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April 10, 2025

Jennifer Jones, Deputy Executive Secretary
Comments/Legal OES (RIN 3064–ZA45)
Federal Deposit Insurance Corporation,
550 17th Street NW, Washington, DC 20429
.
Via Email: comments@FDIC.gov

RE: Comment on RIN 3064–ZA45, Proposed Rescission of FDIC 2024 Statement of Policy on Bank Merger Transactions

Dear Deputy Executive Secretary Jones,

Rise Economy submits this comment letter in strong opposition to the FDIC's proposal to rescind the recently finalized Statement of Policy on Bank Merger Transactions ("Statement"). We also object to the short 30-day comment period and urge the FDIC to extend the comment period to at least 90 days. Imposing and retaining a 30-day comment period sends the message that the FDIC is not genuinely interested in public comment.

Rise Economy is a California based alliance representing over 300 member organizations that work to create systemic change and economic justice in BIPOC and low-income communities. For decades, we have witnessed and experienced the often harsh impacts of bank mergers on our communities. We also have witnessed the way in which the FDIC, and other bank regulators, have facilitated and approved bank mergers without sufficient consideration of community impacts, benefits or convenience and needs.

Rise Economy has commented to the FDIC regarding: numerous bank mergers involving FDIC regulated banks; the FDIC's Request for Comment on Rules, Regulations, Guidance, and Statement of Policy on Bank Merger Transactions; and the FDIC's proposed Statement of Policy on Bank Merger Transactions. We believe that the Statement will advance transparency and convenience and needs, and should be maintained.

The comment period should be extended. We urge the FDIC to extend the comment period for a total of 90 days so that the public has a meaningful opportunity to inform the record on which the FDIC will rely.

Mergers are often not good for communities. Financial institution mergers are often bad for communities. We have seen communities suffer from bank mergers in the form of lost jobs, reduced hours and worsened working conditions for community development and front-line bank branch staff, closed branches, decreased reinvestment activity, reduced access to credit for small businesses, higher costs and fees for bank customers and consumers, exacerbation and acceleration of climate change through the unmitigated financing of fossil fuels, and greater climate-related financial risk to the financial system. None of these harms have been sufficiently considered during the bank merger approval process, but the Statement is a step in the right direction.

The Statement promotes transparency. The bank merger process remains very obtuse and challenging for members of the public seeking to understand: when an application has been filed, how to access bank applicant submissions, where to send comments, how to receive responses to questions and Freedom of Information Act (FOIA) requests, and even whether and when the merger has been approved and on what grounds.

What transactions are covered? The Statement represents a good faith effort to increase transparency as part of an otherwise opaque process, with transparency cited as a main reason for developing the Statement.[1] The Statement advances a greater understanding of the bank merger process for all stakeholders in clarifying which transactions are covered by the policy.

Reasons for withdrawal. We appreciate the Statement asserting the FDIC Board's prerogative to release a statement regarding withdrawn transactions if such a statement is considered to be in the public interest for creating transparency for the public and future applicants.[2] Merger applications that

[1] FDIC, *Final Statement of Policy on Bank Merger Transactions*, Federal Register, Vol. 89, No. 188, Friday, September 27, 2024, 79125.
[2] Id., at 79135.

are withdrawn behind closed doors, as currently is the case, do nothing to inform the industry and community about regulatory expectations and bank merger implementation. The FDIC should be more transparent about the reasons why bank mergers may not be approved.

Branch closures? A key issue in most bank mergers is the likelihood of branch closures. How the FDIC has dealt with this critical issue has been a mystery. The Statement highlights an expectation for applicants to provide three years of information regarding projected branch actions consistent with current practice.[3] Retaining this guidance clarifies the expectations for branch retention, expansion, closing, or consolidation and provides transparency on the timeframes that the FDIC will evaluate, consistent with its current practices. It also provides transparency to the industry on how the FDIC considers proposed changes to the physical locations of branches.[4]

Public hearings. The Statement also provides transparency with regard to the FDIC's decision making as whether to hold a public hearing, noting that the FDIC will consider whether it is in the public interest to hold a hearing for merger applications, and generally expects to hold a hearing for any application resulting in an IDI with greater than $50 billion in assets or for which significant CRA protests are received.[5]

The Statement emphasizes the importance of public feedback. The Statement notes that the FDIC "will not approve a merger application if adverse CRA comments have not been resolved."[6] Additionally, the FDIC may not be able to find favorably on any given statutory factor (and the application as a whole) if there are unresolved deficiencies, issues, or concerns (including with respect to any public comments).[7] This is an important policy that honors and encourages community input, though we do not believe that this policy has been fully actualized.

