THE GREENLINING INSTITUTE

The Greenlining Institute
360 14th Street, 2nd Floor
Oakland, CA 94612
www.greenlining.org

June 18, 2024

Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429
Submitted electronically

RE: Request for Comment on Proposed Statement of Policy on Bank Merger Transactions RIN 3064-ZA31

To whom it may concern:

The Greenlining Institute appreciates the opportunity to comment on the proposed statement of policy by the FDIC. We commend the continued efforts by the federal regulators to improve the bank merger review process by increasing clarity and transparency to the public. We encourage the adoption of the proposed changes to the statement of policy with the addition of the recommendations we make in this letter to strengthen the review process for the benefit of the communities of color we serve.

Founded in 1993, The Greenlining Institute works toward a future when communities of color can build wealth, live in healthy places filled with economic opportunity, and are ready to meet the challenges posed by climate change. We proactively drive investments and opportunities into communities of color alongside a coalition of over 40 grassroots, community-based organizations, including minority business associations, community development corporations, and civil rights organizations. Our multifaceted advocacy efforts address the root causes of racial, economic, and environmental inequities to meaningfully transform the material conditions of communities of color in California and across the nation.

As the financial landscape continues to evolve, where digitalization and mergers redefine the banking sector, it is imperative to ensure that progress does not come at the expense of low-income communities and communities of color. The recent surge in bank mergers, compounded by the closures of over 4,000 branches since the onset of the pandemic[1], has highlighted a critical need for a reevaluation of priorities within the banking sector that centers the convenience and needs of communities, particularly those who have been historically underserved. Communities of color, who are disproportionately impacted, are concerned that bank mergers will lead to more branch closures and job losses particularly in areas where the

[1] Jad Edlebi, Bruce C. Mitchell, & Jason Richardson. (2022). The Great Consolidation of Banks and Acceleration of Branch Closures Across America. *National Community Reinvestment Coalition*. https://ncrc.org/the-great-consolidation-of-banks-and-acceleration-of-branch-closures-across-america/

merging banks have overlapping operations. This could have a negative impact on local economies, reducing access to financial services and potentially leading to a decline in property values, repeating the cycle of disinvestment. As race continues to be a barrier to economic mobility and opportunity, it is imperative that regulators continue to update bank merger review processes, ensuring that low-income communities, communities of color, and local economies become a central component of applications to guarantee that the convenience and needs of communities are met.

Over the last few years, Greenlining has responded to requests for comments from the OCC and the Federal Reserve. In addition to the FDIC's request for information in 2022 to support greater scrutiny of bank merger applications to help promote community reinvestment, ensure regulatory oversight of the public benefit factor in bank merger reviews, and help maintain access to affordable products and services that ensure financial inclusion of low-income and communities of color. We also appreciate the FDIC including some of the recommendations in the RFI to inform their guidance and improve clarity in its proposed statement of policy. Greenlining continues to raise concerns on the harmful effects of increased consolidation that have attenuated the convenience and needs factor of the bank merger review process, limiting access to critical banking services and community reinvestment practices needed to repair the economic effects of redlining. Because of this, we have mobilized our partners and community based organizations to intervene in mergers and acquisitions that impact the various regions that our partners serve throughout California. For example, the merger of US Bank and MUFG Union Bank resulted in a community benefit agreement (CBA) between community organizations and US Bank to increase mortgage and small business lending and critical community development investments for low-income communities and communities of color. However, the lack of enforceability or even mandatory consideration of existing and past CBAs puts a strain on the public benefit factor of bank mergers, raising ongoing concerns as drastic cuts to bank branches in low-income and minority-majority communities rise, increasing banking deserts in rural communities, impacting small businesses, and the overall financial wellness and economic stability of underserved communities.

