THE BROOKINGS INSTITUTION
WEBINAR

BANK MERGERS AND INDUSTRY RESILIENCE

Washington, D.C.

Monday, May 9, 2022

PARTICIPANTS:

Introduction and Moderator:

AARON KLEIN
Senior Fellow
Center on Regulation and Markets
The Brookings Institution

Thoughts from the Comptroller:

MICHAEL HSU
Acting Comptroller
Office of the Comptroller of the Currency (OCC)

Panel:

MEHRSA BARADARAN
Professor of Law
UC Irvine

H. RODGIN COHEN
Senior Chairman
Sullivan & Cromwell LLP

ANDREW OLMEM
Former Deputy Director
U.S. National Economic Council
Former Deputy Assistant to the President
The White House

DANIEL K. TARULLO
Nonresident Senior Fellow
Hutchins Center on Fiscal and Monetary Policy
The Brookings Institution

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P R O C E E D I N G S

MR. KLEIN: Good morning. My name is Aaron Klein. I'm a Senior Fellow in Economic Studies at the Brookings Institution. It is my pleasure to welcome all of you here with us this morning to discuss topics revolving around bank mergers, acquisitions and resilience.

These issues are critically important as the American financial system continues to undergo structural changes that have been unleashed before us for decades and have continued to evolve in the state of financial crises, the COVID pandemic and the great transformation of our economy that we witness.

Look, about 40 years ago, America had 16,000 banks. About 30 years ago, we stopped allowing a prohibition in which banks couldn't bank in between in multiple states. When I teach and lecture, it's hard for kids to imagine a world in which your bank ended at your state line, but that was the legal requirement and structure for the United States for most of its creation only ending in the 1990s.

As we continue to see waves of consolidations and mergers to briefly pause to some degree during the immediate aftermath of the financial crisis, the number of banks in America have shifted drastically. And the growth of a few large institutions across the spectrum have been substantial.

As the financial crisis taught us, the correlation between bank mergers and the stability of the financial system and the resolvability of any individual financial system is critical to solving the problem of too big to fail. So these problems are before us. Society is evolving. Technology is evolving. How are we handling all this?

I can think of nobody more qualified to enlighten our thinking about this than the acting Comptroller of the Currency, Michael Hsu. Acting Comptroller Currency of Currency Hsu supervises nearly 1,200 national banks all across this country. Prior to joining the OCC, Mr. Hsu was an Associate Director in the Division of Supervision and Regulation at the Federal Reserve Board of Governors where he focused a lot of supervising globally, systemically important bank holding companies. And he cochaired the Fed's Systemic Risk Integration Forum. Worked on the Basel Global Committee.

In fact, Mr. Hsu has a deep experience globally. He began his career at the IMF. He served at the Department of Treasury helping to establish the Troubled Asset Relief or TARP program that radically saved our financial system during the financial crisis. He went onto work at the Securities and Exchange Commission. So Comptroller Hsu has a wide variety of financial regulatory experience, a framework and of actually living a financial crisis.

And with that it's my deep appreciation and opportunity to welcome Comptroller Hsu to share his thoughts this morning, and then we'll engage in a little conversation afterwards. So Comptroller, the floor is yours.

MR. HSU: Good morning and thanks so much for that warm introduction, Aaron. It's a real pleasure to be here this morning. Brookings has a long history of providing forums for thoughtful discussion and analysis of complex issues. Today's topic, bank mergers and resiliency adds to that history.

Bank mergers have received significant attention this past year. Concerns about the negative effects of bank mergers on competition, communities and financial stability have prompted some to call for a moratorium on merger activity. In response, others have defended the benefits of mergers. They note that the U.S. financial services market is highly competitive and mergers allow institutions to achieve needed economies of scale and to diversify risk through geographic or product expansion.

From my perspective, the frameworks for analyzing bank mergers needs updating. Without enhancements, there's an increased risk of approving mergers that diminish competition, hurt communities or present systemic risks. On the other hand, imposing a moratorium on mergers would lock in the status quo and prevent mergers that could increase competition, serve communities better and enhance industry resiliency.

To use the statistics analogy, continue to apply the current analytical frameworks, the risk is false/positive, a type one error while imposing a moratorium would risk false/negatives, a type two error. Our goal should be to minimize both types of error, to revise the frameworks for analyzing bank mergers so that bad mergers are prevented and good mergers are allowed.

In short, rather than being pro-merger or antimerger, we need frameworks that are smart on mergers. Bank mergers should serve communities, support financial stability and industry resilience, enhanced competition and enable diversity and dynamism of the banking industry. Provisions to the bank merger framework would help realize this goal.

The decision criteria used by the OCC to assess bank mergers are public and described our licensing manual focused on business combinations. The factors for consideration under the Bank Merger Act are listed and include the effect of a proposed business combination on competition so-called competition prong. The financial and managerial resources and future prospects of the existing or proposed institutions. What I called the Safety and Soundness prong.

The probable effects of the business combination on the convenience and needs of the community served, often called the Convenience and Need prong. And the risk to the stability of the U.S. banking and financial system, the Financial Stability prong. Other factors include the deposit concentration limit, effectiveness in combating money laundering and community reinvestment act performance.

These factors and the associated analytical frameworks have become somewhat dated. The Dodd Frank Act enacted in 2010 mandated the consideration of the risk to financial stability. The safety and soundness and convenience and needs prongs were part of the original BMA in 1977 were added over time by various amendments to the BMA.

For its competitive analysis, the OCC has adopted the Department of Justice's Bank Merger Competitive Review guidelines, which was last revised in 1995. DOJ recently sought public comment into whether it should update the guidelines to reflect trends in the banking and financial services sector and to modernize this approach to bank merger review.

The banking system has changed significantly since 1995 as Aaron pointed out. Industry assets which total five trillion then now total nearly 25 trillion. At the same time, the number of insured depository institution charters has decreased by about 60 percent. As a result, the size of the average bank has increased to almost five billion. Assets have become concentrated in the largest banks.

In 1995, the 25 largest banks accounted for almost 30 percent of the industry assets. In 2021, they held 65 percent of total industry assets. The largest bank in 1995 had approximately 250 billion in total assets. Today, there are 13 banks with more than 250 billion in total assets and the largest bank has over three trillion.

The broader competitive landscape has also changed significantly. Between 1995 and 2020, membership and credit unions doubled. The total assets held by credit unions grew more than 550 percent. None banks dominate these certain areas like mortgage originations in which their market share is close to 70 percent.

And as banking has gone digital, FinTechs like PayPal, Block, Stripe and Shopify have acquired millions of customers and collectively have processed trillions of dollars of transactions annually. Additionally, neobanks such as Chime, Current and Aspiration have millions of customers while big tech firms like Apple and Google have hundreds of millions of users and have expanded into payments and lending products.

