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FACT SHEET

Bank Mergers Require Robust Scrutiny to Ensure that Consumers' Interests Are Not Sacrificed for Wall Street's Profits

Shayna Olesiuk | *Director of Banking Policy*

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Without question, our country benefits from a diversified banking system that includes community banks, regional banks, and large banks. Done right, bank mergers are a healthy part of that system, but done wrong, they can be harmful, costly, and counterproductive for consumers, community banks, and society.

Recently, the banking regulators have made several changes that were intended to strengthen the merger review process and better assess the pros and cons of each merger. While some changes were positive, the merger review process remains seriously deficient and continues to fail to protect the public interest, consumers, and financial stability. Moreover, in 2025, the OCC and FDIC acted quickly to remove some of the improvements that were made in prior years. Simply put, the merger process is like a rubber stamp that always results in approval. Worse, in the case of large banks, the merger decisions often prioritize Wall Street's profits over Main Street consumers' interests.

Key recent developments related to bank mergers include:

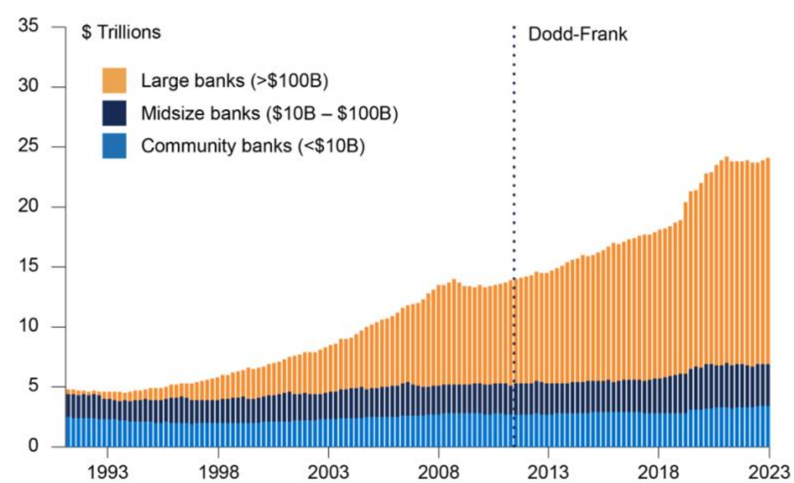
- The Federal Deposit Insurance Corporation ("FDIC") and Office of the Comptroller of the Currency ("OCC") finalized a new merger policy and rule in September 2024. While these did not achieve all the transparency and consumer protection measures that were possible, they did make some improvements, namely the elimination of automatic approval by the OCC for mergers without the necessary due diligence, simply because of the passage of time.
- In 2025, under the Trump administration, both the OCC and FDIC have already rescinded or proposed to rescind their 2024 rule and policy. Better Markets strongly opposed this because it reverts to an even weaker set of rules.
- Unlike the OCC and FDIC, the Department of Justice ("DOJ") and Federal Trade Commission ("FTC") have decided not to rescind their 2023 merger policies. With this

decision, the DOJ and FTC have wisely prioritized the preservation of stability, credibility, and use of agency resources for more productive activities.

- Despite all these changes, the regulators continue to approve bank mergers. The most notable approval of 2025 to date is of Capital One's acquisition of Discover in April 2025. This decision creates one of the largest banks in the country and the largest credit card lender. Better Markets and others representing the public interest strongly opposed this merger because it will raise costs for consumers, reduce competition in the market, and endanger financial stability by allowing banks with proven managerial failures to grow much larger.

To make matters worse, by failing to implement strong merger rules, banking regulators are impairing the viability of community banks, eliminating healthy competition, and creating gigantic too-big-to-fail ("TBTF") banks that cannot be resolved without taxpayer bailouts, turmoil in the banking system, and economic harm. The banking system has experienced significant consolidation across several decades. Community banks, and even midsized banks, have been increasingly dwarfed by the growing count and share of assets held by the largest banks. Our system has shifted dramatically away from the type of diverse banking system that supports robust and inclusive economic growth.

Figure 1: Total Bank Assets by Asset Category



Source: FDIC Research Information System (RIS) Data

Most important in this picture is the diminishment of community banks, which are the foundation of the U.S. banking system and the lifeblood of towns across America, supplying banking services and credit to Main Street families, small businesses, and farms.