Bank Mergers and Racial Equity Impacts

Transparency and clarity around the bank merger process is sorely needed, particularly around the material benefits that it brings to communities. Processes need to explicitly illustrate the ways that procedural and distributional equity[2] are prioritized to mitigate adverse impacts on low-income communities and communities of color. The increased consolidation of banks has led to various racial equity impacts, showing that branch closures and bank deserts disproportionately impact low-income communities and communities of color. These impacts can only be reversed through race-conscious solutions that aim at repairing economic conditions in these communities. Through increased transparency, increased scrutiny of bank

[2] Balu, Reka, et al. (2023). Pathways to Equity at Scale. *Urban Institute*. www.urban.org/research/publication/pathways-equity.

merger applications, and enforcement of community benefit agreements at the regulatory level, regulators can mitigate additional impacts that widen the racial wealth gap. Without a thorough review and clear criteria that underscore the public benefits of a merger as described in the following comments, these transactions will continue to deprive communities of the financial resources critical to wealth building and economic stability.

Comments to Relevant Questions:

Financial Stability

Question 35: What, if any, additional criteria should be included in the evaluation of the financial stability risk factor?

Greenlining commends the FDIC for adding additional scrutiny in their financial stability factor review for transactions that result in large Insured Deposit Institutions (IDIs) in excess of $100 billion. The increased size of banks post merger is cause for concern as recent mergers have increased concentration within the banking sector, creating more systemic risk. More specifically, the dominance of the largest 25 banks in the financial market has profound implications for underserved communities, particularly in terms of the rise of bank deserts, decreased consumer choice and limited access to essential financial services. As these banking giants consolidate power, they often prioritize profitability over serving underrepresented communities, leading to the abandonment of critical investments and branches in low-income neighborhoods. This is de facto redlining.

Furthermore, since 2009, one in five branches have closed[3], bringing the total number of US bank branches under 80,000 in 2023 from 100,000 branches, a decrease of 21%. According to the Federal Reserve Bank of Philadelphia's[4] report on U.S. Bank Branch Closures and Banking Deserts, low- to moderate-income and racially diverse communities have drastically fewer branches compared to their middle-upper class and white counterparts, contributing to the rapid increase in bank deserts in majority-Black tracts and American Indian and Alaska Native tract populations – 46.4 percent of the latter population were living in banking deserts in 2023, over 12 times the national average of 3.8 percent. This report also highlights how lack of access to financial services and physical branch locations are exacerbated when communities live in rural areas and or have limited or no access to broadband.

Reliable access to banking is an engine for economic mobility and wealth accumulation. However, these opportunities are stifled when entire populations are excluded from

[3] Blakey, Douglas. (2023). US Bank Branch Numbers Fall to 40 Year Low. *Retail Banker International*. www.retailbankerinternational.com/features/us-bank-branch-numbers-fall-to-40-year-low/?cf-view
[4] Federal Reserve Bank of Philadelphia. (2024). *U.S Bank Branch Closures and Banking Deserts.* https://www.philadelphiafed.org/-/media/frbp/assets/community-development/reports/banking-deserts-report-feb-2024.pdf

participating. When these communities are unable to access traditional banking services, credit, and investment opportunities, they become disproportionately vulnerable to predatory lending[5] (e.g. payday lenders and check-cashing services), financial exploitation, and economic downturns. This exclusion exacerbates existing wealth disparities and hampers overall economic growth. Moreover, it undermines the resilience of the financial system by concentrating risk in specific pockets in the market. Concentrating power and wealth in some areas, while various communities with limited access to financial services and credit are steered into higher risk financial services, creating a dual financial system,[6] one that delivers "very different sets of products—and results—for wealthy white people and for people of color." The regulators' approval process for bank mergers was criticized for its perceived lack of thorough review, often being seen as a mere formality rather than a meaningful evaluation of bank mergers and acquisitions. This lack of intentionality has perpetuated this two-tiered financial system by failing to meet the convenience and needs of low-income communities and communities of color, creating ripple effects in our financial system that maintain and increase unbanked and underbanked populations.

Bank consolidation through mergers have decimated smaller banks, and created a platform for the largest banks to consistently grow. For example, Capital One's history of mergers and acquisitions since 2005 has allowed it to become one of the top 10 largest banks in the US.[7] Through its various mergers, Capital One has shut down mortgage divisions, eliminating jobs, and critical access to credit in various communities.[8] Similar patterns emerged in its acquisition of ING Direct in 2012, closing 42 branches a year after its acquisition,[9] in addition to mortgage and home equity lines of credit divisions. Despite the critical need of community banks that center community needs, post merger trends have shown repeatedly that prioritizing profits[10] at the expense of community needs is central to a bank's business model.

