

Board of Governors of the Federal Reserve System



Interagency Bank Merger Act Application—FR 2070

An organization or a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

General Information and Instructions

Preparation and Use

This application is used to effect a merger transaction under section 18(c) of the Federal Deposit Insurance Act (FDIA), as amended (12 U.S.C. § 1828(c)), and for national banks using other sources of merger authority, such as 12 U.S.C. §§ 215, 215a. "Merger transaction" includes a merger, consolidation, assumption of deposit liabilities, and certain asset transfers between or among two or more institutions. An application is required for merger transactions between or among affiliated institutions (affiliate transactions) as well as for merger transactions between or among nonaffiliated institutions.

An affiliate transaction refers to a merger transaction between institutions that are commonly controlled. It includes a business combination between a depository institution and an affiliated interim institution. Applicants proposing affiliate transactions are not required to complete questions 12 through 14 of this form.

All questions must be answered with complete and accurate information that is subject to verification. If the answer is "none," "not applicable," "not available," or "unknown," so state. Answers of "not available" or "unknown" should be explained.

The questions in the application are not intended to limit the Applicant's presentation, nor are the questions intended to duplicate information supplied on another form or in an exhibit. A cross-reference to the information is acceptable. *Any cross-reference must be made to a specific location in the documents, so the information can be found easily.* Supporting information for all relevant factors, setting forth the basis for Applicant's conclusions, should accompany the application. The regulatory agency may request additional information.

The application must be submitted to the appropriate regulatory agency of the depository institution that would survive the proposed transaction (Resultant Institution). All inquiries on preparation of the application should be directed to that agency which, in some circumstances, may modify the information requested.

For additional information regarding the processing procedures and guidelines and any supplemental information that may be required, please refer to the appropriate regulatory agency's procedural guidelines (that is, *Comptroller's Licensing Manual* or the FDIC's Rules and Regulations (12 C.F.R. § 303) and Statement of Policy on Bank Merger Transactions), contact the agency directly for specific instruction, or visit its website at www.fdic.gov, www.occ.treas.gov, and www.federalreserve.gov.

Interim Charters and Federal Deposit Insurance

An interim state or federal depository institution charter may be used to facilitate a merger or consolidation. An interim institution is one that does not operate independently but exists, usually for a very short period of time, solely as a vehicle to accomplish a combination (for example, to facilitate the acquisition of 100 percent of the voting shares of an existing depository institution). The processing procedures and guidelines for chartering an interim institution may be found in the guidelines of the appropriate regulatory agency.

Applicants should contact the FDIC to discuss relevant deposit insurance requirements. An application for deposit insurance is not required in connection with a merger (other than a purchase and assumption) between a federally chartered interim institution and an existing FDIC-insured depository institution, including those instances in which the resulting institution is to operate under the charter of the federal interim institution. However, an application for deposit insurance is required if a state-chartered interim bank or savings association is to be insured. Mergers between an FDIC-insured institution and a noninsured institution are subject to FDIC approval under section 18(c)(1) of the FDIA (12 U.S.C. § 1828(c)(1)).

In making its determination to grant deposit insurance under section 5(a) of the FDIA (12 U.S.C. § 1815(a)), the FDIC will consider the factors enumerated in section 6 of the FDIA (12 U.S.C. § 1816).

General Information and Instructions—Continued

If applying for deposit insurance under section 5(a), check the appropriate boxes on the top of the application form and include with this application any additional relevant information.

Establishment of Branches and Branch Closings

This Interagency Bank Merger Act Application will be deemed to constitute an application pursuant to section 9 of the Federal Reserve Act (12 U.S.C. § 321) in the case of state member banks, section 18(d) of the FDIA (12 U.S.C. § 1828(d)) for state nonmember banks, and 12 U.S.C. § 36 for national banks to operate the Target Institution's main office and branches as branches of the Applicant.

If a branch is closed as a result of a merger, consolidation, or other combination, refer to the Interagency Policy Statement on Branch Closings and applicable law for branch closure notice requirements (12 U.S.C. § 1831r-1).

Notice of Publication

An Applicant must publish notice of the proposed acquisition in a newspaper of general circulation in the community or communities in which the main office of each of the parties to the transaction is located (12 U.S.C. § 1828(c)(3)). A copy of the affidavit(s) of publication should be submitted to the appropriate regulatory agency. Contact the appropriate regulatory agency for the specific requirements of the notice of publication.

Compliance

An Applicant is expected to comply with all representations and commitments made in the application.