By promoting the creation of ever-larger megabanks and demoting the share of community banks, the data and evidence show that bank mergers present serious risks and costs to consumers, community banks, and financial stability. For example, research from economists, academics, and policy experts in the public and private sectors shows that:

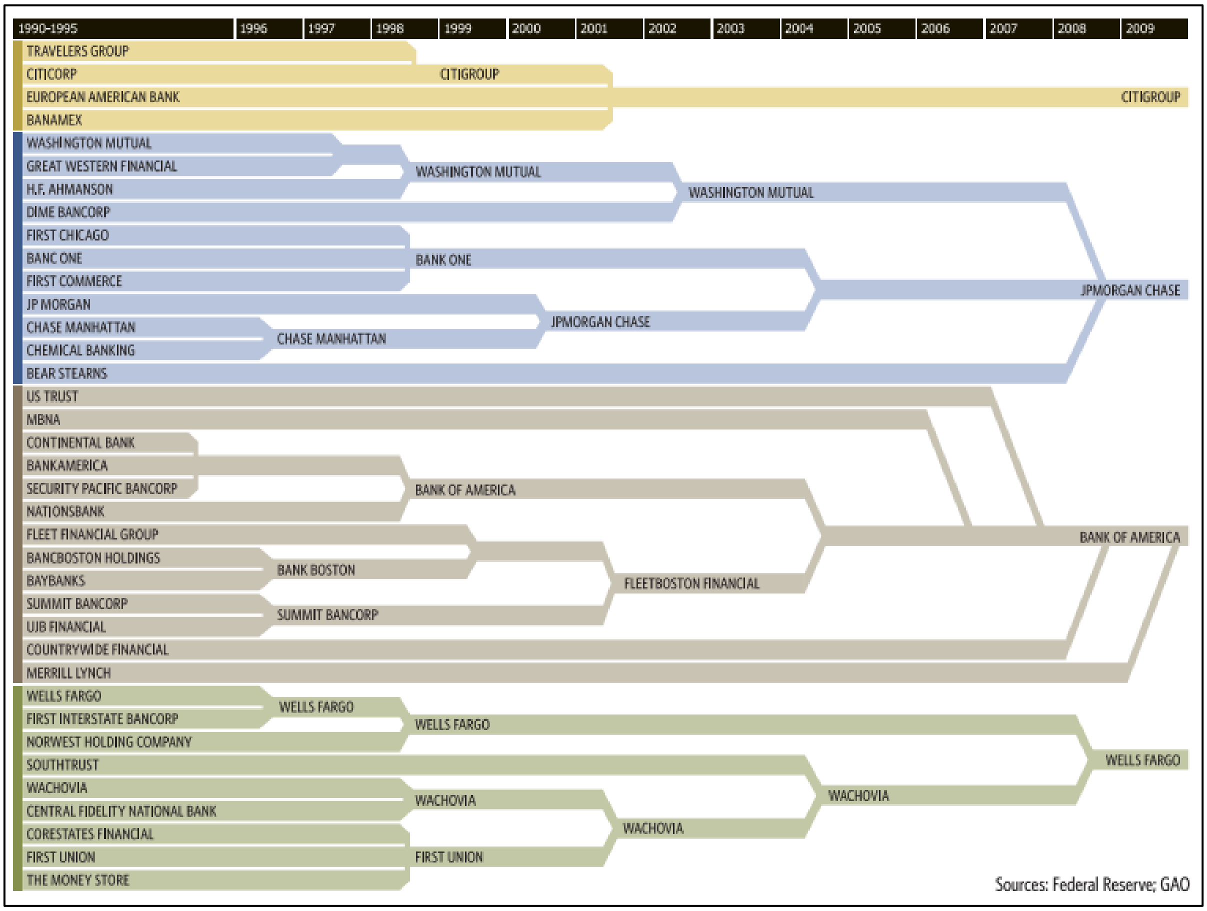
- The systemic risk of a single large bank, such as that which results from many merger deals, is a ***much greater threat to financial stability*** than several smaller banks with the same total assets.
- Several of the TBTF that received taxpayer-funded bailouts in the wake of the 2008 financial crisis ("2008 Crash") were created through a series of mergers, which shows that ***mergers exacerbate moral hazard and incentivize risk-taking at the largest banks***.
- While mergers can create a more diversified and stronger bank, there can be too much of a good thing. Mergers of any size can create complicated operational and managerial challenges that lead to ***economic inefficiency and financial fragility***.