Due to the aforementioned realities experienced by low-income communities and communities of color, Greenlining recommends that a race-conscious approach become a mandatory component in the review of the financial stability factor, where merger approval is contingent on mitigating disparate impacts on low-income and communities of color, specifically as it impacts the reduction of products and services due to the lack of availability of substitute providers. The trends and data underscored above suggest that the reduction of banking products and services

---

[5] Cyrus, Ramenda. (2023). Predatory Lending's Prey of Color. *The American Prospect*. https://prospect.org/economy/2023-06-05-predatory-lendings-prey-of-color/

[6] Greer, Jeremie. (2022). Wealth Building Won't Work While Wealth Extraction Continues. Shelter Force. https://shelterforce.org/2022/02/14/wealth-building-wont-work-while-wealth-extraction-continues/

[7] Horton, Cassidy. (2024). Largest Banks in The U.S. 2024. Forbes. https://www.forbes.com/advisor/banking/largest-banks-in-the-us/

[8] Wilchines, Dan. (2007). Capital One slashes jobs, mortgage industry swoons. Reuters. https://www.reuters.com/article/us-financial-mortgages-idUSN2027429520070820/

[9] Van Tol, Jesse. (2023) Time to Change Bank Merger Reviews: NCRC CAlls for New Rulemaking Process. National Community Reinvestment Coalition. https://ncrc.org/time-to-change-bank-merger-reviews-ncrc-calls-for-new-rulemaking-process/

[10] Dobbs, Jim. (2023). Why the torrid pace of branch closings has cooled. American Banker. https://www.americanbanker.com/news/why-banks-are-closing-so-many-branches

has had a disproportionate impact on vulnerable communities. Disparate impact data should be assessed and integrated into the merger review process and shared with community members and the public. This is an opportunity for acquiring banks to submit strategic plans similar to the Community Reinvestment Act (CRA) strategic plans[11] indicating how they will mitigate disparate impact and work with the community in order to meet those goals.

Financial and Managerial Resources and Future Prospects

Question 17: To what extent is the FDIC's evaluation of financial resources appropriate, and what additional items, if any, should be considered?

We commend the FDIC for refraining from using specific performance standards that would allow banks to have a presumption of approval or streamlined review protocols. It is imperative to review each bank merger individually on the merits, facts, and circumstances and to avoid adopting a one size fits all approach that allows for problematic mergers to be streamlined for approval.

In addition, as stated in the FDIC's proposed statement of policy "the evaluation of managerial resources includes an assessment of each entity's record of compliance with respect to consumer protection, fair lending, and other relevant consumer laws and regulations." Historically, reviews have been siloed and lack coordination between federal agencies, including the Consumer Financial Protection Bureau (CFPB). Coordination with the CFPB is an important component to holistically capturing data and records that may expose governance and supervisory issues such as non-compliance with consumer protection and fair lending laws. Community members continue to be concerned about consumer protection in the event of bank mergers. They worry that larger, merged banks may not prioritize the needs of individual consumers, leading to higher fees, less personalized service, and potentially predatory lending practices. Violations of consumer protection and anti-discrimination laws should be defined as a failure to implement managerial controls and need to be addressed appropriately. Minor violations can speak to larger systemic issues that necessitate additional review and investigation, including delay or denial of a merger application until remediation plans are in place.