The demographics of the country have changed as well. Urban areas throughout the United States have grown with an estimated 83 percent of the population living in urban areas in 2020. Nearly every American owns a cell phone and with the percentage of the population owning a smart phone and nearly 85 percent up through 35 percent a decade ago. Seventy percent of Americans look primarily to online and mobile channels for their banking needs with the pandemic accelerating reduce reliance on branch banking.

Finally, economic inequality has persisted or worsened in the U.S. Since 1979, the top one percent of earners have seen wages increase by 179 percent. And wages for the top .1 percent of earners leaped by 389 percent. While wages for the bottom 90 percent of earners grew by just 28 percent. This income inequality contributes to wealth disparities.

In 2019, 10 percent of families own 76 percent of total household wealth, the middle 40 percent own 22 percent of household wealth, and the bottom 50 percent own just one percent of household wealth. Over the same period, black, Hispanic and lower income families have consistently lagged behind white and upper income families in the most important wealth building measure homeownership.

Given all these changes, the time is right to rethink the framework to use to analyze bank merger applications. I do not think that statutory prongs of competitiveness, safety and soundness, meeting community needs and financial stability need to be revisited. Rather the modes of analysis used by regulators to apply these factors needs to be improved. My sense is that the degree and nature of change varies by prong. Let me discuss each in turn.

Competition. There are compelling studies on both sides of the bank merger competitiveness today. Proponents of a merger moratorium argue that mergers reduce competition and exacerbate the effects of banking industry consolidation on all consumers particularly the most vulnerable low- and moderate-income communities. They argue that the current approach to mergers with a narrow focus on prices and efficiencies has perversely increased the cost of financial products without delivering efficiency gains.

Moreover, according to this view, the traditional competitiveness overlooks other forms of consumer harm including branch closures, funding subsidies that distort competition and excessive industry concentration. Other studies by contrast conclude that mergers are procompetitive. They contend that mergers allow banks to achieve economies of scale and scope, broadening product offerings and reducing prices for consumers.

They counter the reduction in the absolute number of banks over the last four decades are pointing out that the number of bank branches has doubled over the same timeframe thereby offering consumers a greater access to banking services. In addition, the advent of mobile banking making products and services available even in those markets where a bank does not have a branch is indicative of competition not concentrated markets.

Most of these studies which are cited in support of antimerger or pro-merger positions are difficult to operationalize for bank merger analysis purposes. Perhaps for that reason, I found myself drawn to Harvard University Law Professor Daniel Tarullo approach the competition which was recently published by Brookings.

He argues for a much deeper and more granular analysis that differentiates by types of lending, considers broader industry dynamics and considers local, regional and national markets. For example, he notes, while a merger between two banks might not result in competitive harm for some bank products, it could do so for others.

Such a conclusion which seems easily imaginable could not be reached under existing analytical frameworks which utilize Herfindahl-Hirschman index screens. HHI is a blunt tool because it is measured at the geographic market level based on deposit activity rather than on the more granular basis such as based on individual banking products.

Under the Bank Merger Act, the DOJ and the appropriate federal banking agencies have shared responsibility for assessing the competitiveness impact of a proposed merger. DOJ's recent request for public comment clearly signals a desire to update its guidelines and in local framework. OCC staff has been engaging with DOJ staff as well as staff of the other federal agencies on this.

Let me now talk about the convenience and use prong. Bank mergers have had a range of effects on the convenience and needs of communities served from branch closures to changes of product offerings in turn. One analytical element of the convenience and needs prong that does not need updating as part of the BMA review relates to the CRA. The OCC takes into account in requiring bank CRA rating in performance.

Banks with unsatisfactory CRA ratings are highly unlikely to receive merger approval. Last week, the banking agencies issued an NPR to strengthen and modernize the CRA. Under the NPR, CRA performance assessments will become more granular, more objective and less prone to grade inflation. The proposal would encourage acquiring banks to increase their attention on CRA performance which would increase their activity serving community needs in an intended consequence.

CRA performance and ratings are only a starting point however. Community feedback on the impact of a proposed merger is also important. I recall a meeting with a bank CEO who was having the extraordinary success of a branch the bank had recently opened in a low-income neighborhood. I asked what prompted them to open that branch. He acknowledged it was requested by community organizations in a meeting related to the bank's most recent merger.

Without that community feedback that branch would not have been opened. In recognition of the value that public input can provide on mergers, the OCC is considering options to facilitate such input. For example, for mergers involving larger banks, the OCC is considering adopting a presumption in favor of holding public meetings. They partnered with the Federal Reserve to hold a public meeting in March of the proposed U.S. Bank and NUFG Union Bank merger. Over 120 community members attended and shared their views on the needs of the community and how they may be impacted by the merger.

The role of Community Benefit Agreements, CBAs or community reinvestment plans in bank mergers also warrants consideration and discussion. On the one hand, they can serve as transparent and clear mechanisms for banks and communities to discuss and agree on what the needs of the community are. Banks have entered into CBAs in connection with several bank mergers.

On the other hand, questions may arise as to the representativeness and motivations of the organizations negotiating on behalf of the community served. Greater transparency and consistency in the governance of how CBAs are negotiated could help mitigate such concerns.

Let me now turn to financial stability. The analytical framework for assessing the financial stability risk of bank mergers under the BMA needs significant work. As I discussed in a recent speech at Warden. I believe there is a resolvability gap for large regional banks. Unless and until that gap is addressed, the approvals of large bank mergers risk creating a new set of too big to fail firms.

The issue for large regional banks can be boiled down to simple question. If one were to fail, how would it be resolved? If the answer, is it would have to be sold to one of the four megabanks, then I would pause it. We have a financial stability problem. Fortunately, we know how to address this problem. Several of the resolvability requirements for the U.S. G-SIBs can be tailored and applied to large regionals to make them more resolvable.

For instance, related to single point of entry, total loss absorbing capital and separability. Implementing such changes will require action by the FDICA and Federal Reserve. In the meantime, the large bank merger pipeline is active. Will likely remain so for the foreseeable future.

What should regulators do? Should we simply apply the traditional financial stability analysis and approve such mergers with the hope that the resolvability cap will be addressed in the future? Or should we project all our bank merger applications until there is a clear set of financial stability rules in place that address the resolvability gap for merged banks of that size.

There are risks under either approach. One way to mitigate the too big to fail risk while preserving opportunities for otherwise healthy mergers would be to condition approval on credible, verifiable commitments to achieving resolvability tailored to the resolution risk of the resulting bank. This is something we're actively considering at the OCC now. Without such conditions, our approval of such mergers could increase financial stability to the too big to fail risks. These risks give me significant pause or are ones I would need to consider very carefully before approving a large bank merger.