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[3] Id., at 79138.
[4] Id.
[5] Id.
[6] Id., at 79135.
[7] Id.

In fact, we have had the opposite experience with merger decisions by the FDIC, the OCC, and Federal Reserve Board of Governors. Most recently, Rise Economy submitted three comment letters in opposition to the merger of Bank of Hope and Territorial Savings Bank, raising concerns about, amongst other issues, Bank of Hope's failure to honor community commitments it had made during a prior merger process.[8] Similarly, Washington Federal (WaFd), as it sought to acquire Luther Burbank Savings, did not respond to concerns about its capacity to deal with climate related financial risk, or its failure to serve various home mortgage borrower groups in light of glaring disparities. Both of those mergers were approved, with the WaFd merger approval[9] coming a mere two months before the FDIC gave WaFd a failing Needs to Improve CRA rating.[10]

The Statement will promote the convenience and needs of communities directly impacted by mergers. Convenience and needs is one of the most important, yet most neglected, components of bank merger process consideration. The Statement addresses this concern by identifying a number of factors that rightly should be considered by the FDIC as part of the bank merger approval process.

Better meet community needs. In particular, we strongly support the Statement in confirming that the FDIC expects that a merger between IDIs (Insured Depository Institutions) will enable the resulting IDI to better meet the convenience and the needs of the community to be served than would occur absent the merger.[11]

Demonstration of benefit. The FDIC clarifies that applicants "are expected to demonstrate how the transaction will benefit the public through higher lending limits, greater access to existing products and services, introduction

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[8] See also, https://rise-economy.org/the-bank-rundown-september-2024/

[9] "WaFd, Inc. Receives Regulatory Approval for Acquisition of Luther Burbank Corporation," Press Release, dated January 30, 2024, available at: https://www.wafdbank.com/documents/financial-news/2024/wafd-bank-press-release-20240130.pdf

[10] Community Reinvestment Act Performance Evaluation of Washington Federal Bank, dated March 26, 2025, available at: https://www.wafdbank.com/documents/cra-performance-evaluation.pdf

[11] FDIC, *Final Statement of Policy on Bank Merger Transactions*, Federal Register, Vol. 89, No. 188, Friday, September 27, 2024, 79138.

of new or expanded products or services, reduced prices and fees, increased convenience in utilizing the credit and banking services and facilities of the resulting IDI, or other means."[12]

Specific and forward-looking information regarding benefits. The FDIC expects applicants to provide specific and forward-looking information to enable the FDIC to evaluate the expected benefits of the merger on the convenience and needs of the community to be served.[13] This aspect of the Statement is critical to ensuring that communities benefit from mergers, and has the potential to create a win-win dynamic for both bank and community.

Commitments as part of Orders. The Statement envisions a role for the FDIC to examine whether bank applicants are implementing CBAs and community commitments when made. "As appropriate, claims and commitments made to the FDIC to support the FDIC's evaluation of the expected benefits of the merger may be included in the Order, and the FDIC's ongoing supervisory efforts will evaluate the Insured Depository Institution's (IDI's) adherence with any such claims and commitments."[14] We strongly support this aspect of the Statement.

There is precedent for this approach in the merger approval of Valley National Bank and 1st United Bank, wherein the OCC made compliance with the commitment to develop and implement a CRA Plan a condition of merger approval,[15] and where we understand the OCC examined Valley National Bank's performance under the CRA Plan during future CRA examinations.

When CBAs, plans and/or commitments are entered into or made by bank applicants, they become part of the record upon which regulators, investors and community stakeholders rely in formulating decisions and opinions about the merger. These statements should be treated to no less scrutiny and oversight than public statements upon which investors rely. As such, it is imperative that all such public commitments are met and that promises are kept. Only the regulators can enforce these commitments, which can be accomplished by requiring compliance as a condition of merger approval, by

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[12] Id.
[13] Id.
[14] Id.
[15] https://www.occ.treas.gov/topics/charters-and-licensing/interpretations-and-actions/2014/crad163.pdf

monitoring performance under the CBA going forward, and by imposing consequences if banks fall short in their efforts to meet CBA and community commitments.

Post merger branch closures. Branch closures are an all-too-common feature of bank mergers. The Federal Reserve Bank of Philadelphia[16] found that between 2019-23, a period of large merger volume, the number of banking deserts across the country increased by 271, leaving over 760,000 more people without adequate access to branches. A high number of branch losses came as "large" and "very large" banks receded. In absolute terms, most branch losses and desert growth happened in predominantly white, higher-income suburban neighborhoods. However, areas with higher concentrations of lower-income, Asian, Black, and disabled people, as well as "racially diverse" areas, lost branches at a "disproportionate rate." Banking desert increases in Black neighborhoods "outpaced the national average." These deserts especially hurt older adults who are more likely to bank in person, a fact that enables banks to detect elder financial exploitation as recognized by the FDIC since at least 2013.