In addition, management should demonstrate the prioritization of Diversity, Equity, and Inclusion (DEI) in their practices, products and services. Financial institutions that prioritize DEI have a competitive advantage[12] over their peers – better positioned to address racial inequity, increased customer and employee satisfaction, and improve overall performance and business growth. However, lack of integration of DEI within corporate strategy continues to be a challenge for financial institutions, limiting their ability to address critical aspects of racial inequality that

[11] https://www.federalreserve.gov/consumerscommunities/cra_strategic.htm
[12] Glover Blackwell, Angela et al. (2017). The Competitive Advantage of Racial Equity. *FSG and Policy Link.* https://www.policylink.org/resources-tools/competitive-advantage-racial-equity

result in disparities in access to financial services. Despite the efforts to eliminate discrimination in the financial services sector, structural racism persists, evident in exclusionary practices and biases exercised by both large national banks and smaller community banks. Research shows[13] that the minimum opening deposit is substantially higher in communities with majority Black populations ($80.60) and in communities that are more racially diverse without a White, Black, or Latinx majority ($97.00) when compared to majority White communities ($68.50). Lack of access to basic financial services that are affordable, like checking and savings accounts, are contributing factors to the increased racial wealth divide.

Greenlining has advocated for race-conscious solutions in the financial services sector to address the increasing racial wealth gap. Through our banking partnerships, we have elevated products and services, such as people-based Special Purpose Credit Programs that help increase small business and mortgage lending in BIPOC communities and advocate for affordable checking and savings accounts. In addition, Greenlining has reported on the importance of bank board diversity data for over a decade (2023 report)[14], elevating its importance in bank meetings between community-based organizations and bank representatives/leadership, through the process of developing community benefit agreements. However, amidst these efforts, trends indicate that bank boards continue to be predominately white and male, even though data shows that more diverse financial institutions are more competitive and financially stable[15]. And more importantly, in the context of the Community Reinvestment Act, diversity in decision-makers is core to increasing access to capital[16] for low-income communities in order to address the widening racial wealth gap.

Greenlining recommends that the FDIC include findings from Equal Employment Opportunity Reports in its statement of policy and review of merger applications, including a requirement that banks describe their efforts to promote gender, racial, and ethnic diversity in their boards, senior management, and branch personnel. These reports are available to regulating agencies and can help demonstrate prioritization of diversity, equity, and inclusion in the workplace for a more financially stable and sustainable management and workforce.

Section V, Convenience and Needs

Question 20: How could the Proposed SOP more effectively describe the FDIC's expectations with regard to its review of the convenience and needs factor, and what notable considerations, if any, are overlooked?

---

[13] Faber, Jacob & Friedline, Terri. (2018). The Racialized Cost of Banking. *New America*. https://www.newamerica.org/family-centered-social-policy/reports/racialized-costs-banking/
[14] Plasencia, Erica. (2022). The Benefits of Bank Board Diversity. *The Greenlining Institute.* https://greenlining.org/2023/2022-bank-board-diversity-analysis/
[15] U.S House Committee on Financial Services. *Diversity and Inclusion: Holding America's Large Banks Accountable. (H. Rpt. 116).* Washington: Government Printing Office, 2020.
[16] Dolan, Kevin, et al. (2020). Diversity Still Matters. *Mckinsey & Company.* https://www.mckinsey.com/featured-insights/diversity-and-inclusion/diversity-still-matters

Question 28: What other elements should be considered in the evaluation of the convenience and needs of the community with respect to mergers?

Consideration of Past CRA Ratings: Greenlining commends the FDIC for enhancing its review of the convenience and needs factor which is central to holding IDIs accountable to meet the credit needs of low-income communities and communities of color. One of the components of the convenience and needs factor is CRA ratings. The FDIC clarifies that the "FDIC's review is not limited to the CRA record of the institutions and will encompass a broad review of the institutions' existing products and services and whether the products and services proposed by the applicants will meet the convenience and needs of the community to be served." It is imperative to not view CRA ratings in isolation nor as a benchmark for positive or favorable findings in the convenience and needs factor. In addition, CRA performance should not be equated with adherence to consumer protection and fair lending laws. National Community Reinvestment Coalition (NCRC) and Rise Economy's forthcoming research of redlining cases showed that in the last nine years, the Department of Justice has brought redlining complaints against 17 banks. Of those 17 banks, 13 passed their CRA exams, 11 got a Satisfactory rating, two got an Outstanding rating, two received "Needs to Improve", and two others passed and were later downgraded. These are concerning statistics given that the CRA is our nation's premier anti-redlining law. Banks that redline should not pass their CRA exams nor be granted approval to merge.

