motion" and "has a claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b)(1), (B); *Stallworth v. Monsanto Co.*, 558 F.2d 257, 269 (5th Cir. 1977). "[C]laim or defense" is "construed liberally." *In re Estelle*, 516 F.2d 480, 485 (5th Cir. 1975); *see also Stallworth*, 558 F.2d at 269. And the "common question of law or fact" requirement is satisfied so long as an intervenor's arguments are "related to" the claims in the lawsuit. *Cf. Trans Chem. Ltd. v. China Nat'l Mach. Imp. & Exp. Corp.*, 332 F.3d 815, 825 (5th Cir. 2003) (common question of law and fact must be "related to" proposed intervenor's arguments). Courts often allow organizations to permissively intervene where, as here, the potential intervenors may provide unique perspective or expertise for a shared legal defense. *See, e.g.*, *League of United Latin Am. Citizens, Council No. 4434 v. Clements*, 884 F.2d 185, 189 (5th Cir. 1989) (courts should consider permitting intervention when intervenors

may "contribute significantly to the development of the underlying factual issues"); *Wachob Leasing Co., Inc. v. Gulfport Aviation Partners*, LLC, No. 1:15-cv-237, 2016 WL 10568063, at *2 (S.D. Miss. Nov. 30, 2016) (same). The Proposed Intervenors qualify for permissive intervention because, at minimum, the Agency Defendants' and Proposed Intervenors' defense of the rule will share a common issue of law. Proposed Intervenors will provide the Court with their unique perspective and experience about the true impacts of the Rule as well as provide the Court with robust legal defense of the Rule that may otherwise be lacking or provide different perspectives.

CONCLUSION

For the foregoing reasons, Proposed Intervenors ask the Court to grant their motion to intervene.

Dated: February 5, 2025

Respectfully submitted,

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** Motion for admission pro hac vice forthcoming*