

Oral remarks from Nadine Chabrier for August 18, 2022 hearing – in opposition of TD Bank merger with First Horizon Corporation

Good morning, my name is Nadine Chabrier and I am senior litigation and policy counsel for the Center for Responsible Lending.

We urge the FDIC and OCC to reject the merger between TD Bank and First Horizon.

The Bank Merger Act requires assessment of the merger on competition, safety and soundness, convenience and needs of the community served, and the financial stability of the banking system.

As stated by Comptroller Hsu, “bank mergers should serve communities.”¹

TD Bank is the fourth largest collector of overdraft and NSF fees. Pre-pandemic data indicates that TD generated over \$565 million in overdraft fees, well above its peer institutions.

Overdraft fees cause devastating, lasting harm to consumers with the fewest resources. Only nine percent of account holders pay 84% of the billions collected in overdraft fees nationwide, and these consumers carry very low bank balances, averaging \$350.

Overdraft fees have become a cash cow for banks like TD Bank, while they drive financially-exposed families out of the banking system altogether.

Among people with checking accounts, Black and Latino Americans are more likely than white Americans to incur overdraft fees. And Black and Latinos are already four to five times more likely to be unbanked than white Americans.

This merger would result in a significant presence in the Southeast, where there is a concentration of Black and Latino communities and poverty, often overlapping.

While several large banks have shifted their overdraft practices in recent months, forgoing millions in revenue and 90% or more of such fees, TD Bank continues to charge consumers \$35 overdraft charges up to **three times a day**. It also continues to charge overdraft fees on ATM transactions and debit card purchases. Furthermore, TD has been subject to enforcement action by the CFPB for its unfair and deceptive account abuses.

In summary, the picture that emerges from the TD’s punitive overdraft policies and unfair and deceptive account practices is that TD is out of step with leaders in the field.

While other financial institutions have signaled their desire to assist consumers, not extract much needed funds, TD practices remains harmful to consumers especially Black, Latino and low-income communities.

TD Bank cannot serve the needs of low-income communities while insisting on maintaining this large stream of revenue that by definition, depends on the consumers who lack funds.

TD is at risk of reputational harm that could cause it to lose customers, erode its competitiveness and affect the ability to attract new customers. Repeated, pervasive unfair and deceptive practices could pose a risk through lawsuits and enforcement actions and associated costs, fines, fees, and settlements.

For the previously stated reasons, we therefore oppose the impending merger standing alongside member of Congress and other consumer advocates in doing so. This concludes my testimony.

¹ [Acting Comptroller of the Currency Michael J. Hsu Remarks at Brookings on Bank Mergers and Industry Resiliency, May 9, 2022 \(treas.gov\)](https://www.treas.gov/press-releases/2022/05/09/acting-comptroller-of-the-currency-michael-j-hsu-remarks-at-brookings-on-bank-mergers-and-industry-resiliency)