Greenlining recommends that the FDIC use the most recent CRA exam in the applicant's merger review, with the qualification that if the applicant has had a grade under satisfactory in any of the last three exams that the merger is not approved until remediation plans are in place. In addition, while past CRA performance is critical to understand future performance, it is imperative to review the changes the resulting institution will undergo. This means assessing the new decision making structures, products and services and identifying if they will improve or worsen the applicant's ability to address the convenience and needs factor in the future. This would require the FDIC and the public to assess to what extent the banks promise to uphold policies and practices that receive positive marks in past CRA exams and are in alignment with community needs.

Requiring Community Benefit Agreements: In addition, Greenlining appreciates the FDIC's explicit language citing that "The FDIC expects that a merger between IDIs will enable the resulting IDI to *better* meet the convenience and the needs of the community to be served than would occur absent the merger." Greenlining and its coalition are strongly in favor of the FDIC's guidance that applicants need to demonstrate how overall performance will be improved through the resulting institution's products and services. However, if performance post merger is expected to increase then applicants need additional guidance and community centered ways to meet those expectations.

Overall, this additional guidance is a step in the right direction, however, the FDIC's proposed statement of policy fell short in providing additional clarity and clear expectations on the ways applicants can demonstrate "how the transaction will benefit community such as through higher lending limits, greater access to existing products and services, introduction of new or expanded products or services, reduced prices and fees, increased convenience in utilizing the credit and banking services and facilities of the resulting IDI, or other means." The FDIC acknowledged that RFI commenters suggested community benefit agreements (CBAs) as a means for accountability in meeting the convenience and needs factor, further stating that "as appropriate, claims and commitments made to the FDIC to support the FDIC's evaluation of the expected benefits of the merger may be included in the order, and the FDIC's ongoing supervisory efforts will evaluate the Insured Depository Institution's (IDI's) adherence with any such claims and commitments."

Greenlining recognizes this statement as an improvement in bank merger reviews and commends the FDIC for including language that elevates the importance of bank commitments that identify post-merger improvements, in addition to post-merger enforcements of such claims and commitments made by the bank. We urge the FDIC to retain this proposed language, with the addition of providing additional guidance on CBAs and elevating them as one of the best tools that centers community expertise and needs. In order to hold bank's accountable to these commitments, CRA exams and CRA ratings should reflect a bank's progress or lack thereof. In addition, it is imperative that a distinction is made between applicants who make unilateral commitments without community input or participation and applicants who include a diverse set of community organizations to inform how they will improve the public benefits of the community.

As the data presented above indicates, community benefit agreements are one way to mitigate the continued effects of bank mergers on the most vulnerable populations. For example, the National Community Reinvestment Coalition (NCRC) and New York Community Bancorp, Inc (NYCB) negotiated a community benefit agreement[17] when community based organizations expressed lending concerns in the acquisition of Flagstar Bank, particularly its residential mortgage lending, grantmaking to community based organizations, community development lending and investments, and branch closures. The CBA provided an avenue for various organizations representing the public to express their needs and provide on-the-ground impacts of the merger. The end result brought targeted commitments to small business and residential mortgages in majority-minority communities and branch commitments with no closures in LMI or majority-minority communities, to name a few.

---

[17] National Community Reinvestment Coaltion. 2022. *NCRC And New York Community Bancord Announce $28 Billion Community Benefit Agreement To Support Communiites Of Color, Small Businesses, And Ongoing Commitment To Responsible Multi-Family Lending.* [Press Release] https://ncrc.org/ncrc-and-new-york-community-bancorp-announce-28-billion-community-pledge-agreement-to-support-communities-of-color-small-businesses-and-ongoing-commitment-to-responsible-multi-family-lending/

Community benefit agreements can serve as an accountability mechanism to ensure that disparate impacts are reduced by setting intentional targets for increased lending and investments targeted in low-income and majority-minority communities, all informed by and centered on community needs. Merging institutions need to demonstrate either through CBAs or through the FDIC's convenience and needs analysis, how the transaction will benefit the public and improve conditions post merger. Lastly, community benefit agreements need to be a binding agreement, signed by the bank's CEO and board, that is a central component of the convenience and needs analysis. Fulfillment of a previous community benefit agreement should also be considered by the FDIC in merger applications. Developing such agreements that demonstrate that acquiring banks are in collaboration with the communities that will be impacted by the merger should be a condition of merger applications. Devoid of this accountability mechanism, and as data has shown, disparate impact on these specific communities will continue to rise, widening the racial wealth gap.

