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Statement of Ted Dowd
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Before the
Subcommittee on Financial Institutions and Monetary Policy
Committee on Financial Services
United States House of Representatives
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Statement Required by 12 U.S.C. § 250:

The views expressed herein are those of the Office of the Comptroller of the Currency and do not necessarily represent the views of the President.

Introduction

Chairman Barr, Ranking Member Foster, and members of the Subcommittee, thank you for the opportunity to discuss the Office of the Comptroller of the Currency's (OCC) review and consideration of bank merger applications.

The OCC supports a diverse and competitive banking system that includes community, midsize, and large banks to meet the financial needs of communities and businesses across the country. The agency's mission is to ensure that national banks and federal savings associations (FSAs) operate in a safe and sound manner, provide fair access to financial services, treat customers fairly, and comply with applicable laws and regulations. As the Acting Senior Deputy Comptroller and Chief Counsel, I oversee the agency's legal and licensing activities, including applications for business combinations.

The OCC charters, supervises, and regulates more than 1,000 institutions that range in size from very small community banks to the largest banks operating in the United States. The vast majority of the institutions we supervise have less than \$1 billion in assets, while 55 institutions have greater than \$10 billion in assets. Together, OCC-supervised institutions hold more than \$15 trillion in assets, representing nearly 65 percent of all the assets held in commercial U.S. banks.

My testimony today discusses the OCC's consideration of bank merger applications under applicable laws and regulations; our commitment to improve the bank merger application process to promote a diverse and competitive banking system; and our efforts to provide transparency around our decision-making.

OCC's Bank Merger Application Review Process

Business combinations involving national banks and FSAs are governed by the laws and regulations of the United States. The OCC's policies and procedures regarding applications for business combinations by the institutions we supervise are set forth in the Comptroller's Licensing Manual on Business Combinations. Business combinations include mergers, consolidations, and certain purchase and assumption transactions. A national bank or FSA must obtain approval from the OCC before consummating any business combination in which the national bank or FSA will be the resulting entity.

The OCC's formal review of a proposed bank merger is initiated upon receipt of an application. The review process allows for robust and thorough consideration by the OCC of statutory and regulatory factors as well as public input into the process.

Under the Bank Merger Act (BMA), the OCC is required to consider five factors when conducting reviews of bank mergers. These include the: (1) effect on competition; (2) financial and managerial resources and future prospects of the banks involved; (3) probable effects on the convenience and needs of the community served; (4) banks' effectiveness in combating money laundering activities; and (5) risk to the stability of the U.S. banking and financial system.

Separately, under the Community Reinvestment Act (CRA), the OCC is required to assess an applicant's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operations.

The OCC also considers several regulatory factors including the: capital level of the resulting bank; conformity of the transaction to applicable law, regulation, and supervisory policies; purpose of the transaction; impact on the safety and soundness of the applicant bank; and effect on the applicant bank's shareholders, depositors, creditors, and customers.

Public input is important to the OCC's review of bank merger applications. To facilitate public input on bank merger applications, the OCC posts the public portion of applications on its website for public review and comment. The BMA also requires the applicant to publish notice of the application in a newspaper for 30 days. Public comments are invited on all applications under the BMA. The OCC considers written information submitted during the comment period to inform its decision on an application. The OCC also may hold public meetings or hearings to obtain additional information to consider when evaluating an application. The OCC considers all comments received from the public, including written comments and comments from public meetings or hearings.

The OCC only approves mergers which are consistent with applicable laws, regulations, policies, and safety and soundness considerations, including applicable deposit and liability concentration limits. The OCC may condition its approval of an application if it determines that conditions are necessary or appropriate to ensure that approval is consistent with applicable laws, regulations, and OCC policies.

OCC Bank Merger Symposium

The OCC recognizes the importance of ensuring that the bank merger process reflects the economic realities of today and results in healthy and sound mergers. To that end, in February of 2023, the OCC hosted a public, all-day symposium on the bank merger process to explore the effects of bank mergers on competition, financial stability, and community convenience and needs. It also included a discussion of academic research on bank mergers.

Robust stakeholder participation at the symposium was a priority for the OCC, and more than 300 participants attended in person, with an additional 600 attending virtually. Several

themes emerged from the panel discussions, most notably calls for greater transparency and predictability in decision-making, as well as enhanced frameworks that better reflect the changes to the banking system since 1995, when the Department of Justice (DOJ), in cooperation with the federal banking agencies, issued merger guidelines.

Information gained from our bank merger symposium has informed the OCC's more recent efforts to update its analytical framework for bank mergers. In this regard, the OCC is also committed to working with the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the DOJ to ensure appropriate coordination and collaboration in each agency's consideration of bank merger applications.

Proposed Rulemaking and Policy Statement on Bank Mergers

Earlier this year, the OCC requested comment on a proposal to update its rules and policies for business combinations involving national banks and FSAs. The proposed rulemaking would remove the OCC's expedited review and use of the streamlined business combination application. It would also enhance transparency around the decision-making process under the BMA. Namely, the proposal includes a policy statement that describes features of applications or other indicators that are generally consistent with OCC approval under the BMA, and those that raise supervisory or regulatory concerns and may be inconsistent with OCC approval. The proposed policy statement would also clarify the OCC's decision process for extending the public comment period or holding a public meeting.

Many merger applications are relatively straightforward while others contain noticeable deficiencies. Most, however, are somewhere in between and require varying degrees of scrutiny and multiple rounds of inquiry. Our proposed policy statement seeks to provide more

information and clarity for all applicants. For example, the proposed policy statement notes that applications where the acquiring bank has satisfactory supervisory ratings, no open enforcement actions, and no fair lending, CRA, Bank Secrecy Act (BSA), or consumer compliance concerns, along with other features, are consistent with timely approval. Additionally, the proposed policy statement provides additional detail on the OCC's consideration of statutory factors regarding financial stability, financial and managerial resources and future prospects, and convenience and needs of the community to be served. We recently extended the comment period on the proposal until June 15, 2024, and encourage all stakeholders to provide comments on the proposal.

Conclusion

Ensuring continued diversity and competition in the federal banking system is of critical importance to the Acting Comptroller and the OCC. As the OCC continues to work with the Board, FDIC, and the DOJ on updating its analytical framework related to bank mergers, we are taking steps to improve the processes by which we consider merger applications and the transparency around our decision-making. We welcome further engagement on these matters.