Finally, and let me talk about financial and managerial resources. In healthy mergers, the acquiring bank can improve the risk management and controls of the target bank and ensure that the integration of systems, processes and people is executed in a timely manner as planned and the business model unfolds as projected. Such cases are win/win. Communities are better served, the resulting institution is more safe and sound than the two banks individually.

Bank supervisors are generally well positioned to assess whether the financial and managerial resources of the acquiring bank are capable of executing a merger effectively and efficiently. As such, I do not see a need at this time for significant changes in how supervisors assess the problem. With that stated, too big to manage is a risk of mergers especially for banks engaged in serial acquisitions.

A review of institutions that grew through multiple mergers could reveal additional factors for supervisors to consider in assessing bank's financial and managerial resources.

In conclusion, it is time to rethink how we analysis bank mergers. In addition, to offering some thoughts on this subject today, I have directed senior staff to work with DOJ and the other federal banking agencies to review our merger frameworks. In the meantime, we will continue to review applications on a case-by-case basis and consistent with the statutory factors discussed above.

In our actions, we will take into account changes in the banking industry and apply our best judgment to approve only applications that will promote competition, would not threaten financial stability and would facilitate the convenience and needs of all the communities served by the banks. And with that, Aaron, I think we can do the Q&A now.

MR. KLEIN: Great. Well, thank you, Comptroller. Look, let's jump right in because you say in your speech, you know, that "you believe there's a resolvability gap for large regional banks." This is particularly important since according to the FDIC's most recent trouble bank data, it looks like a large person was added.

Now, you say that "fortunately, we know how to address this problem," and then you talk about several of the resolvability requirements for G-SIBs, single point of entry, total loss absorbing capital and separability are the three that you put in your speech. So let's, you know, let's be straightforward here. Are you saying that in order to have any merger involving a large regional, we should condition that merger on large regional adopting a total loss absorbing capital structure to facilitate a potential single point of entry failure resolution system?

MR. HSU: So it's a great, Aaron. So in the long run, the right solution is to go through the boil making process. That's clearly that's what it's there for. That would be consistent with the Administrative Procedures Act. That's how this is all designed to work is that we want rules that apply in a very clear way to said institutions and we kind of go through that process.

And that really in this space in terms of large regional resolvability is really sits with the FDIC and the Fed, not with the OCC. Those particular rules. We don't have to get into the details but there's different sets of rules for those different elements.

As I noted in my remarks, though in the meantime, we have this healthy pipeline of activity. So I'm faced with me as the Acting Comptroller of OC, I'm faced with a choice. Either we just kind of continue to apply what I would call the traditional modes of analysis, which I think some would argue are not either transparent or particularly effective. In which case, you know, the results of that would be a new set bigger to big to fail firms adding to the resolvability gap as you highlighted.

Or as some are arguing just have a straight up moratorium. But the problem with the moratorium is that that simply locks in the status quo and prevents the kind of competition that people -- if it's healthy, right? These are all dependent on all these other factors. And so, what we are actively contemplating as, you know, what's a path where we can minimize type one and type two errors as I was referring to before? And conditions are one possible way of doing that.

Now, the devil is in the details. This is something we are considering. And of course, we'd have to apply that in a very case-by-case basis. Otherwise, it's a rule making which we cannot do through individual decision making. You have to take each case on its merits to really -- it really depends.

MR. KLEIN: But in each case, if the same logic is there which is that this is important for financial stability. Look, I note that in the current system most uninsured depositors end up getting effectively made whole because most banks are resolved through purchase and assumptions. And in that scenario that works.

Now, if you actually have an individual bank fail and it goes through a resolution process then uninsured depositors may lose some money and get a haircut which is what the system was designed for, right? I mean there's a reason we have deposit insurance limits. Not every country -- some countries offer unlimited and Congress has been very clear in when it has raised that.

You know, some think that might create a systemic risk problem. Others think, you know, where uninsured folks run. Others think that's kind of a more fair system. Do you have any thoughts? Or do you think that whole thinking could be motivating for systemic risk and uninsured depositors to those other two agencies that you mentioned which you're saying have some skin in the game here to make that joint rule making?

MR. HSU: So I think at core we need options. And that I think is really, really -- when you're talking -- especially once you're talking in the too big to fail space. When I say we, we the government representing the taxpayers. We need options so that when there's a specific situation, there's more than one way to deal with it.

And this lack of options is at the core of the too big to fail problem because it essentially, it's an issue of power and leverage. You know, there's that Canes (phonetic) saying. If you owe your bank a $1,000, you have a problem. If you owe it a million dollars, it has a problem. And I think that kind of in some ways captures what's going on here.

By making large banks more resolvable, you're creating more options. It doesn't necessarily mean you're going to use those options. But what it does mean is that because every fire drill is situational. You know, you've noted -- and I've been in a lot of different fire drills with large banks, G-SIBs, large regionals. Each one is different. Each one depends on the context of the situation and facts on the ground at the time.

You really need to -- you want to have options in how you deal with that. And we've achieved some of that in the U.S. G-SIB space, I think for large regionals. That's where that gap remains and some more attention is warranted.

MR. KLEIN: So let's drill into that more attention because, you know, you talked about the fire drills that we all went through in the global financial crisis and the Dodd Frank Act responded to this requiring systemic risk to be considered a factor in the bank merger process.

Former Fed Governor Dan Tarullo recently criticized the way the Fed is applying this analysis concluding that his "being applied in a haphazard fashion." And he went onto recommend "the Fed and other bank regulators should develop and explain to the public their view on the key issues that will determine the competitive structure of the industry."

Now, it sounds like you've taken that criticism to heart. And in fact, your speech today could actually be viewed as responding to that by discussing some of your views on the HHI and other types of competition.

You also discuss the role and rise of FinTechs in a world in which bank branch competition isn't limited to any place you can drive comfortably to but is potentially in the palm of your hand. In addition, you mentioned the growth of credit unions advertising slogans like great rates for everyone, which seems to, you know, make me wonder if our common bond is simply our shared humanity.

How do you think the right way is? What are your other views on this? And how do you think the right ways are for the Fed and all the other regulators to go about and develop and explain their views?

MR. HSU: So there's clear room for improvement. And, you know, maybe moving back to your opening question, Aaron.

I do agree with Professor Tarullo's overall diagnosis that there's a lot more detailed work and analysis that needs to be done. I think what's very, very important is that the federal banking agencies and the DOJ do it together. We don't have to -- ideally, we do it together and we agree on the same outcomes. I think that's going to be tough initially. There's a lot of different perspectives and experiences.

But I do think it's very important that we, at least, are embarking on that journey together. And some of that discussion is already commenced at the staff level. It's complicated. I think it's complicated. It's going to take some time. You know, if we're going to get to a point where we can take these -- have a more diligent review by region, by product, et cetera, which I think is the right outcome. We're going to have to significantly beef up the analysis. And so, I think that that's something we should all be working on.

