

A Modest Yet Welcome Thaw for Banking M&A and Financial Stability

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While those of us in parts of the Mid-West and the East Coast received a snowy reminder this week that winter is still with us, a modest thaw of sorts nevertheless arrived on Thursday in Washington, D.C. for banking M&A and views on financial stability. The Federal Reserve has not only liberalized the key asset thresholds it [previously established in 2012](#) about the presumptions for its evaluation of the financial stability factor in banking M&A transactions, but also delegated authority to approve applications and notices that meet the newly revised thresholds to the Federal Reserve Banks. This revision has obvious parallels to recent statements from Chair Yellen, Governor Tarullo and other Federal Reserve officials over the past few years (including as recently as [December 2016](#)) that the current \$50 billion threshold for designation of a financial company as a SIFI may be too low. We believe that the delegation of authority to the Federal Reserve Banks could be at least equally as important, if not more important, as revisions to the financial stability thresholds because delegation should increase the chance that M&A transactions could proceed without the long delays that have recently been the norm in Federal Reserve Board reviews. Of course, all of the other requirements for delegation would also have to be met.

Before this week's action, the Federal Reserve had since 2012 imposed very low thresholds under which it would presume no financial stability concerns exist only exempting acquisitions of less than \$2 billion in assets or where the resulting firm would have less than \$25 billion in total assets. Only a small number of transactions met these thresholds. As part of [approving](#) the merger of People's United Financial, Inc., with Suffolk Bancorp earlier this week, the Federal Reserve liberalized these thresholds, stating that "[t]he Board's experience has shown that proposals involving an acquisition of less than \$10 billion in assets, or that result in a firm with less than \$100 billion in total assets, are generally not likely to create institutions that pose systemic risks" and that "the Board now presumes that a proposal does not raise material financial stability concerns if the assets involved fall below either of the aforementioned size thresholds, absent evidence that the transaction would result in a significant increase in interconnectedness, complexity, cross-border activities, or other risk factors." The Federal Reserve reiterated its position, however, that it maintains the authority to review the financial stability implications of any proposal, specifically noting any acquisition regardless of size involving a G-SIB.

In support of this liberalization, the Federal Reserve cited its approval of a number of transactions over the past two years, including several transactions where the acquirer and/or resulting firm were over \$100 billion or where the firm being acquired was over \$10 billion and thus exceeded the newly-revised financial stability thresholds. The increased thresholds and the delegation of authority to Federal Reserve Banks to process filings are welcome developments, especially for regional and community banking organizations that may be looking to acquire or be acquired. We would not, however, read the Federal Reserve's actions as a strong signal that it expects or desires increased financial industry acquisitions or consolidation. The financial stability factor is only one of many that must be evaluated and questions over how CRA or fair lending concerns, AML compliance, competition, general supervisory issues or public comment may affect a particular transaction will persist. This week's action may, however, represent more formal support from the Federal Reserve for efforts to raise the \$50 billion thresholds for SIFI designation and other purposes with a financial stability component under the Dodd-Frank Act.

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