Background

An insufficient merger review process, combined with other factors such as changes in laws and economic events, has contributed to massive consolidation in the banking industry over the last several decades. Since the mid-1980s, the number of commercial banks has declined by roughly 70 percent.

- The pace of mergers increased substantially after Congress passed the Riegle-Neal Interstate Banking and Branching Efficiency Act in 1994, which codified the right to interstate banking at a national level.
- Consolidation became a frenzied merger wave after the 1999 Gramm-Leach-Bliley Act repealed the portion of the Glass-Steagall Act of 1933 that required the separation of commercial banking, investment banking, and insurance, resulting in more than 30 banks being merged into just four gigantic, too-big-to-fail banks by the time of the 2008 Crash.
- The 2008 Crash resulted in government-brokered takeovers of large, failing Wall Street banks by already TBTF banks.

1990-2009 History of Consolidation for Citigroup, JP Morgan Chase, Bank of America, and Wells Fargo



- In spring 2023, bank consolidation was made worse when regulators facilitated the acquisition of large failed banks (here, here, and here), including allowing the largest U.S. bank, JPMorgan Chase, to get even bigger with the acquisition of First Republic Bank. Moreover, a series of regulatory failures allowed Flagstar Bank to become a systemic risk to the financial system after its mergers with both New York Community Bank and the failed Signature Bank.

Consolidation in the Banking Industry Affects Consumers, Businesses, and Communities

Consolidation in both the number of banks and in products and services has dramatically changed the landscape of the U.S. banking industry, reducing competition, concentrating risks, and increasing financial stability concerns.

Currently, megabanks control the U.S. banking system:

- The four largest banks control about 40% of all assets in the banking system.

- The top ten banks hold about half of all deposits and all loans.

- JPMorgan Chase, Goldman Sachs, Bank of America, and Citigroup hold about 90% of the total notional amount of all derivatives contracts held by U.S. banks.

By many measures, consolidation is harmful to consumers and small businesses. For example:

- Large banks offer worse credit card terms and interest rates than small banks and credit unions. A Consumer Financial Protection Bureau ("CFPB") study showed that the 25 largest credit card issuers charged customers interest rates of **8 to 10 points higher** than small- and medium-sized banks and credit unions. This difference can translate to **$400 to $500 in additional annual interest for the average cardholder**.

- Community banks provide more lending to Main Street Americans than larger banks. This is particularly true for agriculture lending, small business lending, and commercial real estate lending. Moreover, community banks, not large banks, made outsized contributions to the Paycheck Protection Program to help families and small businesses recover from the COVID-19 pandemic. Put differently, mergers that result in large banks crowd out community banks and reduce their lending, which harms Main Street.

However, not all bank mergers are harmful. Therefore, all merger applications must be carefully analyzed on a case-by-case basis to understand their potential impact on communities, people, and businesses. For example:

- In cases where a community bank acquires another community bank, it is more likely to keep acquired branch offices open after the acquisition compared to mergers with a noncommunity bank acquirer. Data show that more than 90% of community bank branch offices that were acquired by another community bank were still open one year after the acquisition, higher than the retention rate for noncommunity bank acquirers.

- Research also shows that community investment increases in areas where acquired community bank branches remain open, and that increase is stronger when a community bank is acquired by another community bank. In other words, community bank consolidation can create larger and stronger institutions that contribute more to community development, relative to the institutions that existed before the merger.

Fundamental Improvements Are Needed in the Bank Merger Process

The merger review process involves the consideration of four key factors:

1. Anticompetitive effects,
2. Financial stability risks,
3. Effect on the public interest/ convenience and needs of communities served, and
4. Financial condition and management effectiveness at the merging companies.

