

term guarantee and direct loan transactions.

Affected Public: This form affects EXIM borrowers involved in financing local cost goods and services under certain long-term guarantee and direct loan transactions.

Annual Number of Respondents: 25.
Estimated Time per Respondent: 30 minutes.

Annual Burden Hours: 12.5 hours.
Frequency of Reporting or Use: As needed.

Government Expenses:
Reviewing Time per Year: 12.5 hours.
Average Wages per Hour: \$42.50.
Average Cost per Year: \$531.25 (time*wages).
Benefits and Overhead: 20%.
Total Government Cost: \$637.50.

Bassam Doughman,
IT Specialist.

[FR Doc. 2021-22273 Filed 10-13-21; 8:45 am]

BILLING CODE 6690-01-P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on whether the proposed transaction complies with the standards enumerated in the HOLA (12 U.S.C. 1467a(e)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th

Street and Constitution Avenue NW, Washington DC 20551-0001, not later than November 15, 2021.

A. Federal Reserve Bank of Cleveland (Bryan S. Huddleston, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101-2566. Comments can also be sent electronically to Comments.applications@clev.frb.org:

1. **Double Bottomline Corp., Caldwell, Ohio;** to become a savings and loan holding company by acquiring Community Savings Bancorp, Inc., and indirectly acquiring its subsidiary federal savings association, Community Savings, both of Caldwell, Ohio.

Board of Governors of the Federal Reserve System, October 8, 2021.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2021-22454 Filed 10-13-21; 8:45 am]

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FEDERAL TRADE COMMISSION

[File No. 191 0153]

Board of Dental Examiners of Alabama; Analysis of Agreement Containing Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before November 15, 2021.

ADDRESSES: Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Please write: “Alabama Board of Dental Examiners; File No. 191 0153” on your comment, and file your comment online at www.regulations.gov by following the instructions on the web-based form. If you prefer to file your comment on paper, please mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the

Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Philip Kehl (202-326-2559), Bureau of Competition, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis of Agreement Containing Consent Order to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC website at this web address: <https://www.ftc.gov/news-events/commission-actions>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before November 15, 2021. Write “Alabama Board of Dental Examiners; File No. 191 0153” on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the www.regulations.gov website.

Due to protective actions in response to the COVID-19 pandemic and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the www.regulations.gov website.

If you prefer to file your comment on paper, write “Alabama Board of Dental Examiners; File No. 191 0153” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at www.regulations.gov, you are solely

responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "trade secret or any commercial or financial information which . . . is privileged or confidential"—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on www.regulations.gov—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at <http://www.ftc.gov> to read this Notice and the news release describing this matter. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before November 15, 2021. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see

<https://www.ftc.gov/site-information/privacy-policy>.

Analysis of Agreement Containing Consent Order To Aid Public Comment

I. Introduction

The Federal Trade Commission has accepted, subject to final approval, a consent agreement with the Board of Dental Examiners of Alabama (the "Board"). The Board is an Alabama state agency comprised of six licensed dentists and one licensed dental hygienist. The Board is charged with administering dental licensing in Alabama and carrying out the provisions of the Alabama Dental Practice Act.

The consent agreement contains a proposed order addressing allegations in the proposed complaint that the Board has unreasonably excluded competition from providers of teledentistry-based teeth alignment products and services without adequate supervision from neutral state officials, in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

The proposed order has been placed on the public record for 30 days in order to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the consent agreement and the comments received and will decide whether it should withdraw from the consent agreement and take appropriate action or make the proposed order final.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint, the consent agreement, or the proposed order, or to modify their terms in any way. The consent agreement is for settlement purposes only and does not constitute an admission by the Board that the law has been violated as alleged in the complaint or that the facts alleged in the complaint, other than jurisdictional facts, are true.

II. Challenged Conduct

This matter involves allegations that the Board unreasonably impeded competition from new providers of clear aligner therapy in Alabama. The Board is a state regulatory agency controlled by practicing, Alabama-licensed dentists.

Braces and clear aligners (removable, fabricated molds) are treatment options for misalignment or incorrect relation between teeth (called malocclusion). Many patients are prescribed braces or

clear aligners following a visit to a dentist's or orthodontist's office.

