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FDIC Issues Request for Information and Comment on Bank Mergers



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Last week the FDIC [announced](#) it will publish in the *Federal Register* a Request for Information and Comment (“RFI”) on the regulatory framework regarding mergers involving one or more insured depository institutions (*i.e.*, bank mergers). This is the RFI that resulted in [competing statements](#) from the FDIC and CFPB in December and appeared to prompt the [resignation](#) of the then-Chair of the FDIC.

The preamble to the RFI notes four reasons for the request for information: (1) several decades of changes to the banking industry since the last major review; (2) the FDIC’s responsibilities to review bank mergers and resolve failing depository institutions; (3) Section 604 of the Dodd-Frank Act’s amendment to the Bank Merger Act that added a financial stability factor; and (4) the recent [Executive Order](#) to federal agencies on competition.

The RFI asks 10 questions in order to assist the FDIC on whether the existing framework is effective or whether it should make any changes to its regulatory framework related to bank mergers.

The RFI is likely to elicit comments from the industry and community advocates. Most interested parties will likely be in agreement that the bank merger regulatory framework is ripe for updating. That is likely where the agreement will end. Community advocates will likely echo calls like those made by some [Congressional Democrats](#) to impose increased scrutiny on mergers where the resulting institution would have more than \$100 billion in assets. The industry is likely to raise issues with whether the use of local markets is still the right measure in light of technological advances, and point out the multiple non-bank competitors and fintechs that compete with banks but are not included in the competitive analysis conducted by the banking agencies or the Department of Justice.

Comments on the proposal are due 60 days after publication in the *Federal Register*.