MR. KLEIN: Well, let's talk about something that you have been working on for quite a while which is CRA. And, you know, wherever you fall in this debate, I just want to congratulate for getting the rule out last week. It is never easy to get anything of that size and magnitude across the finish line.

You know, as noted, analyst and former reporter, Ian Katz wrote "CRA can be important in the context of mergers and acquisitions since bad CRA grades preclude deals from getting done. But it's hard to imagine the new CRA being so tough that it becomes a deal blocker."

As you pointed out in your speech if you don't have at least a satisfactory grade, you're not going to be approved. However, as the University of Michigan's Jerome Cress (phonetic) has noted 99 percent of banks have a satisfactory or outstanding grade, right? It's kind of like, you know, as a teacher you have high pass, pass, fail, right? And almost nobody fails anymore.

So, you know, Professor Cress suggested that "the agencies could require that a bank receive an outstanding overall CRA rating to obtain regulatory approval for a merger." You know, instead of just satisfactory. You know, is this something you guys are thinking about? Why should satisfactory, you know, bear a pass? Be allowed to move forward? Why not incentivize greater performance?

MR. HSU: So I highly encourage folks to read the notice for proposed rule making on the CRA. It's pretty meaty. I think it's over 600 pages, but -- and so, in the previous iterations of various -- you know, the Fed's ANPR, the OCC's rule, et cetera, there have been a lot of comments on this particular issue, Aaron.

I'm going to zero in on this particular issue related to the ratings and, quote, unquote, grade inflation. And so, that's been something that the agencies have received extensive comments on in the past. I think you will see that in this particular NPR, we try to address that.

And so, before jumping to Professor Cress' and other's recommendations, I just highly encourage folks to take a look at the NPR and see what we're proposing. And see -- and within that you'll see that tries to mesh both dealing with the great inflation issue as well as a desire to for greater objectivity and transparency in how those ratings are set. That's based on feedback from both industry and others.

And so, we're trying to put all that together in a way that we think -- I think will be productive towards these points. But, you know, I know it just got out there. So I doubt anyone has had a chance to really dig into that, but I would just kind of use this as an opportunity to guide folks' attention to that part and then provide us comments, right?

We're now kind of in this phase of both structurally did you get the structure right? And really most importantly, did we get the calibration right in how we're thinking about this? We really need people's comments to say, hey, as we're thinking about that I assume we'll get comments too of how this links with bank mergers because that's very important.

MR. KLEIN: Well, yeah. I mean some people say that's kind of when CRA has its biggest teeth, right? Because in that environment that has such a huge role. And I think it's so critical that you framed your remarks in the beginning about income and equality and wealth and equality because people don't often see the correlation between these two things. But access to capital is really, you know, the only way for people to bridge many of these inequitable and structural barriers. And that's kind of the core question of duty to serve and duty to serve in your community.

And so, you know, as you think about these MNA questions how do you -- you know, part of the problem here is it feels to me like you have a bunch of binary choices, right? You know, you have three ratings to give somebody at the end of the day in CRA. You can approve or disapprove of a merger. Maybe you can approve with some conditions. How do you get out of some of this binarisms?

MR. HSU: So that I think is a really critical challenge, Aaron. And if you think about it given the state of play, I think these feeds into kind of this overall backdrop of we're in a different system today.

You know, in an earlier time where you have a lot more banks and those banks are smaller and doing fewer things that binarism that you talk about is less of an issue. When you fast forward to today's industry and look forward to tomorrow's industry, I think being able to crack this nut is going to be really, really important. And I think we have to do it through accommodation. There's not going to be a magic bullet. I think we have to do it through accommodation of things.

And what's really critical is that we do that together across the three FBAs and work with the DOJ. And we try to be very clear about that up front and as transparent as possible so that the bank industry doesn't have to guess. That's an important part of this as well because surprises don't help anybody whether it's communities or banks.

And so, part of this is getting that combination of the right policy, the right communications, the right transparency. It's a pretty significant -- it's a big task. And so, I think that's something we'll be working on for a while.

MR. KLEIN: Well, I'm glad to hear that. We only have time for one more question and, you know, as anybody can imagine there are a million different ones that one could ask.

So I'm going to offer you the dealer's choice. They're on different topics and you can pick the one that you want to address. That you view as the most important, right? If we can only do one more, the last one should be the most important.

One on bank recovery, right? So, you know, an important part of preventing bank failure is the implementation of a recovery plan when banks get into trouble. The Fed has guidance for G-SIBs on recovery and the OCC has some recovery recommendations for large regionals.

But as you pointed out in your speech about these things, a careful analysis would show they're not entirely consistent between the two agencies and they're lacking for institutions that are below that very large level, which is, frankly, where most of the bank mergers and acquisitions occur.

A lot of the media focuses on the largest institutions. But I did some work a while ago and it was just, you know, 90 plus percent of institutions merging are two small banks, right?

MR. HSU: Right.

MR. KLEIN: Or one very small bank and one pretty small. You know, by small under 10 billion, the vast majority of these.

Should regulators work together for uniform standards? Or given bank size and scale differences and each regulator having a slightly different perch. Should we not have uniformity on questions of recovery plans? That's choice one.

Choice two, you talk a lot about public and transparency. And the single biggest tool that you folks do on bank regulation is your CAMELS ratings, which is essentially about the health of folks. You know, I wrote a comment letter in 2020 to the FDIC saying that CAMELS ratings for banks should be made public as your kind of general sight guys. You know, making things public would make the more consistent. Would allow the public and regulators and industry and regulators to know what they're being assessed.

In my own experience, I've seen tremendous heterogeneity for similar instituted institutions being treated differently across regulators. It was one of these weird moments in TARP when you got that vintage point. I also wrote two years ago, "the addition of any of the top 10 banks would make it easily apparent to the public which institution based on the unique size of those institutions," and also outside of the top 10 the addition of a single institution would be easily narrowed to one of a small handful.

We've seen that transpire with this new $100 billion plus entity. And then anyone can go on Twitter and see the kind of couple of banks that have been discussed. Now, to my knowledge none of those institutions have had a run yet, but we're also in a relatively, extremely strong economy, I might add. And so, I kind of think, you know, we say, well, we keep CAMELS private today. Well, a point of fact, you have this asymmetry between the larger institutions and others in CAMELS. You know, what is your take on CAMELS public? What is your take on potential bank recovery programs? Take your choice.

MR. HSU: So both fantastic questions. I wish we had more time. I would love to talk about both. But given the topic on this one, I'm going to take the recovery one because I think that that one kind of has a stronger link with the merger and the resilience topic of this particular session.