Due to the aforementioned benefits of a CBAs, Greenlining recommends that the policy statement states that CBA's should be a legally binding agreement that is negotiated with a diverse set of community based organizations and include measurable goals for meeting needs that will be factored into the overall needs analysis. Lastly, the agencies should provide additional guidance by defining CBAs in their regulations and application materials, indicating that partnerships with community organizations are key to identifying and responding to diverse sets of community needs.

Reviewing Performance through a Race-Conscious Approach: Greenlining's coalition of 40 grassroots based organizations have tirelessly advocated for an explicit race-conscious lens in the Community Reinvestment Act (CRA) and in the Bank Merger Application review. When these considerations are ignored, systemic inequities are exacerbated. Low-income communities and communities of color are not synonymous, therefore any attempt to address the racial wealth gap will come short absent of a race-conscious approach. Calls to eliminate diversity, equity, and inclusion[18] initiatives as well as race-conscious programs following the Supreme Court's affirmative action ruling[19] ending all race-based admission programs in colleges and universities have demonstrated regressive attempts that will perpetuate systemic inequities caused by years of disinvestments in formerly redlined communities. These attempts ignore fair lending and equal credit opportunity laws that establish legal grounds for lending to communities with protected characteristics. Further, interagency support[20] and guidance have been provided,

---

[18] Watson, Leah. (2024). Anti-DEI Efforts Are the Latest Attack on Racial Equity and Free Speech. *American Civil Liberties Union.* https://www.aclu.org/news/free-speech/anti-dei-efforts-are-the-latest-attack-on-racial-equity-and-free-speech

[19] Totenberg, Nina. (2023). Supreme Court guts affirmative action, effectively ending race-conscious admissions. *National Public Radio.* https://www.npr.org/2023/06/29/1181138066/affirmative-action-supreme-court-decision

[20] Federal Deposit Insurance Corporation. (2022). *Interagency Statement on Special Purpose Credit Programs Under the Equal Credit Opportunity Act and Regulation B.* https://www.fdic.gov/news/financial-institution-letters/2022/fil22008.html

including the U.S. Department of Housing and Urban Development[21] and the Consumer Financial Protection Bureau[22] affirming lending based on protected characteristics, particularly for Special Credit Purpose Programs.

As such, lending institutions and regulatory agencies can and should implement race-conscious programs that address racial and economic disparities, particularly economic conditions impacted by race. Greenlining recommends that the FDIC's comprehensive review of the convenience and needs factor should include communities of color, identifying impacts through majority-minority census tracts.

Question 26: What additional information should be included in the application materials to enable a more comprehensive review of branch closings or consolidations? What additional information should be included in application materials related to retail delivery systems?

Impact on Local Economic Ecosystem: When banks and branches close there is a ripple effect on the local economic ecosystem that impacts not only community members, but small businesses and jobs that help maintain a strong financial ecosystem. A 2023 report[23] from the Federal Reserve Banks indicated that an overwhelming share of small businesses still rely on banks for financing applications, and many cite their relationship with their lender as the reason they continue to work with them. These banking relationships matter and remain critical for supporting small businesses in their communities.