We strongly support the Statement in requiring that bank applicants provide in the public portions of the application a list of branch closures expected over the next three years, and a discussion of the impact this will have on local communities. The regulators should require that this list includes the specific address of each branch to be closed, as well as a description as to whether the branch is in a low or moderate income (LMI), majority minority, and/or rural census tract. Bank applicants should be required to describe in the application the impact such closures will have on the job, credit, and reinvestment needs of local communities.

In order to prevent this requirement from being rendered meaningless, the list of branch closures should be incorporated into any merger approval order, and bank applicants should be prohibited from closing any branches not on the list in the ensuing three years.

Job loss. Job loss or gain should be part of convenience and needs analysis, and the Statement reflects that job losses or lost job opportunities from

[16] Alaina Barca and Harry Hou, "U.S. Bank Branch Closures and Banking Deserts," Federal Reserve Bank of Philadelphia, February 2024, available at: https://www.philadelphiafed.org/-/media/frbp/assets/community-development/reports/banking-deserts-report-feb-2024.pdf

branching changes should be considered.[17] Customer-facing tellers and community development officers are often integral parts of the community. We have heard from our members that the loss of such officers from acquired institutions harms communities, community serving organizations, and local customers. Banks should plan to retain tellers and front-line staff with comparable hours and wages, especially if a bigger bank takes over a community bank. Additionally, non-compete clauses for such workers should be extinguished in all mergers, not just where there is divestiture, as currently.

The Statement clarifies how the FDIC will look at various risk factors, including climate-related financial risk. The commentary to the Statement notes that, "Discussion of climate-related goals has not been added to the Final Statement. However, if the management, compliance rating, and/or risk profile of the merging parties were adversely impacted by climate change challenges, the ability of the resulting IDI's management team to ameliorate and address the climate-related risks may be considered in the context of the applicable statutory factors."[18] This is as it should be.

Climate/weather resiliency investments and commitments, blue lining practices or risks (where LMI communities of color are more likely to be deprived of products or charged more due to perceptions about climate vulnerability), and bank financing of fossil fuels should all be part of the convenience and needs and fair housing evaluations. These bank practices go to the heart of access to credit concerns and the physical and economic health of communities. The FDIC should clarify that the convenience and needs factor includes broad consideration of climate-related impacts, such as reduced access to credit in climate vulnerable areas and negative impacts on the community more generally, such as effects resulting from activities that accelerate climate change (e.g., the financing of fossil fuels) and the failure to mitigate such harms through the promotion of robust bank and client transition plans.

The Statement provides clarity on bank/non-bank mergers. The Statement clarifies that it covers transactions where credit unions seek to acquire Insured Depository Institutions. As the Statement notes,

[17] FDIC, *Final Statement of Policy on Bank Merger Transactions*, Federal Register, Vol. 89, No. 188, Friday, September 27, 2024, at 79138.

[18] FDIC, *Final Statement of Policy on Bank Merger Transactions*, Federal Register, Vol. 89, No. 188, Friday, September 27, 2024, 79131.

"Applications may involve an existing IDI merging with an operating entity that is not FDIC-insured. Operating non- insured entities may vary widely in the type of business and activities conducted (e.g., credit unions, which typically offer products and services consistent with a traditional community bank…). Merger applications that involve an operating non-insured entity are subject to the same statutory factors as any other merger application."[19] Transactions involving a credit union may require additional information to evaluate the convenience and needs statutory factor, as credit unions are not subject to CRA.[20]

Credit union/bank mergers represent a concerning trend. Last year, 22 merger applications saw credit unions seek to purchase banks.[21] We restate our primary concern that these transactions eliminate CRA obligations of the acquired entity, and necessarily, we believe, result in less investment in communities. In these transactions, CRA obligations and requirements will be lost.

For all of the above reasons, we urge the FDIC to extend the comment period, and we oppose any effort to rescind the Statement.

Thank you for the opportunity to comment. Should you have any questions about this letter, please feel free to reach out to me at Rise Economy at [redacted], or [redacted].

Very Truly Yours,

[redacted]

Kevin Stein
Chief of Legal and Strategy

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[19] Id., at 79140.
[20] Id., at 79138.
[21] https://www.americanbanker.com/creditunions/list/how-many-credit-unions-acquired-banks-in-2024-an-industry-m-a-analysis