So recovery, very near and dear to my heart because especially for the larger banks. You want to avoid a failure. That's, you know, goal number one is to reduce the probability of default. Recovery can really help with that because in a recovery situation the bank can take actions to avoid the failure. So you don't have to resolve it. You don't have that financial stability risk. I think that is most critical for the larger banks.

For the banks that pose too big -- are systemic pose too big to fail risk, it's really critical as you point out, Aaron. Things are not completely uniform but that's because the band aids are a little bit different between the Fed and the OCC with regards to recovery. To the extent possible, I'm always going to be in favor of uniform standards where we can achieve that. That's good for everybody.

In some cases, that is not entirely possible because of either different mandates, et cetera. I think in the recovery space there is a linkage. There's a Venn diagram between the Fed's approach, the OCC's approach and separability. And I think that part of this process of getting all of us together to kind of work through these things is to drive towards greater uniformity.

Again, so that serving both the public so there's greater clarity for the public and for the banks. So banks know exactly what they need to do and how to do it. So I think that that's something we're going to be driving towards in that space.

With regards to the smaller banks, I think that, you know, the, quote, unquote, recovery. Both the necessity for it and the other tools that are available make it kind of less of an important tool. That's why that cutoff is really just -- that threshold is set for the larger banks. I'd be open to discussions as to, you know, what might something like that look like? But I think there is -- there are kind of risk for reward and burden tradeoffs that we have to take into account. So that's not something that's currently on my radar.

MR. KLEIN: Thank you very much, Comptroller Hsu. I want to thank you on behalf of the Brookings Institution and on behalf of all Americans, myself included who have an account at a national bank.

Your continued laser like focus on making our financial system safer, stronger and more equitable really is a tremendous amount of public service. And thank you for your career and spending your morning and thoughts with us here at Brookings.

MR. HSU: Thank you, Aaron. It's been a pleasure.

MR. KLEIN: Great. With that I'd like to turn. We have an all-star panel coming up. Many of these -- I don't think any of these people really need an introduction, but as they pop up on your screen, please note that we had Daniel K. Tarullo whose been the Professor of International Financial Regulatory Practice at Harvard Law School.

He is the former Federal Reserve Board Governor who is laser like focus in implementing many of the Dodd Frank financial reform resolutions during his eight years as serving on as a member of the board. He's also a Nonresident Senior Fellow in Economic Studies here at the Brookings Institution.

We have Rodgin Cohen, Senior Partner at Sullivan & Cromwell who is -- and also a chair of the Economic Studies Council here at Brookings. It's important for me to remind everybody that the views here expressed by the panelists are those independently and the Brookings Institution is committed to independence. I think Rodgin -- I'm very fond to the great introduction that you're a counselor to the situation in every great financial crisis or situation. Folks from all walks of life come to you asking for your advice and wisdom and you've seen much in all of it.

We're also joined here by Mehrsa Baradaran. She is a Professor of Law at the University California, Irvine. She was previously -- she was the Robert Cotton Alston chair in corporate law and an associate dean. Her scholarship includes *How the Other Half Banks* and *The Color of Money*, *Black Banks and the Racial Wealth Gap*, which is widely cited. She is one of the preeminent legal scholars in this space constantly thinking about how to make a financial system work for people for whom it is historically not worked well for.

And we have Andrew Olmem. Andrew is a partner at Myer Brown and a member of the Public Policy Regulatory and Political Law and Financial Services Regulatory Enforcement Practice. That's a big mouthful because Andrew hands a wide variety of issues. Many of you remember that he was Deputy Assistant to the President for economic policy and Deputy Director of the National Economic Council. He's former Republican Chief Council. Deputy Staff Director of the Senate Banking Committee and plays a leading role in federal society, you know, complementing Andrew's legal scholarship and intellectual breadth.

With that and having all the panelists with us today. Let's start by just reacting. What did you guys think of Comptroller Hsu's remarks? Rodgin, why don't we kick it off with you? You know, you've lived and experienced this world for a while. What did you think of how the Comptroller has said before us?

MR. COHEN: Well, the Comptroller is clearly calling as are others for change in the framework for analyzing bank mergers. And Dan Tarullo's recent presentation on this issue is a leading and very thoughtful critique.

But I would like to address one aspect which I think is somewhat overlooked and that's from a practitioner's perspective. And that is the need for predictability in bank mergers. And this requires consistency, transparency and objectivity. And it was really what

Comptroller Hsu said. Surprises don't help anyone.

So a bank merger is a major and prolonged undertaking for the buyer. It's an existential experience for the seller. Neither would want to introduce a transaction unless they believed there was a substantial probability that it would be approved. The inevitable, I think consequence of unpredictability regarding the regulatory process is not just the losses arising from transactions that are denied. It's also the loss of transactions that would not be attempted even if they were beneficial for customers and communities.

Now, this practical concern doesn't inherently argue against change in the regulatory framework but what it does argue for is that a change have transparency in objectivity as an essential goal.

And just one more quick comment. The Comptroller focused on the financial stability factor that's what Dan is focused on and others. And I think there are two keys here and they should be addressed. One is the risk of failure and the loss on failure for a large regional.

I am far from convinced that you need to adopt the G-SIB framework to accomplish that goal. You do need gone capital for at least the very largest regionals, but that doesn't necessarily take TLAC. An SPOE was developed for large, international banking institutions with investment banking. Now, the last two elements simply do not apply to the large regionals.

And the second point the Comptroller made which is important. Is that what happens if not withstanding everything else, you need to go to resolution? And is the only possibility a large bank of a G-SIB acquiring the large regional? I think not if the resolution plans are properly drafted so that you can have a geographic breakup of a large regional which would enable other regionals to pick up the elements, the geographic elements, of the failed regional.

MR. KLEIN: Great. Dan, what do you think?

MR. TARULLO: Thanks, Aaron. So a couple of things.

One, I thought not just what the Acting Comptroller said this morning about resolution. But going back to that statement that the three other members, members other than Gelman and McWilliams put out about bank mergers.

What struck me about that was there you had a majority of the board of the FDIC essentially saying, we don't have a lot of confidence in the resolution process because they were basically saying, you know, you could have a $300 billion bank that wouldn’t be resolved. It couldn’t be resolved successfully.

And, you know, that just again made me think about the Wachovia situation back in the Fall of 2008. Wachovia was not a complicated institution. It was a large institution, but it was not a complicated one. Wachovia securities was a very plain vanilla kind of operation. And yet, the FDIC clearly didn’t want to resolve it. And so, as Rodgin just said, it ended up being marketed eventually to Wells Fargo, which, you know, if you think about it made a too big to fail institution too bigger to fail by adding $400 billion of assets.

