



December 1, 2020

Office of the Comptroller of the Currency
Disclosure Services
400 7th Street, SW
Suite 3E-218
Washington, DC 20219

Dear Sir or Madam:

Pursuant to the Freedom of Information Act (5 U.S.C. § 552), the Bank Policy Institute (“BPI”) requests certain data and supporting analysis, as set forth below, relied upon by the Office of the Comptroller of the Currency (“OCC”) in connection with its notice of proposed rulemaking on fair access to financial services (“NPR”).¹ Specifically, BPI requests the information described below, as well as any underlying data, staff memoranda, research papers, communications, and data analysis related to that information.

(1) The NPR asserts that it “draws on ... principles of long-established anti-trust law”.² Please provide the principles to which the OCC refers.

(2) The NPR refers to the “dominant market position of the large bank population”.³ Please provide any data, statistical and other evidence, or analysis that was considered or relied upon by the OCC in reaching that conclusion, including the definitions of the product and geographic markets utilized in reaching this conclusion.

(3) The NPR asserts that a decision by even “one” bank “not to provide a person with fair access to financial services could have a significant effect on that person, the nation’s financial and economic systems, and the global economy”.⁴ Please provide any data, evidence, or analysis that was considered or relied upon by the OCC in reaching that conclusion.

(4) The NPR asserts that “[l]arge banks exercise sufficient market power to influence the price of financial services”⁵ and have “the ability to (1) raise the price [for financial services] ... or (2) significantly impede a person ... in favor of or to the advantage of another person”.⁶ Please

¹ 85 Fed. Reg. 75261 (Nov. 25, 2020).

² *Id.* at 75265.

³ *Id.* at 75264.

⁴ *Id.* at 75264.

⁵ *Id.* at 75264.

⁶ *Id.* at 75265.

provide any data, evidence, or analysis considered or relied upon by the OCC in reaching these assertions.

(5) The NPR states, in its discussion of analysis under the United Mandates Reform Act, that it will not result in an expenditure of \$157 million or more annually by state, local, and tribal governments, in the aggregate, or by the private sector. Please provide any data, evidence or analysis that was considered or relied upon in reaching that conclusion.

(6) The NPR states that it does not contain information collection requirements under the Paperwork Reduction Act. However, the NPR would require that a bank “not deny any person a financial service the bank offers except to the extent justified by such person’s quantified and documented failure to meet quantitative, risk-based standards established in advance by the covered bank”.⁷ Please provide any analysis performed by the OCC to support the conclusion that the documentation required under the NPR would not be an “information collection” for Paperwork Reduction Act purposes.

For the avoidance of doubt, we note that nothing in this request seeks information that are (i) trade secrets or commercial or financial information obtained from a person and privileged or confidential or (ii) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the OCC, both of which are appropriately protected from public disclosure under the Freedom of Information Act.

BPI is requesting this information in order to inform its comment in response to the NPR, which has a comment submission deadline of January 4, 2021. As a result of this deadline, BPI respectfully requests that the OCC provide the requested information in electronic format as soon as possible. BPI will remit applicable fees or costs for reproduction, up to \$5,000.

Thank you for your consideration of this request. Please contact me at (202) 589-2424 or dafina.stewart@bpi.com if you have any questions or would like to discuss this request further.

Sincerely,



Dafina Stewart
Senior Vice President and
Associate General Counsel
Bank Policy Institute

⁷ *Id.* at 75365.