Transactions subject to the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. § 18a), which applies to certain very large transactions, require a pre-merger filing with the Federal Trade Commission and the Department of Justice. Refer to the Federal Trade Commission's website for specific details (<http://www.ftc.gov/bc/hsr/index.shtm>).

Electronic Submission

In addition to an original application and the appropriate number of signed copies, the regulatory agencies would like to have an electronic copy of the information in the application, especially of the financial projections. Submission of an electronic copy is voluntary. It will be used only for internal review and processing, and those portions granted confidential treatment will not be released to the public. The electronic copy may be provided on a computer diskette, using common word processing and spreadsheet software. For e-mail submissions, contact the appropriate regulatory agency for instructions and information about secure transmission of confidential material.

Confidentiality

Any Applicant desiring confidential treatment of specific portions of the application must submit a request in writing with the application. The request must discuss the justification for the requested treatment. The Applicant's reasons for requesting confidentiality should specifically demonstrate the harm (for example, loss of competitive position, invasion of privacy) that would result from public release of information (5 U.S.C. § 552). Information for which confidential treatment is requested should be: (1) specifically identified in the public portion of the application (by reference to the confidential section); (2) separately bound; and (3) labeled "Confidential." The Applicant should follow the same procedure when requesting confidential treatment for the subsequent filing of supplemental information to the application.

The Applicant should contact the appropriate regulatory agency for specific instructions regarding requests for confidential treatment. The appropriate regulatory agency will determine whether the information will be treated as confidential and will advise the Applicant of any decision to make available to the public information labeled as "Confidential."

Interagency Bank Merger Act Application

Check all that apply:

Type of Filing

- Affiliate/Corporate Reorganization
 Combination with Interim Depository Institution
 Nonaffiliate Combination
 Other _____

Form of Transaction

- Merger
 Consolidation
 Purchase and Assumption
 Branch Purchase and Assumption
 Other _____

Filed Pursuant To

- 12 U.S.C. § 1828(c)
 12 U.S.C. §§ 215, 215a-c
 12 U.S.C. § 1815(a)
 Other _____

Applicant Depository Institution

Name Charter / Docket Number

City State Zip Code

Target Institution

Name Charter / Docket Number

Street

City State Zip Code

Resultant Institution (if different than Applicant)

Name Charter / Docket Number

Street

City State Zip Code

Contact Person

Name

Title / Employer

City State Zip Code

Area Code / Phone Number Area Code / FAX Number E-mail Address

Interagency Bank Merger Act Application—Continued

1. Describe the transaction's purpose, structure, significant terms and conditions, and financing arrangements, including any plan to raise additional equity or incur debt. Also provide the approximate approval date needed to consummate.
2. Provide a copy of (a) the executed merger or transaction agreement, including any amendments, (b) any board of directors' resolutions related to the transaction, and (c) interim charter, names of organizers, and related documents, if applicable.
3. Describe any issues regarding the permissibility of the proposal with regard to applicable state or federal laws or regulations (for example, nonbank activities, branching, qualified thrift lender's test).
4. Describe any nonconforming or impermissible assets or activities that Applicant or Resultant Institution may not be permitted to retain under relevant law or regulation, including the method of and anticipated time period for divestiture or disposal.
5. Provide the indicated financial information and describe the assumptions used to prepare the projected statements, including those about the effect of the merger transaction. Material changes between the date of the financial statements and the date of the application should be disclosed. If there are no material changes, a statement to that effect should be made.
 - a. Pro Forma Balance Sheet, as of the end of the most recent quarter and for the first year of operation after the transaction. Indicate separately for the Applicant and Target Institution each principal group of assets, liabilities, and capital accounts; debit and credit adjustments (explained by footnotes) reflecting the proposed acquisition; and the resulting pro forma combined balance sheet. Goodwill and all other intangible assets should be listed separately on the balance sheet. Indicate the amortization period and method used for any intangible asset and the accretion period of any purchase discount on the balance sheet.
 - b. Projected Combined Statement of Income for the first year of operation following consummation.
 - c. Pro Forma and Projected Regulatory Capital Schedule, as of the end of the most recent quarter and for the first year of operation, indicating
 - Each component item for Tier 1 (Core) and Tier 2 (Supplementary) Capital, Subtotal for Tier 1 and Tier 2 Capital (less any investment in unconsolidated or non-includable subsidiaries), Total Capital (include Tier 3 if applicable).
 - Total risk-weighted assets.
 - Capital Ratios: (1) Tier 1 capital to total risk-weighted assets; (2) Total capital to total risk-weighted assets; and (3) Tier 1 capital to average total consolidated assets (leverage ratio).
6. List the directors and senior executive officers of the Resultant Institution and provide the name, address, position with and shares held in Resultant Institution or holding company, and principal occupation (if a director).
7. Describe how the proposal will meet the convenience and needs of the community. For the combining institutions, list any significant anticipated changes in services or products that will result from the consummation of the transaction. If any services or products will be discontinued, describe and explain the reasons.
8. Discuss the programs, products, and activities of the Applicant or the Resultant Institution that will meet the existing or anticipated needs of its community(ies) under the applicable criteria of the Community Reinvestment Act (CRA) regulation, including the needs of low- and moderate-income geographies and individuals. For an Applicant or Target Institution that has received a CRA composite rating of "needs to improve" or "substantial noncompliance" institution-wide or, where applicable, in a state or a multistate MSA, or has received an evaluation of less than satisfactory performance in an MSA or in the non-MSA portion of a state in which the applicant is expanding as a result of the combination, describe the specific actions, if any, that have been taken to address the deficiencies in the institution's CRA performance record since the rating.
9. The Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 imposes additional considerations for certain interstate mergers between insured banks. Savings associations are not subject to 12 U.S.C. § 1831u. If subject to these provisions, discuss authority; compliance with state age limits and host state(s) filing requirements; and applicability of nationwide and statewide concentration limits. In addition, discuss any other restrictions that the states seek to apply (including state antitrust restrictions).
10. List all offices that (a) will be established or retained as branches, including the main office, of the Target Institution, (b) are approved but unopened branch(es) of the Target Institution, including the date the current federal and state agencies granted approval(s), and (c) are existing branches that will be closed as a result of the proposal to the extent the information is available and indicate the effect on the branch customers served. For each branch, list the popular name, street address, city, county, state, and zip code.
11. As a result of this transaction, if the Applicant will be or will become affiliated with a company engaged in insurance activities that is subject to supervision by a state insurance regulator, provide
 - a. The name of company.
 - b. A description of the insurance activity that the company is engaged in and has plans to conduct.