And so, I think on the financial stability side for mergers and acquisitions to be sure, but also just for our policy more generally we have to take a hard look at what we do and do not believe about resolution. Because, you know, the largest institution that the FDIC has really ever resolved is IndyMac, 30 something billion dollars.

And yet, now, we’ve got a system which manifests itself in MNA analysis in which we are assuming that hundreds of billions of dollars of assets are going to be resolved successfully much less, you know, one of the G-SIBs.

So this is not to disagree with anything that Mike Hsu said, but it’s a sort of striking position to be taking 13 to 14 years after the crisis. Not because it’s wrong, but it just sort of shows us that there’s still this issue. That’s number one.

Number two, on Rodgin's point of predictability. I think there's going to be an issue, Rodgin. I really do because right now we've got a system which is predictable but wrong. Which is to say the use of HHI in local markets as the way in which we decide on mergers. And it's just, you know, it's back to Ozzie and Harriet days of an assumption that banking is local, banks are the dominant lenders and that there are homogeneous banking products.

And, you know, with the activity that's taken place in industrial organization economics which has increasingly called into question the utility of market structure as a predicter of anticompetitive effects. I think the impact of what the FTC and the Justice Department are thinking about mergers generally is going to be felt in the banking area.

You know, it's pretty clear that elasticity of demand is a more important variable than market structure in many kinds of mergers. And yet, elasticity of demand is not something that you're going to be able to determine quickly in order to give an ex-anti view to banks and others.

So I do not at all disagree with Rodgin's view that it's important to try to give guidance, you know, for the staffs and the agencies as well as for the banks. But I think it's going to be hard to do during a period in which you're trying to reframe the way that you think about competition analysis because right now there are more questions than answers.

Let me just end by saying, though I think Rodgin is completely right that transparency in that process, even transparency about what is uncertain is really important for the banks, the oversight committees in Congress and for the rest of us.

MR. KLEIN: Andrew, what was your take from Comptroller Hsu? If you want to respond to your fellow panelists as well? There's a lot being thrown out of here.

MR. OLMEM: Yeah, sure. I'm going to follow up on something you said, Aaron, about the implications of what the Acting Comptroller said. Which I think did boil it down even more clearly is that either he doesn't think that the current resolution schemes devised by Congress where by losses are borne by uninsured depositors either works or is appropriate going forward.

That's a pretty significant policy conclusion. Congress has set forth in the Federal Deposit Insurance Act in a very detailed scheme on how banks themselves are to be resolved. And again, remember the institutions we're talking about here are not large, complex financial institutions that have lots of assets outside of banks. They are institutions that have 90, 95 percent of their assets in the bank.

So the issue here is resolvability by the FDIC. And if Comptroller Hsu's view is that that's no longer appropriate or does not work and that TLAC, for example, holders should bear the losses rather than uninsured depositors. That's something that Congress really needs to take a look at in my view.

So I think my first critique is really on procedure. You know, he talked about the importance of having the APA. And I certainly if Congress -- some of the APA is better nothing. But really, this is an issue for Congress and not for regulators in my view. Congress has repeatedly declined to provide 100 percent deposit insurance including during the financial crisis. And if a regulator decided that they want to go a different route that's something that should be brought before Congress and Congress should make that determination.

Just to follow up on that. The reason for this is that imposing a TLAC requirement and no longer going through the scheme that Congress has prescribed raises a whole series of issues that are best set for Congress. For example, what happens with deposit insurance premiums? Few institutions that suddenly have TLAC now, do they have a reduction in their risk base deposit insurance premiums because they are no longer likely to be resolved in a way that results in losses to depositors? You know, that's a pretty fundamental thing that Congress probably needs to weigh in on.

Another piece is what does this do to kind of the risks in stem structures that you impose on banks? You know, normally we try and have our banks be less leveraged. You know, this is a case where regulators would be saying, we want our banks to be more leveraged. And what does that do to the risk management centers of banks that suddenly are subject to this requirement?

So we can talk a little bit more about the implications of what the reforms that he has proposed. But I think clearly that these are something for Congress rather than regulatory moving off on their own.

MR. KLEIN: Great. Mehrsa, what do you think?

MS. BARADARAN: Yeah, thank you. You know, I think going back to what Dan was saying about what is -- you know, what's for the moment and what makes sense historically.

And it is clear that from what Congress has cared about since, you know, the bank holding company and even before that is, you know, the anticompetitive nature of bank mergers. Financial stability second. Needs of the public. So some sort of public interest and that is not just in the bank holding company assets. You know, emphasizing the CRA.

You know, every active legislation including FREYA and Dodd Frank. And, you know, obviously the company's resources. And the way that merger approval has shifted and really evolved or devolved as you could say over time is a real myopic focus on this element of, you know, financial stability.

And really it was for the years, you know, between 1984 and 1994 when the Riegle-Neal Interstate Banking Act just passed. More about what is efficient, right? And the Riegle-Neal Act of course really double downed on efficiency. And so, looping back even before the financial crisis, you've had a trend whereby the banking sector has been, you know, a conglomerated, homogenized and made to be, you know, the two big failed banks on the one hand. And on the other hand, fewer bank branches for communities.

And on the one hand, you know, I do think the genie has left the bottle on some of this. If we're not going to reimpose unit banking or geographic segregations. And yet, if you look at what did people care about? What did Congress care about when they passed these merger bills? Why can't banks merge like other corporations?

And if you get down to the purpose of it, the spirit of the law, so to speak, it is that access and inequity in access. And you can't look at the country now and feel that we have that sort of level playing field as far as credit, deposits making and taking.

Now, FinTech and sort of technology has allowed some of that flattening to happen, but you still have this lack of access based on one's sort of positionality and income and bank account. And so, I do think a more big, a more robust conversation should be had based on this intersection of bank merger approval and CRA.

I think that's a big, you know, I'm glad that you asked the question. I'm glad that they're bringing it up, you know, around the same time. But it really -- and I agree with Andrew that it is something that Congress should listen to and look at because we can't make these decisions based on each bank merger application that comes in. That is very piecemeal legislation that is the way that we've sort of been -- the regulators have been doing it for some time.

MR. KLEIN: Well, go ahead, Dan.

MR. TARULLO: Thanks, Aaron. Can I just say on this issue of how to proceed? I mean the question of whether, for example, it would be a good idea for large regionals to have to have TLAC is a policy. That's a policy question and I don't actually have a particular view on it.

And, you know, Rodgin suggested that there may be alternatives. But I think on the legal question to me at least it’s pretty clear that if the agencies think it’s a good idea to do this for the super regionals, I think they have legal authority to do it. I mean in Dodd Frank, Congress required resolution plans and they required the agencies to get involved.