In addition, changes in lending practices post-merger can decrease small businesses' access to credit. Small businesses, which may already struggle to access credit compared to larger corporations,[24] could find it even more challenging to secure loans or lines of credit following a merger, especially if the merged entity decides to tighten lending standards or focus more on larger, more profitable clients. Moreover, mergers can lead to increased fees and charges due to service consolidation and branch closures, further constraining small businesses' bargaining power. Additionally, changes in product offerings that were beneficial to small businesses may force them to alternative financial institutions that have less favorable and more expensive terms. Lastly, geographical impacts such as branch closures in rural areas exacerbate access

[21] The U.S. Department of Housing and Urban Development. (2021). *Office of General Counsel Guidance on the Fair Housing Act's Treatment of Certain Special Purpose Credit Programs That Are Designed and Implemented in Compliance with the Equal Credit Opportunity Act and Regulation B.* https://www.hud.gov/sites/dfiles/GC/documents/Special_Purpose_Credit_Program_OGC_guidance_12-6-2021.pdf

[22] The Bureau of Consumer Financial Protection. (2020). *Advisory Opinion on Special Purpose Credit Programs.* https://www.consumerfinance.gov/rules-policy/final-rules/advisory-opinion-on-special-purpose-credit-programs/

[23] 2023 Report on Employer Firms: Findings from the 2022 Small Business Credit Survey." 2023. Small Business Credit Survey. Federal Reserve Banks. https://doi.org/10.55350/sbcs-20230308

[24] Brown, Sherrod. (2022). Brown Urges Fed and OCC to Scrutinize Bank Mergers. https://www.brown.senate.gov/newsroom/press/release/sherrod-brown-fed-occ-scrutinize-bank-mergers. [Press Release].

issues, pushing businesses to travel farther or rely on less accessible online services. All of these factors affect job growth and economic development, and have disproportionate impacts on historically disadvantaged communities, particularly low-income, people of color, and those living in rural and remote areas.

Greenlining compliments the FDIC's inclusion of a comprehensive branch analysis that states that "The FDIC will evaluate all projected or anticipated branch expansion, closings, or consolidations for the first three years following consummation of the merger…applications that project material reductions in service to low- and moderate-income communities or consumers will generally result in unfavorable findings." This review calls for additional conditions to enforce minimal to no closures of branches in low- to moderate-income and majority-minority neighborhoods post-merger, including the recommendations listed below.

Greenlining recommends that the FDIC require the inclusion of impacts of branch closings and consolidations not only on LMI but on communities of color in their analysis of the areas listed in the proposed SOP, including the consideration of the following criteria:

- Projected branch losses or closures in majority-minority census tracts in comparison to majority white census tracts
- Projected job losses resulting from branch closures in branch networks of acquiring banks
- Reduction in availability of products and services in rural and Native land and communities.
- Impacts to small businesses of color; loss of small business products and services targeted to small businesses of color
- Detailed threshold of aforementioned data points that clarify the FDIC's framework to determine minimal to significant impacts
- Detailed list of public benefits that outweigh any potential negative impacts on underserved communities

In addition, the proposed policy statement should be more expansive when considering impacts to LMI and other communities in the context of branch availability, and should also provide an analysis of the bank's ability to meet needs for credit, deposit and other banking services for LMI and communities of color.

The FDIC's analysis of the aforementioned factors should be contingent on approval of the bank merger application.This report will help the public understand the factors that are reviewed prior to approval and its analysis of disparate impact on communities of color and local economies.

Public Comments and Meetings

Question 22: What are the pros and cons of holding a hearing for merger applications resulting in an IDI with greater than $50 billion in assets or for which a significant number of CRA protests are

received? For what other situations, in addition to those described, would it generally be in the public interest to hold hearings?

Question 23: How can the FDIC best consider comments and feedback from the public in the context of evaluating the convenience and needs of the community to be served, consistent with the BMA's public notice requirements?

Full engagement and participation from the public is needed to satisfy the public benefit requirement of the Bank Merger Act. Processes that are unclear and inaccessible to the public raise procedural equity concerns, as the public and community are central to the Bank Merger Review.