As mentioned earlier, the OCC and FDIC's 2024 actions made some progress in the right direction, but did not provide specific enough guidance. The result was that, in many ways, the actions were counterproductive. For example:

- The OCC developed a list of factors it said "tend to withstand scrutiny more easily and are more likely to be approved expeditiously . . ." (see the list of 13 items in Appendix A). While the list was indeed more specific than prior policies, it was still too general and lacked the details needed to be useful. It was also unclear whether a merger application needed to achieve ***all factors*** on the list or if some could be ignored. Moreover, even with this list of 13 factors, the OCC has proven that it will simply ignore problems when it wants to approve a merger application; one example is the case of Flagstar Bank's acquisition of New York Community Bank, which had several characteristics that were in conflict with the factors the OCC listed but was still approved (for more detail and examples, see the pages 13-17 of this comment letter). Another example, of course, is the Capital One-Discover merger.

- The FDIC's 2024 policy, while stronger in certain aspects than the OCC's, also missed the mark relative to the strong and enforceable rules needed to govern mergers. While it did say that the post-merger bank would need to ***better meet*** the convenience and needs of the community and ***be financially stronger*** than the original entities, it lacked specific metrics and details that are needed for regulators, banks, and the public to oversee and understand what is and is not acceptable for merger transactions.

- In 2025, as noted earlier, the FDIC started the process to rescind its 2024 merger policy, which undoes even the marginal progress that was made. The OCC also rescinded its 2024 merger rule to "reduce burden and uncertainty for banks." It also said the recission will promote competition and economic growth, but did not provide any explanation or detail as to how its new interim final rule will protect consumers.

A better path would be to strengthen and clarify the agencies' merger policies, to provide the clarity and transparency that the agencies say is missing and causing confusion for the banking industry, while at the same time providing more detailed metrics and guardrails to protect consumers and financial stability.

The Protection of Consumers and Financial Stability is at Stake

Along with claims that mergers improve the services provided to customers, which is indeed true in some merger cases, banks and other opponents of a detailed process to govern merger approvals often complain about the burden and cost of providing information to the bank regulators. It is vital to recognize, though, to weigh this burden and cost against the enormous cost of megabank failures, TBTF bailouts, and bank crises.

The 2008 Crash was the worst financial crisis since 1929, nearly causing a modern-day Great Depression. Unprecedented, massive, and extremely costly government intervention was all that prevented an even more dire outcome. Nevertheless, the costs of the 2008 Crash, both human and economic, were severe. The 2008 Crash and its fallout ultimately cost the hardworking

American people more than $20 trillion in lost gross domestic product, historically high unemployment, underemployment, long-term unemployment, foreclosures, homelessness, underwater mortgages, bankrupt businesses large and small, lost savings, deferred or denied retirements, educations cut short, and so much more.

Of course, we don’t need to go back to 2008 to see the grave risks posed by TBTF banks. The 2023 banking crisis was not as bad as 2008, but it was still very costly. The Damocles Sword of TBTF banks is ever-present and can materialize at any time, making the necessity of robust merger reviews (among other things) an ongoing imperative. While mergers and the threat of TBTF can seem technical and complex, the significant, if not catastrophic, human costs must be kept foremost in mind. Financial costs must not be used as justification to reduce in any way the requirement for banks to provide all necessary information for merger applications.

Mergers, especially among large banks, are consequential transactions with grave financial stability and consumer protection implications. They cannot be made hastily or with limited information. The true gravity of the potential consequences should drive and inform our actions on this important topic.

Better Banks | Better Businesses
Better Jobs | Better Economic Growth
Better Lives | Better Communities

Better Markets is a public interest 501(c)(3) non-profit based in Washington, DC that advocates for greater transparency, accountability, and oversight in the domestic and global capital and commodity markets, to protect the American Dream of homes, jobs, savings, education, a secure retirement, and a rising standard of living.

Better Markets fights for the economic security, opportunity, and prosperity of the American people by working to enact financial reform, to prevent another financial crash and the diversion of trillions of taxpayer dollars to bailing out the financial system.

By being a counterweight to Wall Street's biggest financial firms through the policymaking and rulemaking process, Better Markets is supporting pragmatic rules and a strong banking and financial system that enables stability, growth, and broad-based prosperity. Better Markets also fights to refocus finance on the real economy, empower the buyside and protect investors and consumers.

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