

FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 82-28

March 10, 1982

PROPOSED POLICY STATEMENT FOR ASSESSING COMPETITIVE FACTORS UNDER THE BANK MERGER ACT AND BANK HOLDING COMPANY ACT

TO ALL MEMBER BANKS,
BANK HOLDING COMPANIES
AND OTHERS CONCERNED IN THE
ELEVENTH FEDERAL RESERVE DISTRICT:

The Board of Governors of the Federal Reserve System has issued a proposed policy statement to provide guidance on certain types of competitive situations in which the Board, or a Federal Reserve Bank, would subject applications for approval of bank acquisitions, mergers, or consolidations to intensive scrutiny.

Enclosed are copies of the Board's press release and the proposed policy statement. Interested persons are invited to submit comments to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comments must be received on or before April 9, 1982, and should refer to Docket No. R-0386.

Questions regarding this circular and enclosure may be directed to Robert D. Hankins, Ext. 6120 or Gayle Teague, Ext. 6481, of our Holding Company Supervision Department.

Additional copies of this circular and enclosure will be furnished upon request to the Department of Communications, Financial and Community Affairs of this Bank, Ext. 6289.

Sincerely yours,



William H. Wallace
First Vice President

Enclosure

FEDERAL RESERVE press release



For immediate release

February 26, 1982

The Federal Reserve Board today proposed a policy statement to provide guidance on certain types of competitive situations in which the Board, or a Federal Reserve Bank, would subject applications for approval of bank acquisitions, mergers, or consolidations to intensive scrutiny.

The Board requested comment by April 9, 1982.

The proposed guidelines do not deal with "horizontal" applications -- involving acquisitions by direct competitors. The Board expects to issue its own guidelines in this area when revised Department of Justice guidelines are available.

Under the proposed guidelines, the Board would make an intensive examination of situations involving all of the following circumstances:

- The market of the firm to be acquired is highly concentrated.
- There are relatively few probable future entrants into the market.
- The market of the firm to be acquired is in a Standard Metropolitan Statistical Area (SMSA) and is attractive for entry.
- The firm to be acquired is among the leaders in its market.

Details are set forth in the attached text of the proposed policy statement.

Attachment

FEDERAL RESERVE SYSTEM

12 C.F.R. Chapter 11

Statement of Policy on Bank Acquisitions

[Docket Number R-0386]

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed Policy Statement.

SUMMARY: In the interest of simplifying and expediting the processing of applications for bank acquisitions requiring Board approval and in the interest of providing guidance to the public concerning the competitive analysis applied by the Board of Governors of the Federal Reserve System ("Board") in passing upon bank acquisitions, mergers or consolidations, the Board is issuing for public comment a policy statement setting forth proposed guidelines. The guidelines describe the circumstances under which market extension proposals may be subject to an in-depth inquiry by the Board or the relevant Federal Reserve Bank before a determination is made regarding the competitive effects, and should lead to a substantial reduction in the number of cases requiring such an inquiry.

The proposed guidelines do not deal with the issue of horizontal acquisitions, that is, acquisitions between direct competitors. The Board has incorporated the current Department of Justice Merger Guidelines into competitive analysis involving the elimination of existing competition; and the Board intends to issue guidelines in this area. Since the Department of Justice is revising its guidelines, however, the Board believes it more appropriate to defer issuing its own guidelines until the new Department of Justice guidelines are available.

DATE: Comments must be received on or before April 9, 1982.

ADDRESS: William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All materials submitted should include the Docket Number R-0386.

FOR FURTHER INFORMATION: Joe M. Cleaver, Assistant Director, Division of Research and Statistics (202/452-3906); or Anthony S. Winer, Attorney, Legal Division (202/452-2418), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

POLICY STATEMENT OF THE BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM FOR ASSESSING COMPETITIVE FACTORS
UNDER THE BANK MERGER ACT AND BANK HOLDING COMPANY ACT

The Board is required under the Bank Merger Act (12 U.S.C. § 1828(c)) and the Bank Holding Company Act (12 U.S.C. § 1842(c)) to pass upon the competitive effects of: (1) a merger, consolidation,

or acquisition of assets or assumption of liabilities, if the acquiring, assuming, or resulting bank is to be a State member bank; (2) a proposal to become a bank holding company, to acquire ownership or control of shares or assets of a bank, or to merge or consolidate with any other bank holding company. The Board believes it can most effectively meet its statutory responsibilities and simplify and expedite the applications process by establishing criteria that identify more serious competitive questions and thus warrant the type of intensive scrutiny that could produce more detailed factual findings. Accordingly, the Board proposes to promulgate guidelines for market extension applications.

The following criteria will apply generally to the consideration of applications coming before the Board of Governors. The criteria will not ordinarily apply to a proposal in which the applicant is not a probable future entrant, as defined in the guidelines. It is important, however, to note the status of these criteria as "guidelines." The Board may, when necessary, require a greater or lesser degree of analysis in a particular case than would otherwise be indicated by the guidelines.

The Board will make an intensive examination of those situations that meet all four of the following criteria:

A. The Market of the Firm to be Acquired^{1/} is Highly Concentrated

The market will be considered highly concentrated if the three-firm deposit^{2/} concentration ratio is 75 per cent or greater.^{3/}

B. There are Relatively Few Probable Future Entrants Into the Market

For the purpose of determining whether there are "relatively few" probable future entrants, this term^{4/} is deemed to mean six or fewer, excluding the applicant.

1/ Hereafter referred to as "the market."

2/ The term "deposit" refers to domestic commercial bank deposits.

3/ The Board believes that the competitive impact of thrifts and other suppliers of banking type services should be taken into account, although the weight of this factor will vary according to the facts of the individual case.

4/ This number is intended to be used as a general guideline, since no single number can be used as a true indicator in all circumstances.

For the purpose of these guidelines, "probable future entrant" is defined as a commercial banking organization that is not already located in the market and is either:

- (1) one of the State's four largest, or
- (2) a lower ranking organization with:
 - (a) assets of \$1 billion or more, or
 - (b) assets of \$500 million or more in States where there are no lower ranking commercial banking organizations with assets of \$1 billion or more.

C. The Market of the Firm to be Acquired is in an SMSA and is Attractive for Entry

The market will be considered attractive for entry if:

- (1) the market has total deposits greater than \$250 million, and
- (2) the average growth rate of deposits during the last two calendar years^{5/}
 - (a) is equal to or greater than the growth rate of deposits in the State during that period, or
 - (b) is equal to or greater than the growth rate of deposits nationwide during that period.

D. The Firm to be Acquired is Among the Market Leaders

A firm is a market leader if it is among the three largest in a market and accounts for 10 per cent or more of deposits in the market.

Board of Governors of the Federal Reserve System, February 26, 1982.

(signed) William W. Wiles

William W. Wiles
Secretary of the Board

5/ For which data are available.

[SEAL]