

Board of Governors of the Federal Reserve System



Interagency Bank Merger Act Application-FR 2070

DRAFT 6/7/17 Accepted Changes

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 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 or other business combination (including a purchase and assumption) between institutions that are commonly controlled (for example, between a depository institution and an affiliated interim institution.) Applicants proposing affiliate transactions are not required to complete questions 16 through 18 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 the applicant's conclusions, should accompany the application. The responsible regulatory agency may request additional information.

Applications involving insured depository institutions must be submitted to the responsible regulatory agency of the depository institution that is the acquiring, assuming, or resulting institution (resultant institution). All questions about preparing the merger application should be directed to that agency, along with the information requested in the application and other information requested by the responsible agency. In addition, all applications involving a noninsured bank or institution must be submitted to the FDIC.

Public reporting burden for this collection of information is estimated to average 30 and 18 hours for nonaffiliate and affiliate transactions, respectively, including the time to gather and maintain data in the required form, to review instructions, and to complete the information collection. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Paperwork Reduction Act, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429; Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551; or Licensing Activities Division, Office of the Comptroller of the Currency, 400 7th Street, SW, Washington, DC 20219 and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

For additional information regarding the processing procedures and guidelines and any supplemental information that may be required, please refer to the responsible regulatory agency's procedural guidelines (for example, the OCC's Rules and Regulations (12 C.F.R. Part 5), the *Comptroller's Licensing Manual*, the FDIC's Rules and Regulations (12 C.F.R. Part 303) and Statement of Policy on Bank Merger Transactions) and other relevant policy statements. Contact the responsible regulatory 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 transaction. 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 responsible regulatory agency.

Applicants should consult the FDIC's Rules and Regulations (12 C.F.R. § 303.62(b)(2)) or contact the FDIC directly to discuss relevant deposit insurance requirements. An application for deposit insurance is not required in connection with a merger transaction (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 organized solely to facilitate a merger transaction which will be reviewed by a Federal banking agency other than the FDIC. Merger transactions (including a purchase and assumption) between an FDIC-insured institution and a non-FDIC-insured 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 to operate the target institution's main office and branches as branches of the applicant pursuant to section 9 of the Federal Reserve Act (12 U.S.C. § 321) for state member banks, section 18(d) of the FDIA (12 U.S.C. § 1828(d)) for state nonmember insured banks, 12 U.S.C. § 36 for national banks, and 12 CFR 5.31 for federal savings associations.

Refer to the Interagency Policy Statement on Branch Closings and applicable law for branch closure notice requirements under section 42 of the FDIC (12 U.S.C. § 1831r-1) if a branch is closed as a result of a merger transaction.

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)), or if there is no such newspaper in any such community, then in a newspaper of general circulation published nearest to the community. A copy of the affidavit(s) of publication should be submitted to the responsible regulatory agency. Contact the responsible 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 (www.ftc.gov).

Electronic Submission

In addition to an original application and the appropriate number of signed copies, the responsible regulatory agencies request that the applicant submit 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. For electronic submissions, contact the responsible regulatory agency for instructions and information about secure transmission of confidential material. For the Federal Reserve, the application may be submitted in paper form, or electronically through the Federal Reserve System's web-based application E-Apps. Additional information on E-Apps may be found on the Federal Reserve's public website. For the Office of the Comptroller of the Currency (OCC), the application may be submitted in paper form, or electronically through the OCC's web-based application CATS. Additional information on CATS may be found on the OCC's public website.

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 under the Freedom of Information Act (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 responsible regulatory agency for specific instructions regarding requests for confidential treatment. The responsible 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:

- 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 / Certificate Number

Street

City State Zip Code

Target Institution

Name Charter / Certificate Number

Street

City State Zip Code

Resultant Institution (if different than the applicant)

