



## States Push Back on Credit Unions Acquiring Banks

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The recent increased frequency of credit unions purchasing community banks has attracted heightened scrutiny from the state and federal banking regulators, as well as from certain federal government agencies. Prior to 2015, there had been just six transactions involving a credit union purchasing a bank. Since then, the number of these types of deals has significantly expanded. Through April 15<sup>th</sup> of this year, 55 such transactions have been completed or are expected to be completed since 2015. Moreover, another five deals have already been announced in 2022. Historically, state regulators have not objected to these transactions. However, some states have started to impede credit unions from buying banks.

Within the last year alone, credit union-bank deals have been blocked by state regulators in Minnesota, Nebraska, and Tennessee. These states join Colorado, Iowa, Illinois, and Mississippi in the growing list of states who have expressed opposition to credit union acquisitions of banks. In fact, Mississippi recently became the first state to pass legislation banning bank purchases by credit unions. State-chartered banks in Mississippi will be required to sell to a buyer insured by the Federal Deposit Insurance Corporation ("FDIC"), according to the state's new legislation. This effectively prevents credit unions from buying a state-chartered bank because credit unions are not insured by the FDIC.

We note that the actions by these states to block such deals comes at a time when efforts by the banking industry to prevent them at the federal level have been met with limited success.

However, competition concerns in the financial institution merger space, indeed the entire merger landscape, have come under increased review from certain federal government agencies. For example, on January 18, 2022, the Antitrust Division of the Department of Justice ("Antitrust Division") and the Federal Trade Commission jointly asked for public comment regarding strengthening enforcement against illegal mergers. Additionally, the Antitrust Division continues to review the adequacy of the bank consolidation policies set forth in the 1995 Bank Merger Competitive Review Guidelines, given the significant changes in the banking industry since the guidelines were issued. More specifically, the division completed a call for public comment concerning the matter in mid-February 2022 which asked whether and how the division should revise the guidelines.

It remains to be seen whether federal legislation will be passed or if federal banking regulators will issue rules preventing credit unions from purchasing banks. However, it does appear that the issue will continue to draw the attention of state regulators and lawmakers as more of these transactions are announced. In the meantime, we will continue to monitor this industry trend and any additional developments. For more detailed information on credit union-bank deals, please see our white paper, "*Credit Unions Purchasing Community Banks*," published on our website at <https://www.wilwinn.com/resources/>.