I do think that the appropriate approach would be through a notice and comment rule making as was done for the G-SIBs and others some years ago. But I don't think this one is a question on which -- that somehow would be going against the will of Congress because Congress in Dodd Frank explicitly required resolution planning. And at least for every bank over a quarter of a billion that still is going to be an issue.

And I think what Mike Hsu was suggesting was that on an ad hoc basis before there is notice and comment rule making done, you might want to think about conditions to particular mergers. Although, as Mehrsa said, you know, that’s got to be kind of a stop gap. That can’t be a permanent position.

MR. OLMEM: Yeah. I'm not so sure on that though, Dan. Because I mean I agree with you about Congress being very clear on resolution plans and I think that’s been, you know, a reform that I think we all agree was a step in the right direction. But those resolution plans are designed to be done under the existing resolution scheme that Congress has set forth whereby losses would be borne by uninsured depositors.

Now, what the Acting Comptroller is saying is that he doesn’t think that those losses should be borne in that manner. Now, we can have a whole policy debate about whether or not we should just have unlimited deposit insurance of the United States. But that’s a significant change in how we’ve operated. You know, the moral hazard issue involved in that is, you know, has been a long concern of Congress.

And to have regulators go off and change that policy choice, I think to me seems to be kind of moving beyond the appropriate bounds. You know, in that's an appropriate place for Congress. And, you know, anyways I think his speech would be well delivered to Congress. And say, you should examine this. But this is something. And give out the reasons why he doesn't think uninsured depositors should bear the losses.

MR. TARULLO: Now, wait a second. You are absolutely right that there's been a kind of fiction around uninsured depositors. But that fiction is not a recent vintage.

You know, the uninsured depositors have rarely lost precisely because whether it's a small bank or a medium sized bank, the FDIC has never resolved a really big bank. It gets done through a P&A. And as such, they -- so again, I think as a policy matter, you're right. And there's a real issue there. And I think moral hazard has gotten itself in lots of places in the financial system.

But whether they could address it for these purposes through a particular approach to resolution. I think they probably could. But anyway, I don't want to push this any further.

MR. KLEIN: Let me just jump in here for a sec because, you know, a lot of folks forget. But many of us here lived it. The deposit insurance capital was raised from 100 to 250 thousand dollars in the midst of the financial crisis. Not after deep, careful analysis and multiple hearings.

It was done after the first attempt to pass TARP failed. And members of Congress were looking for sweeteners to attract more votes after the surprise defeat of the bill. And it's long been believed by the community banks in America that increasing the deposit insurance cap is good for them.

I have often wondered this kind of axiomatic belief that that's a, quote, win for small banks in the face of actual data and statistics where I have not seen anything like that.

But I want to turn to Rodgin for a second because, you know, we're talking a lot about policy. We're talking about theory. We're talking about, you know, what's the right way to go about things and process. All of which are exactly what think tanks and intellectuals should be discussing.

But, you know, Rodgin, you've kind of lived the rubber hitting the road here. I think you've lived a scenario in different context where there haven't been policy choices. Things have been done on this ad hoc basis. I don't want to use the three magic letters of I-L-C, an acronym familiar to many of us on this Zoom. But another area where Congress was kind of unable to come to a conclusion. And, you know, there may have been de facto or not so de facto, in some places explicit moratoria.

You kind of said that you think it would be a mistake to require TLAC without careful consideration of other ideas. You know, and certainly a notice and proposed comment in rule making process is better than de facto. But how do you see if you're in the regulator shoes, you know, how do you see the right path going forward to provide this consistency? But also, at the same time protects the situation from a lot of the problems that everybody is noting both, you know, in the existing process? How do you see that going in practice?

MR. COHEN: So, yeah. I think we would all agree that it is nonsensical to go at this issue just in an ad hoc basis for three mergers when there are 30 large regional banks. So you get at three and not at the remaining 27. That's roughly the numbers.

Then your perceptive question, Aaron, is all right, but you've got three right before you. How do you deal with those? And I think the way to deal with those is really along the lines that I was trying to suggest a bit earlier, which is to look at whether there is a significant risk that needs to be dealt with through the G-SIB regime?

And let me just to give one example. I have never understood why a banking institution which has 12 percent equity and eight percent TLAC is more safe and sound than a bank that has 15 percent equity and five percent long-term gap that may not technically qualify as TLAC.

So I think there are ways to get at this. And actually Acting Chair Bloomberg has offered some thoughts about the value of long-term debt without the -- all the burden and all the complexity of TLAC.

MR. TARULLO: Aaron, I think what Rodgin said is -- you know, gets us right back into the policy issues. And then for the government, it's going to be what do they need to do about, you know, the next merger? And if there are alternatives, you know, they can condition with alternatives.

As someone who went through the creation of TLAC, I do not disagree with Rodgin's observation that there is a complexity there which does not necessarily derive solely from the relative reliability of TLAC as opposed to other forms of long-term debt.

And by the way, it also through the backdoor kind of solves Andrew concern because the losses are going to be placed much more directly on long-term debt holders before you get to depositors of any sort.

MR. COHEN: And let me just quickly add. I think TLAC notwithstanding its issues one Dan established is the right solution for large international, more complex banks.

MR. TARULLO: One of the reasons it's so complex is the international dimension by the way.

MR. KLEIN: So if we're global right now, I want to get back to being hyper local because, you know, I'm struck by the inequality issues. Here we talk about -- and Andrew has raised it -- the good points that uninsured depositors should bear some losses under the congressionally mandated structure.

The only person who is uninsured is the depositor or somebody who has more than $250,000 in a single bank account. Now there are idiosyncratic moments when lower income working people, lumpsum pensioners, et cetera, have one moment where that happens at their bank over weekend. But by in large, very few people have more than $250,000 in the bank. And those that do are super rich.

So we have a system whereby and large even though in theory those people should bear losses legally and policy wise, in practice they never really have very much. Meanwhile, we have a system designed to predicate mergers on a duty to serve the lowest and most vulnerable people in their community which means are passing 99 percent of the time on this test.

Now, Mehrsa, I heard what Comptroller Hsu said is, you know, that concern that's been noted, don't worry. The test is getting harder. What I wonder is, you know, what I've seen as a professor is that tests may get harder and the grades may get higher, but it doesn't necessarily grades and tests. There's an arch in between which is the grading.

You know, what do you see here with this new CRA proposal? I know it just came out last week. How do you see bank regulators focusing on lower and more moderate-income people in their assessment of whether or not combining institutions is going to be beneficial or detrimental for a community? And how that rubber meets the road? What does that mean for people?

MS. BARADARAN: Yeah. I mean I did look at the MPA and it is responsive to -- I mean the proposal so far, it is responsive to a lot of the requests that bankers and groups have made about, you know, the tiered sort of differentiating between large med tier and small banks. And there are some more rigorous analyses here.

