The Bank Merger Review Modernization Act

Before banks merge, they need approval from federal regulators, including the Federal Reserve ("Fed"), the Federal Deposit Insurance Corporation (FDIC), or the Office of the Comptroller of the Currency (OCC). The review process for bank mergers, however, is fundamentally broken. Voluntary bank mergers have driven a rapid decline in the number of banks from over 12,000 in 1990 to less than 5,000 today. Studies show that bank mergers can result in higher costs to consumers and decreased access to financial products, particularly in low- and moderate-income communities. And when two large banks merge, it poses even greater risks for the economy, potentially creating a bank that's too big to manage effectively or ones that's "Too Big to Fail," threatening the stability of our financial system.

When regulators consider a merger, they are supposed to evaluate a number of factors, including: (1) whether the merger will create local monopolies for banking services; (2) whether the merged bank will be well managed; (3) whether the new bank creates risk to the financial system; and (4) the merger's effects on the public, including consumers. In practice, however, financial agencies almost exclusively focus their analyses on narrow measures of competitiveness that fail to account for the broader impacts of the merger and often pre-review the merger in secret with banks before they announce it publicly. As a result, the merger review practice lacks analytical rigor, and regulators serve as rubber stamps. Of the 3,819 bank merger applications the Fed received between 2006 and 2017, it did not decline a single one.

Less than two years ago, regulators approved the merger of BB&T and SunTrust, creating the sixth-largest bank in the United States and the first new Too Big to Fail Bank since the financial crisis.

It's time to stop rubberstamping bank mergers at the expense of consumers, communities, workers and the financial system. **The Bank Merger Review Modernization Act would strengthen the statutory framework under which bank and savings and loan holding company mergers are evaluated by:**

- *Guaranteeing that the Merger is in the Public Interest.* The legislation clarifies and strengthens the public interest aspect of the merger review by:
  - Requiring Consumer Financial Protection Bureau approval when at least one applicant offers consumer financial products;
  - Strengthening the Community Reinvestment Act (CRA) by only allowing institutions with the highest rating in two out of three of their last CRA exams to merge; and
  - Requiring transparent disclosure of discussions between the institutions and regulators before the merger application is filed.

- *Safeguarding the Stability of the Financial System.* The legislation requires regulators to use a quantifiable metric developed by the Basel Committee on Banking Supervision to evaluate systemic risk. The score is based on the size, interconnectedness, substitutability, complexity, and cross-jurisdictional activity of the institution.

- *Requiring that Regulators Examine the Anticompetitive Effects on Individual Banking Products.* The legislation requires regulators to examine how the merger would impact market concentration for individual banking products, such as commercial deposits, home mortgage lending, and small business lending in addition to the general availability of banking products in local markets. Regulators would also be required to evaluate a number of other factors when evaluating competitiveness, including whether the merger would result in diminished product quality or the potential exploitation of consumers' data.

- *Ensuring that the Merged Bank has Adequate Financial and Managerial Resources.* The legislation requires regulators to review the leadership of the merged institution to ensure that the selected individuals have strong records with respect to risk management. Larger institutions would also have their balance sheets examined to ensure that they will be on solid financial footing.