Interagency Bank Merger Act Application—Continued

- c. A list of each state and the lines of business in that state in which the company holds, or will hold, an insurance license. Indicate the state where the company holds a resident license or charter, as applicable.

If a nonaffiliate transaction, the Applicant also must reply to items 12 through 14.

12. Discuss the effects of the proposed transaction on existing competition in the relevant geographic market(s) where Applicant and Target Institution operate. Applicant should contact the appropriate regulatory agency for specific instructions to complete the competitive analysis.
13. If the proposed transaction involves a branch sale or any other divestiture of all or any portion of the bank, savings association or nonbank company (in the case of a merger under 12 U.S.C. § 1828(c)(1)) to mitigate competitive effects, discuss the timing, purchaser, and other specific information.
14. Describe any management interlocking relationships (12 U.S.C. §§ 3201-3208) that currently exist or would exist following consummation. Include a discussion of the permissibility of the interlock with regard to relevant laws and regulations.

Interagency Bank Merger Act Application—Continued

Certification

We hereby certify that our board of directors, by resolution, has authorized the filing of this application, and that to the best of our knowledge, it contains no misrepresentations or omissions of material facts. In addition, we agree to notify the agency if the facts described in the filing materially change prior to receiving a decision or prior to consummation. Any misrepresentation or omission of a material fact constitutes fraud in the inducement and may subject us to legal sanctions provided by 18 U.S.C. §§ 1001 and 1007.

We acknowledge that approval of this application is in the discretion of the appropriate federal banking agency. Actions or communications whether oral, written, or electronic, by an agency or its employees in connection with this filing, including approval of the application if granted, do not constitute a contract, either express or implied, or any other obligation binding upon the agency, other federal banking agencies, the United States, any other agency or entity of the United States, or any officer or employee of the United States. Such actions or communications will not affect the ability of any federal banking agency to exercise its supervisory, regulatory, or examination powers under applicable law and regulations. We further acknowledge that the foregoing may not be waived or modified by any employee or agent of a federal banking agency or of the United States.

Signed this _____ day of _____, _____.
Day Month Year

Applicant by

Signature of Authorized Officer¹

Print or Type Name

Title

Target Institution by

Signature of Authorized Officer¹

Print or Type Name

Title

1. In multiple-step combinations, applicants should ensure that authorized officers of the combining institutions sign.

Supplement to Interagency Bank Merger Act Application

Comptroller of the Currency

All OCC Applicants should provide the following supplemental information with their application:

15. If any of the combining institutions have entered into commitments with community organizations, civic associations, or similar entities concerning providing banking services to the community, describe the commitment.
16. If the Resultant Institution will not assume the obligations entered into by the Target Institution, explain the reasons and describe the impact on the communities to be affected.
17. If acquiring a non-national bank subsidiary, provide the information and analysis of the subsidiary's activities that would be required if it were established pursuant to 12 C.F.R. § 5.34 or 5.39.