In recent years, several new firms have launched platforms that facilitate treatment for malocclusion using teledentistry. These firms typically offer clear aligner therapy at prices substantially below the prices associated with treatment using braces or clear aligners supplied by a dentist or orthodontist in a traditional office setting. To initiate treatment with a clear aligner platform, a prospective patient may visit a storefront location, where a non-dentist professional will perform a digital scan of the patient's teeth and gums to create a 3D image of the patient's mouth. The results of this intraoral scan are provided to a dentist working remotely, who determines whether the patient is a candidate for clear aligner therapy. For reasons of price and convenience, many consumers prefer clear aligner therapy supplied through a teledentistry model.

After the entry and expansion of clear aligner platforms in Alabama, in September 2017, the Board voted to amend Alabama Administrative Code § 270-X-3.10(o)(2). The Board's interpretation of that amendment, in conjunction with other existing Board regulations, operates to prohibit non-dentist personnel from taking intraoral scans without on-site supervision by a dentist. Following a Board vote, in September 2018, the Board sent SmileDirectClub, LLC ("SmileDirectClub"), a clear aligner platform, a letter directing SmileDirectClub to cease and desist from taking intraoral scans without on-site dentist supervision.

Because of the Board's conduct, consumers in Alabama have been deprived of full competition for the treatment of malocclusion. For example, because of the Board's conduct, SmileDirectClub has halted a planned expansion of storefronts in Alabama.

III. Legal Analysis

Section 5 of the FTC Act prohibits unfair methods of competition, including concerted action prohibited by Section 1 of the Sherman Act.¹ To establish a violation of Section 1, a plaintiff must show (1) concerted action that (2) unreasonably restrains competition.²

State regulatory boards comprised of active market participants can violate Section 1 by promulgating and

¹ 15 U.S.C. 45; see, e.g., *FTC v. Cement Inst.*, 333 U.S. 683, 693–94 (1948).

² 15 U.S.C. 1; see, e.g., *National Collegiate Athletic Ass'n v. Alston*, 141 S Ct. 2141, 2151 (2021); *Arizona v. Maricopa County Med. Soc.*, 457 U.S. 332, 342–43 (1982).

enforcing rules that harm competition in the industry in which board members participate.³ The Board's rule amendment and cease-and-desist letter harmed competition by impeding consumer access to a low-cost and convenient option for the treatment of malocclusion.

The state action defense is not applicable here. Active market participants control the Board. Therefore, for the Board's conduct to constitute state action, neutral state officials must actively supervise the Board's conduct. The State's supervision mechanisms must provide "realistic assurance that a private party's anticompetitive conduct promotes state policy, rather than merely the party's individual interests."⁴

Although the Board's rule amendment was reviewed by Alabama's Legislative Services Agency ("LSA"), that review did not satisfy the "constant requirements" of active supervision articulated by the Supreme Court.⁵ The LSA did not review the substance of the rule amendment, specifically whether the rule comports with clearly articulated state policy to displace competition.⁶ Additionally, the LSA lacked the authority to veto or modify the Board's decisions.⁷ Furthermore, the Board's cease-and-desist letter to SmileDirectClub did not receive any review by the LSA or any other state officials.

IV. Proposed Order

The proposed order seeks to remedy the Board's anticompetitive conduct by

requiring the Board to cease and desist from requiring on-site supervision by dentists when non-dentists perform intraoral scans on prospective patients.

Section II of the proposed order addresses the core of the Board's anticompetitive conduct. Paragraph II.A. orders the Board to cease and desist from requiring non-dentists affiliated with clear aligner platforms to maintain on-site dentist supervision when performing intraoral scanning. Paragraph II.B. prohibits the Board from impeding clear aligner platforms, or dental professionals affiliated with clear aligner platforms, from providing clear aligner therapy through remote treatment.

Section III requires the Board to provide notice of the proposed order to Board members and employees, and to certain dentists and clear aligner platforms. Section IV requires the Board to notify the Commission of any changes to its rules related to intraoral scanning or clear aligner platforms. Section IX provides that the Order will terminate 10 years from the date it is issued.