Name Charter / Certificate Number

Street

City State Zip Code

Contact Person

Name

Title / Employer

Street

City State Zip Code

Area Code / Phone 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 and any contract deadlines involved with the transaction.
2. Indicate any other filings related to this transaction with other state or federal regulators.
3. Discuss whether and how the resultant institution's business strategy and operations will remain the same or change from that of the applicant. Identify new business lines. Provide a copy of the business plan, if available. Discuss the plan for integrating any new businesses into the resultant institution.
4. 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 any other related documents.
5. Describe any issues regarding the permissibility of the proposal with regard to applicable state or federal laws or regulations (for example, nonbank activities, branching, or qualified thrift lender test).
6. Describe any nonconforming or impermissible assets or activities that the 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.
7. Provide the following financial information.
 - a. Pro Forma balance sheet, as of the end of the most recent quarter. 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.
 - b. Projected balance sheets and corresponding income statements as of the end of the first three years of operation following consummation. Describe the assumptions used to prepare the projected statements.
 - c. Provide a discussion on the valuation of the target entity and any anticipated goodwill and other intangible assets.
 - d. Pro Forma and Projected Regulatory Capital Schedule, as of the end of the most recent quarter and each of the first three years of operation, indicating:
 - Each component item for Common equity tier 1 capital, additional tier 1 capital and tier 2 capital pursuant to the current applicable capital requirements.
 - Total risk-weighted assets.
 - Common equity tier 1 capital, tier 1 capital, total capital, and leverage ratios pursuant to the capital regulations. If applicable, also provide the applicant's existing and pro forma supplementary leverage ratio pursuant to the current capital adequacy regulations.
8. 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). Indicate any changes to the applicant's current directors and senior executive officers that would occur at the resultant institution. Applicants should consult with the responsible regulatory agency regarding whether any biographical or financial information should be submitted with respect to any new principal shareholders, directors, and senior executive officers.
9. Describe any litigation or investigations by local, state, or federal authorities involving the applicant or any of its subsidiaries or the target or any of its subsidiaries that is currently pending or was resolved within the last two years.
10. Describe how the proposal will assist in meeting the convenience and needs of the community to be served, including, but not limited to, the following:
 - a. Summarize efforts undertaken or contemplated by the applicant to ascertain and address the needs of the community(ies) to be served, including community outreach activities, as a result of the proposal.
 - b. For the combining institutions, list any significant anticipated changes in services or products that will result from the consummation of the transaction.
 - c. To the extent that any products or services would be offered in replacement of any products or services to be discontinued, indicate what these are and how they would assist in meeting the convenience and needs of the communities affected by the transaction.
 - d. Discuss any enhancements in products or services expected to result from the transaction.
11. Describe how the applicant and resultant institution will assist in meeting 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. This discussion should include, but not necessarily be limited to, a description of the following:
 - a. The significant current and anticipated programs, products, and activities, including lending, investments, and services, as appropriate, of the applicant and the resultant institution.
 - b. The anticipated CRA assessment areas of the resultant institution. If the resultant institution's CRA assessment area would not include any portion of the current assessment area of the target or the applicant, describe the excluded areas.
 - c. The plans for administering the CRA program for the resultant institution following the transaction.
 - d. 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 transaction, describe the specific actions, if any, that have been taken to address the deficiencies in the institution's CRA performance record since the rating.
12. The Dodd-Frank Wall Street Reform and Consumer Protection Act

Interagency Bank Merger Act Application-continued

requires regulators to consider the risk to the stability of the United States bank and financial system when reviewing a merger transaction between financial institutions. Discuss any effect(s) that the proposed transaction may have on the stability of the United States banking and financial systems.

13. The Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (12 U.S.C. § 1831u) (R-N) imposes additional considerations for certain interstate mergers between insured banks. Savings associations are not subject to R-N. If subject to these provisions, please provide the following information:

- a. Identify any host states involved with this transaction that require the target to be in operation for a minimum number of years and discuss compliance with the R-N age requirement (12 U.S.C. § 1831u(a)(5)).
- b. Indicate that (1) the applicant has complied or will comply with the applicable filing requirements of any host state(s) that will result from the transaction and (2) the applicant has sent a copy of the merger application to the state bank supervisor of the resultant host state(s).
- c. Indicate applicability of R-N nationwide and statewide deposit concentration limits to the transaction. If applicable, discuss compliance.
- d. Indicate applicability of state-imposed deposit caps, if any. If applicable, discuss compliance.
- e. Address whether:
 - i. Each bank involved in the transaction is adequately capitalized on the date of filing
 - ii. The resultant institution will be well capitalized and well managed upon consummation of transaction.
- f. Discuss compliance with the CRA requirement of R-N.
- g. Discuss permissibility of retention of the target's main office and branches.
- h. Discuss any other restrictions that the host states seek to apply (including state antitrust restrictions).

14. List all offices of the applicant or target 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 or consolidated 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 specifying any that are in low- and moderate-income geographies.¹

15. 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 the company.
- b. A description of the insurance activity that the company is engaged in and has plans to conduct

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 16 through 18.

16. Discuss the effects of the proposed transaction on existing competition in the relevant geographic market(s) where the applicant and the target institution operate. The applicant should contact the responsible regulatory agency for specific instructions to complete the competitive analysis.

17. 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 transaction under 12 U.S.C. § 1828(c)(1)) to mitigate competitive effects, discuss the timing, purchaser, and other specific information.

18. Describe any management interlocking relationships (12U.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.

¹ Please designate branch consolidations as those terms are used in the Joint Policy Statement on Branch Closings, 64 FR 34844 (June 29, 1999).

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 responsible regulatory 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 responsible regulatory 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:

19. a. 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.
 - b. 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.
20. 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

The Certification on page 6 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:

21. Indicate whether the applicant's investment in bank premises in establishing or retaining the branches following consummation of the transaction is consistent with Section 208.21 of the Board's Regulation H.

Supplement to Interagency Bank Merger Act Application-continued

Federal Deposit Insurance Corporation

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

22. This section supplements question 16 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 Regulations (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 transaction 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 deposits³ 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, the 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's 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 the 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.

3. 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).