First, public comments are a critical component of the bank merger process. This process provides the public an opportunity to express local impacts of mergers and acquisitions, allowing regulators and merging banks to zoom in on issues that they are not aware of at a macro level. Greenlining appreciates the FDIC's efforts to update their website to increase transparency on comments received on applicants. To enhance public engagement, the FDIC must extend comment periods for community members to participate in the process. This allows for individuals and organizations with diverse abilities and needs to obtain the support they need in writing a formal comment letter. By providing this additional time, regulators allow a diverse set of voices to help inform decisions about the merger. Furthermore, clarity is needed around comment letter deadlines, particularly when and if comment letters received after the deadline are used to inform bank merger decisions. In addition, communities affected by the merger necessitate outreach from the acquiring financial regulator in order to reflect the varying public impacts the proposed merger could have on its local communities. For example, after the failure of Silicon Valley Bank and First Citizens acquisition, there was uncertainty as to the validity of Silicon Valley Bank's community benefit agreement that was negotiated with NCRC, Greenlining, and Rise Economy. While this situation was unique, outreach from the regulating agency, as well as the acquiring bank would have resolved pending concerns from the acquisition and its impact on various communities.

Secondly, public hearings provide opportunities to give voice to the concerns and potential impacts expressed in comment letters. The additional language from the FDIC indicating that they expect to hold hearings for applications resulting in an IDI with greater than $50 billion in assets or for which a significant number of CRA protests are received help provide a platform to voice concerns, particularly for banks that impose larger systemic risks, i.e., "too big to fail" banks. In order to increase public participation in hearings, the FDIC needs to clarify the process for requesting a public meeting, the appropriate channels, and specific contacts that can be referenced in the process. These channels of communication need to consider the diverse needs of community groups such as language accessibility and broadband access (for remote purposes). In addition, based on our participation in public hearings, we have seen that banks themselves use their social and financial capital to increase participation in the hearing and

unfairly influence the outcome of their merger application. In the public hearings that our coalition has participated in, they have found it difficult to meaningfully address their concerns due to the short time available to speak, the undue pressure from banks for community members to make positive statements or be at risk of losing existing funding or jeopardizing ongoing banking relationships, and the inaccessibility of the times that the hearings are held (often in the middle of a work day). It is important to consider whether the type of public hearing structure is conducive to public participation. In addition, as mentioned in the proposed SOP, it is likely that the FDIC may hold public or private meetings to receive input on the transaction. It is necessary to disclose any and all private meetings with members of the public and or applicants in order to ensure transparency, fair and equal treatment, and trust in the process.

Greenlining recommends the following to improve opportunities for public comment:

- Extending public comment period from 30 days to a minimum of 60 days. Comment periods should automatically be extended if there is a FOIA request.
- Intentional and persistent outreach from regulators to include local community organizations potentially impacted by the merger in public comments/hearings.
- Provide clarity on comment letters received after deadlines and if letters impact the Bank Merger review process decisions.
- Address language and broadband accessibility concerns in public hearings.

Conclusion

While promoting a competitive and efficient banking sector is undoubtedly important, it must not come at the expense of low-income communities and communities of color. By incorporating a strong focus on the convenience and needs of these communities into the bank merger review process, and clearly defining and mitigating measures of impact, regulators can help foster a more equitable and inclusive financial system. Transparency and accountability mechanisms like community benefit agreements are essential to mitigate adverse impacts on vulnerable communities and promote inclusive economic growth. Recommendations provided in our comments, including the incorporation of racial equity impacts in majority-minority communities, impacts on local economies, and the inclusion of diversity, equity, and inclusion considerations in merger reviews, are crucial steps toward achieving these goals. We thank the FDIC for the opportunity to comment on this process and welcome a more comprehensive review of the bank merger application process in the near future.

Sincerely,

Debra Gore-Mann
President & CEO, The Greenlining Institute

Endorsed by:

Greenlining Coalition

Access + Capital

AnewAmerica Community Corporation

Asian Business Association of Silicon Valley

Asian Business Association of Los Angeles

Asian Pacific Islander Small Business Collaborative

Black Cultural Zone Community Development Corporation

California Journal for Filipino Americans

Community Development, Inc.

Council of Asian American Business Associations of California

El Concilio of San Mateo County

Faith and Community Empowerment (FACE)

Fresno Metro Black Chamber of Commerce

Inland Empire Latino Coalition

San Francisco Filipino American Chamber of Commerce

Southern California Black Chamber of Commerce

The Unity Council