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2021-22443 Filed 10-13-21; 8:45 am]

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GENERAL SERVICES ADMINISTRATION

[Notice MY-2021-02; Docket No. 2021-0021; Sequence No. 1]

Office of Shared Solutions and Performance Improvement (OSSPI); Chief Data Officers Council (CDO); Request for Information on Behalf of the Federal Chief Data Officers Council

AGENCY: Chief Data Officers (CDO) Council, General Services Administration (GSA).

ACTION: Notice.

SUMMARY: The Federal CDO Council was established by the Foundations for Evidence-Based Policymaking Act (<https://www.congress.gov/bill/115th-congress/house-bill/4174/text>), which also requires all federal agencies to appoint a CDO. The Council's vision is to improve government mission achievement and increase the benefits to the Nation through improvement in the management, use, protection, dissemination, and generation of data in government decision-making and operations. The CDO Council is publishing this Request for Information (RFI) for the public to provide input on key questions to support the council's

mission and focus areas. Responses to this RFI will inform the Council's efforts and will be shared with the relevant groups in the Council.

DATES: We will consider comments received by November 15, 2021.

ADDRESSES: You should submit comments via the Federal eRulemaking Portal at <https://www.regulations.gov>. Follow the instructions for submitting comments. All public comments received are subject to the Freedom of Information Act and will be posted in their entirety at [regulations.gov](https://www.regulations.gov), including any personal and/or business confidential information provided. Do not include any information you would not like to be made publicly available.

Written responses should not exceed six pages, inclusive of a one-page cover page as described below. Please respond concisely, in plain language, and specify which question(s) you are responding to in narrative format. You may also include links to online materials or interactive presentations but please ensure all links are publicly available. Each response should include:

- The name of the individual(s) and/or organization responding.
- A brief description of the responding individual(s) or organization's mission and/or areas of expertise.
- The section(s) (1, 2, 3, 4, 5 and/or 6) that your submission and materials are related to.
- A contact for questions or other follow-up on your response.

By responding to the RFI, each participant (individual, team, or legal entity) warrants that they are the sole author or owner of, or has the right to use, any copyrightable works that the submission comprises, that the works are wholly original (or is an improved version of an existing work that the participant has sufficient rights to use and improve), and that the submission does not infringe any copyright or any other rights of any third party of which participant is aware.

By responding to the RFI, each participant (individual, team, or legal entity) consents to the contents of their submission being made available to all Federal agencies and their employees on an internal-to-government website accessible only to agency staff persons.

Participants will not be required to transfer their intellectual property rights to the CDO Council, but participants must grant to the Federal government a nonexclusive license to apply, share, and use the materials that are included in the submission. To participate in the RFI, each participant must warrant that there are no legal obstacles to providing

³ See *N.C. Bd. of Dental Exam'rs v. FTC*, 574 U.S. 494, 510–12 (2015).

⁴ *Patrick v. Burget*, 486 U.S. 94, 101 (1988).

⁵ See *N.C. Bd. of Dental Exam'rs*, 574 U.S. at 515 ("The Court has identified only a few constant requirements of active supervision: The supervisor must review the substance of the anticompetitive decision, not merely the procedures followed to produce it; the supervisor must have the power to veto or modify particular decisions to ensure they accord with state policy; and the mere potential for state supervision is not an adequate substitute for a decision by the State. Further, the state supervisor may not itself be an active market participant.") (internal citations and quotations omitted).

⁶ Instead, the LSA determined, without explanation, that the rule amendment "does not affect competition at all." See Exhibit A to Brief in Support of Motion to Dismiss (Memo to File from Paula M. Greene, Feb. 12, 2018) at 13, 15, *Leeds v. Board of Dental Examiners of Alabama*, No. 2:18-cv-01679, (N.D. Ala. Nov. 21, 2018), ECF No. 33. Because the LSA made this determination, it did not review whether the rule was made pursuant to a clearly articulated state policy. See Ala. Code § 41-22-22.1.

⁷ Alabama statutes provide a procedure by which certain Board action may be reviewed by the Alabama Legislature's Joint Committee on Administrative Regulation Review. See Ala. Code § 41-22-22.1. The Joint Committee did not review the actions at issue in this case.