And, you know, I think for the CRA enforcement. I don't know if it's harder, but it is more fine tuned. It's more predictable as Rodgin said. It could be a lot more -- give banks a lot more to understand about what led day and deposit taking looks like in their, you know, their firm based on their sort of size.

I think just, you know, pulling back onto what the CRA was meant to do. CRA is also passing in 1977. It's a very different time. And it's meant to fix -- not fix but address the longstanding practice of redline. You know, and Senator Proxmire who, you know, in passing the bill talked about, you know, this is a collective decision to help to shape the communities we live in.

And he says a bank charter entitles the holder to government support including the authority for new deposit facilities and conveys a substantial economic benefit to the applicant. And that it gives banks a semi exclusive franchise to do business with a financial backup from the U.S. Treasury. And we're talking about the FDIC insureds as one example.

And in return for these benefits, the Senator explained that financial institutions are required by law and regulatory policy to serve the convenience and needs of their communities and this includes credit, deposit services and to look to benefit the communities that they exist in.

And so, when you're looking at this CRA and you're comparing what the banking situation looked like in 1977, which was, you know, very heavily regulated. Most communities had a bank accessible. They were obviously it wasn't a perfect era by any means. There was plenty wrong. But that was the sort of landscape that the CRA targeted.

And so, I think if we're looking to a CRA for the modern banking sphere, it has to be quite different. And I'm not saying, we ditch the CRA and go back to basics. But I am sort of saying that because it doesn't make sense to look even at a geographically orbit when we're talking about international banks.

We're talking about sort of FinTech apps. We're talking about a digital economy where if you're outside of -- and, Aaron, you've written a lot about this. If you're outside of the payment system, you're sort of paying a toll. You're getting dinged every time you use it.

So maybe credit is actually not really an option for certain communities. But it's not -- it's also not an option to not participate in commerce using some sort of digital payment system that is given to banks as a franchise essentially. And obviously, FinTech firms can come on with some partnerships.

But usually when we're talking about the CRA and when we're talking about the merger review, you know, it does behoove us once in a while to stand back and say, what is the thing that we're trying to accomplish here? And with the CRA it was that sort of lowering access differentials because at the time it was geographically based.

And when we're looking at mergers. How do we even measure market power, right? And does market power necessarily take away from the CRA's goals? And I'm not sure that it has to. It doesn't in certain businesses, but there is certainly -- there is a sort of a sense that market power does sort of crowd out competition from other types of lower barrier, lower profit institutions that could compete.

I think you could look at, you know, credit unions in the same way. We don't talk much about them, you know, because we're talking about LCC, but that's also a big merger wave, and really been conglomerated. And they're not in those communities that they are, you know, historically, you know, supposed to serve.

MR. TARULLO: So, Aaron, I think the direct answer to your question about the ratings is that when banks propose a merger, there's a de facto process that gets them to do more than they were doing before. And I wouldn't say that it makes every set of merged banks de facto and outstanding under CRA.

But that, you know, if you look at the notices from the Fed on mergers. Usually more than half the notice is devoted to the CRA part of it. And they will have been negotiations beforehand. So in one sense, yeah. If you want to merge, you've got to do more than having your satisfactory rating. But in another sense, and this is echoing what Mehrsa said, there's just kind of an agonistic quality to the CRA here, right? I mean it's a random question as to which banks have to do better. And it depends on whether they want to merge or not.

If we want as we should to make sure that every American family has access to basic financial services including a transaction account that is affordable then I think we need a national policy to do that. And that national policy isn't going to happen by just building on CRA when banks want to merge.

I mean right now it's the instrument that exists and so it should be used. But, you know, we really need to do something. And the Fed and the -- getting back to what Andrew's point in a different context. The Fed and the OCC and the FDIC cannot make this happen on their own. There would have to be leadership from the administration and I think probably some involvement from Congress.

MR. KLEIN: Andrew, do you want to jump in there? I know you've spent a lot of your life on CRA.

MR. OLMEM: Yeah. I agree on the need to modernize the CRA. You know, I think there's bipartisan to seeing a CRA overhaul in modernization is overdue, you know. And so, I think we're all right now going through this very large proposal that was just dropped last week and going through the details.

I do think, Dan, though does make a good point that I'll expand on just more generally is that the merger process is not a great way to make policy. I think going back to kind of the TLAC, I think is the easier way to show that. Is that you get, you know, ad hoc policy disseminations that apply to some institutions and not others. And you don't get this kind of a national policy of consistency.

You also have a real due process concern. And again, using the TLAC example. If you don't go through at least the APA let alone Congress to start changing how the deposit insurance system works. You don't have a process where regulators can receive comments and receive the best information the public can provide to bear.

And I think as we all here who worked in public policy know, the notice and comment period are really valuable. We live in a huge country with lots of diverse interests and you never know how a particular policy is going to impact somebody in the country or what kind of good feedback you'll get. And in my experience that at least notice and comment period provides very valuable information for regulators and also Congress to make decisions on.

And also, it provides accountability for regulators. You know, going through and imposing, you know, say TLAC requirements in a merger context. You know, there's only one institution there that's going to have standing, theoretically, on challenging the actions of the regulator and that's going to be the institution that -- like with the surviving institution.

So you don't really get the same accountability to consider facts and circumstances in the public comment that you get under the APA. So again, you know, as we think about how to make policy, I think kind of Dan's right there about the importance of making sure we have clear national policy ideally set by Congress.

MR. KLEIN: Rodgin, do you have anything to add in closing. You can get the last word here.

MR. COHEN: I'd like to return to a point the Comptroller made about inequality. I don't think you have to believe in Balzac's (phonetic) view that behind every great fortune is a great crime. But I do think as a societal matter income inequality, it's level and acceleration need to be dealt with as a societal highest priority. And CRA and this reform package, it's by no means the total answer.

Income inequality results from a multitude of factors, but I do hope that when the CRA revision is implemented its goal is to assist in reducing that income inequality and it's packed with, as you said, Aaron, through access to banking services.

MR. KLEIN: Well, thank you very much, Rodgin. I'm reminded of the prayer we recently said during Passover Dayenu, which is to celebrate each step towards progress as if -- understanding that each individual step is not the whole solution, but if we reject partial improvement because it's not the whole solution then we'll miss out on a lot of improvement and what we may never get to Nirvana if I mix my religious metaphors, which I feel like is appropriate on a Monday in May.

I wish everybody. Thank everybody for joining us. Thank you, Comptroller Hsu. Thank you to all the panelists. I wish everybody a wonderful and productive week. Stay healthy and we have a lot more to talk about and work on. Thank you all very much.

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I, Carleton J. Anderson, III do hereby certify that the forgoing electronic file when originally transmitted was reduced to text at my direction; that said transcript is a true record of the proceedings therein referenced; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

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