

May 5, 2025

The Honorable John Thune
United States Senate
511 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Charles Schumer
United States Senate
322 Hart Senate Office Building
Washington, D.C. 20510

Re: Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Office of the Comptroller of the Currency of the Department of the Treasury relating to the review of applications under the Bank Merger Act (S.J. Res. 13)

Dear Majority Leader Thune and Minority Leader Schumer:

The American Bankers Association (ABA)¹ writes today in support of S.J. Res. 13, introduced by Sen. John Kennedy (R-LA), “Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Office of the Comptroller of the Currency of the Department of the Treasury relating to the review of applications under the Bank Merger Act.”

In 2024, ABA welcomed the OCC’s proposal to update its bank merger rules, as the OCC’s rules as well as those of the additional bank regulatory agencies are in need of modernization. In particular, the traditional analysis of competition should be updated to reflect today’s financial services landscape in which banks face significant competition from a wide range of nonbank entities. It is important to include all possible competitors when making a regulatory assessment of the impact of a merger on competition and the public.

The ABA submitted extensive comments on the proposed rule in April 2024. The agency’s final rule, however, did not address several of the concerns outlined in ABA’s comments. Instead, the OCC created unhelpful new standards that lack transparency and necessary predictability that reflect a degree of bias against mergers. Among the several flaws, the new rule and policy statement use an arbitrary size factor that is very likely to result in an automatic disapproval of certain mergers. This arbitrary standard is not warranted by law and is inconsistent with Congressional intent in enacting the Bank Merger Act.

Moreover, the final rule eliminated a streamlined review process that had been in place for many years for merger applications, such as internal corporate reorganizations, which do not present any legal or policy concerns under the Bank Merger Act. Although the final rule emphasized the importance of analyzing a proposed merger’s impact on financial stability, the OCC ignored detailed

¹ The American Bankers Association is the voice of the nation’s \$24.1 trillion banking industry, which is composed of small, regional and large banks that together employ approximately 2.1 million people, safeguard \$19.2 trillion in deposits and extend \$12.7 trillion in loans.



Kirsten Sutton
Executive Vice President
Congressional Relations & Legislative Affairs
202-663-5356
ksutton@aba.com

criteria for assessing systemic risk already developed by the regulatory agencies. Finally, it is unclear what factors the OCC will weigh for and against approval of an application. As ABA President and CEO Rob Nichols said recently in response to the September 2024 OCC and FDIC policy statements on mergers, “With the ongoing regulatory tsunami creating increased pressure for consolidation, regulators must ensure that banks that decide to combine have clear standards for how proposed mergers will be evaluated, that regulators’ decisions will be made promptly, and that the approval process will not reflect a bias against mergers.”

Unfortunately, the OCC’s rule does not meet this standard, and we applaud Sen. Kennedy for his leadership on this issue and strongly urge the Senate to pass S.J. Res. 13, the resolution of disapproval of the OCC’s merger rule.

Sincerely,

A handwritten signature in black ink that reads 'Kirsten Sutton'.

Cc: Members of the United States Senate