Supplement to Interagency Bank Merger Act Application—Continued

Federal Reserve System

With respect to question 6, FRB Applicants should consult with FRB staff regarding whether any biographical or financial information should be submitted with respect to any new principal shareholders, directors, and senior executive officers.

The Certification on page 5 need not be provided by the Target Institution. FRB Applicants should modify their Certification accordingly.

In addition, all FRB Applicants should provide the following supplemental information with their application.

15. If the pro forma consolidated assets of Applicant's parent holding company are less than \$150 million and parent company long-term debt will exceed 30 percent of parent company equity capital accounts on a pro forma basis, provide cash flow projections for the parent company that clearly demonstrate the ability to reduce the long-term debt-to-equity ratio to 30 percent or less within 12 years of consummation.

Supplement to Interagency Bank Merger Act Application—Continued

Federal Deposit Insurance Corporation

All FDIC Applicants should provide the following supplemental information with their application:

15. This section supplements question 12 of the Interagency Bank Merger Act Application for transactions between nonaffiliated parties. Additional guidance relating to the FDIC's consideration of the competitive factors in a proposed merger transaction is contained in the FDIC's Rules and Regulation (12 C.F.R. § 303 Subpart D) and Statement of Policy on Bank Merger Transactions (2 FDIC Law, Regulations, and Related Acts 5145), which may be found at www.fdic.gov/regulations/laws/rules/index.html.

I. Delineation of the relevant geographic market(s).

The relevant geographic market includes the areas in which the offices to be acquired are located and from which those offices derive the predominant portion of their loans, deposits, or other business. The relevant geographic market also includes the areas where existing and potential customers impacted by the proposed merger may practically turn for alternative sources of banking services.

- a. Prepare schedules for the Applicant Institution and Target Institution showing the total number of accounts and total dollar volume of deposits² for each municipality or census tract, where applicable, according to the recorded address of the depositor (do not submit supporting data). Small amounts may be aggregated and identified as "other." *If the Applicant Institution is a multi-office institution, Applicant Institution deposit information should be provided only for those offices within or proximate to the area(s) described below under paragraph (b).*
- b. Identify those areas where existing and potential customers of the offices to be acquired may practically turn for alternative sources of banking services. If consideration of the availability of such alternative banking services results in a market area considerably different from that indicated by the sources of deposits, discuss and provide necessary supporting information.
- c. Using the information collected in paragraphs (a) and (b), provide a narrative description of the delineated relevant geographic market(s).
- d. Provide any additional information necessary to support the delineated relevant geographic market(s). Supporting information may include relevant demographic information,

locations of major employers, retail trade statistics, and/or information on traffic patterns. *Applicants should consult with the applicable FDIC Regional Office in determining whether additional information is necessary.*

II. Competition in the relevant geographic market(s).

- a. Prepare a schedule of participating and competing banking institutions' offices, divided into three sections:
 - (i) Applicant Institution offices within or proximate to the relevant geographic market(s);
 - (ii) Target Institution offices within or proximate to the relevant geographic market(s); and
 - (iii) Competitor banking offices located or competing within the delineated relevant geographic market(s).

To the extent known, also include banking offices approved but not yet open. The following presentation format is suggested:

| Name and Location of Banking Office | Total Deposits | Distance and Direction From Nearest Office | |
|-------------------------------------|----------------|--|--------------------|
| | | Applicant Institution | Target Institution |
| | | | |

- b. For each office listed in paragraph (a), provide the street address; total deposits as reported in the most recent FDIC Summary of Deposits Data Book (www2.fdic.gov/sod/index.asp); and distance and general direction from the nearest office of Applicant and Target Institution. *In cases where the delineated relevant geographic market includes a significant portion of a larger metropolitan area, provide only a listing of financial institutions and the aggregate total deposits of all offices operated by each within the delineated relevant geographic market(s).*
- c. Discuss the extent and intensity of competition in the delineated relevant geographic market(s) provided by nonbank institutions, such as other depository institutions (for example, credit unions) and nondepository institutions (for example, finance companies, or government agencies). For those institutions regarded as competing in the delineated relevant geographic market(s), provide name, address, and services supplied.

2. In most cases, total deposits will serve as an adequate proxy for the overall share of banking business in the relevant geographic market area; however, other analytical proxies may be appropriate in certain cases (for example, a merger transaction involving trust companies).