

MEMORANDUM

To: Members of the Committee on Financial Services

From: FSC Majority Staff

Date: April 26, 2024

Re: May 1, 2024, Financial Institutions and Monetary Subcommittee Hearing

On Wednesday, May 1, 2024, at 10:00 am. in Room 2128 of the Rayburn House Office Building, the Subcommittee on Financial Institutions and Monetary Policy of the Committee on Financial Services will hold a hearing titled “Merger Policies of the Federal Banking Agencies” Testifying at the hearing will be:

- James L. Anderson, Deputy General Counsel, Federal Deposit Insurance Corporation
- Ted Dowd, Acting Senior Deputy Comptroller and Chief Counsel, Office of the Comptroller of the Currency

Background

The hearing will examine merger policies of the Federal banking agencies, including the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the Board of Governors of the Federal Reserve System (FRB).

On January 29, 2024, the OCC published a notice of proposed rulemaking (NPR) that would update the rules governing the OCC’s bank merger reviews. The NPR would apply to mergers between unrelated firms, internal reorganizations and consolidations, and assumptions of deposits.

On March 21, 2024, the FDIC voted 3 to 2 in favor of publishing a notice of proposed Statement of Policy (SOP) that would update the rules governing the FDIC’s bank merger reviews.¹ The SOP would apply to mergers between unrelated firms, internal reorganizations and consolidations, and assumptions of deposits.

Legislation Attached

1. [H.R. 7403](#), the “Bank Failure Prevention Act” (Barr)

The Bank Failure Prevention Act would improve the bank merger application process by setting clear timelines and improving predictability. The Act requires that FRB to promptly inform applicants whether their application is complete, and to either approve or deny an application within 90 days of filing.

2. [H.R. 1806](#), the “Small Lenders Exempt from New Data and excessive Reporting (LENDER) Act” (Hill)

¹ FDIC Vice Chair Travis Hill and Director Jonthan McKernan voted against putting the proposed revisions out for comment while FDIC Chairman Martin Gruenberg, Director Michael Hsu, and Director Rohit Chopra voted in favor.

The Small LENDER Act would exempt the smallest financial institutions from the CFPB's Small Business Lending Rule (pursuant to Section 1071 of the Dodd-Frank Act). The rule imposes burdensome data collection requirements on financial institutions, which drive financial institutions to consider merging to afford compliance costs.

3. [H.R. 1810](#), the "Business Loan Privacy Act" (Luetkemeyer)

The Business Loan Privacy Act would require the CFPB to clarify, through a notice-and-comment rulemaking, the manner in which information collected under the CFPB's Small Business Lending Rule (pursuant to Section 1071 of the Dodd-Frank Act) will be published. The bill aims to create certainty and clear rules of the road at the CFPB, whose confusing regulations and expectations are driving consolidation in the financial sector.