

FEDERAL RESERVE SYSTEM

Protective Life Corporation  
Birmingham, Alabama

Order Approving Formation of Bank Holding Company

Protective Life Corporation (“Protective Life”) has requested the Board’s approval under section 3 of the Bank Holding Company Act (“BHC Act”)<sup>1</sup> to become a bank holding company by acquiring all the shares of Bonifay Holding Company, Inc. (“BHCI”) and its subsidiary bank, the Bank of Bonifay (“Bank”), both of Bonifay, Florida.

Notice of the proposal under section 3 of the BHC Act, affording interested persons an opportunity to submit comments, has been published (73 Federal Register 69,663 (2008)). The time for filing comments has expired, and the Board has considered the proposal and all comments received in light of the factors set forth in section 3 of the BHC Act.

Protective Life, with total consolidated assets of \$41.1 billion, is an insurance and financial services firm engaged principally in the business of underwriting life and property insurance.<sup>2</sup> Protective Life also offers annuity and other investment products and related services.

Bank, which is the primary asset of BHCI, has total consolidated assets of \$220.0 million and is the 143<sup>rd</sup> largest depository institution in Florida. It controls deposits of approximately \$209.4 million in the state, which represents less than 1 percent of the total amount of deposits of insured depository institutions in the state.<sup>3</sup>

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<sup>1</sup> 12 U.S.C. § 1842

<sup>2</sup> Asset data for Protective Life are as of September 30, 2008.

<sup>3</sup> Asset data for Bank are as of September 30, 2008, and deposit and ranking data are as of June 30, 2008.

### Factors Governing Board Review of the Proposed Bank Holding Company

The BHC Act sets forth the factors the Board must consider when reviewing the formation of a bank holding company or the acquisition of a bank. These factors are the competitive effects of the proposal in the relevant geographic markets; the financial and managerial resources and future prospects of the companies and banks involved in the proposal; the convenience and needs of the community to be served, including the records of performance under the Community Reinvestment Act (“CRA”)<sup>4</sup> of the insured depository institutions involved in the transaction; and the availability of information needed to determine and enforce compliance with the BHC Act and other applicable federal banking laws.<sup>5</sup>

### Competitive Considerations

Section 3 of the BHC Act prohibits the Board from approving a proposal that would result in a monopoly. The BHC Act also prohibits the Board from approving a proposed bank acquisition that would substantially lessen competition in any relevant banking market unless the anticompetitive effects of the proposal are clearly outweighed in the public interest by the probable effect of the proposal in meeting the convenience and needs of the community to be served.<sup>6</sup>

The proposal involves the acquisition of a bank by Protective Life, which does not own a commercial bank or savings association. Based on all the facts of record, the Board concludes that consummation of the proposal would not result in any significantly adverse effects on competition or on the concentration of banking resources

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<sup>4</sup> 12 U.S.C. § 2901 et seq.

<sup>5</sup> In cases involving interstate bank acquisitions by bank holding companies, the Board also must consider the concentration of deposits in the nation and relevant individual states, as well as compliance with the other provisions of section 3(d) of the BHC Act. Because the proposed transaction does not involve an interstate bank acquisition by a bank holding company, the provisions of section 3(d) of the BHC Act do not apply in this case.

<sup>6</sup> 12 U.S.C. § 1842(c)(1).

in any relevant banking market and that the competitive factors are consistent with approval of the proposal.

#### Financial, Managerial, and Supervisory Considerations

Section 3 of the BHC Act requires the Board to consider the financial and managerial resources and future prospects of the companies and banks involved in a proposal and certain other supervisory factors.<sup>7</sup> The Board has carefully considered these factors in light of all the facts of record, including supervisory and examination information received from the relevant federal and state supervisors of the organizations involved in the proposal, publicly reported and other available financial information, and information provided by Protective Life. In addition, the Board has consulted with the Federal Deposit Insurance Corporation (“FDIC”), the primary federal supervisor of Bank, about the proposal’s effect on the financial and managerial resources and future prospects of Bank.

In evaluating financial factors, the Board consistently has considered capital adequacy to be an especially important aspect. Protective Life is well capitalized, and all entities of Protective Life that are subject to regulatory capital requirements currently have capital levels that exceed those relevant minimum requirements. Although Bank reports capital ratios that meet the well-capitalized standards under applicable federal guidelines, Bank’s capital level is not considered sufficient given its current risk profile.<sup>8</sup> Bank’s financial position would be improved, however, through this transaction because a significant portion of Bank’s assets to be chosen by Protective Life would be retained by BHCI’s existing shareholders. Protective Life would remain well capitalized on consummation of the proposal. Based on its review of the record, the Board finds that Protective Life has sufficient resources to effect the proposal and that all other financial factors are consistent with approval.

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<sup>7</sup> 12 U.S.C. § 1842(c)(2) and (3).

<sup>8</sup> Bank is subject to a cease and desist order from the Florida Office of Financial Regulation.

In addition, the Board has carefully considered the managerial resources of Protective Life in light of all the facts of record, including confidential supervisory and examination information and information provided by Protective Life. The Board has considered the supervisory experience of the relevant state supervisory agencies of Protective Life and considered information submitted by state insurance regulators in response to requests by the Board. The Board has likewise considered its supervisory experience with BHCI and the supervisory experience of the relevant federal and state supervisory agencies of Bank and Bank's record of compliance with applicable banking law and anti-money laundering laws. In addition, the Board has carefully considered information from Protective Life about its business plans for BHCI and Bank, and the actions it is taking and proposing to take to strengthen the organization's risk-management infrastructure.

Based on all the facts of record, the Board concludes that considerations relating to the financial and managerial resources and future prospects of the organizations involved are consistent with approval, as are the other supervisory factors under the BHC Act.

The Board notes further that a substantial proportion of Protective Life's activities are conducted in subsidiaries that are subject to functional regulation by state insurance commissions or by the Securities and Exchange Commission ("SEC"). The Board will, consistent with the provisions of section 5 of the BHC Act, as amended by the Gramm-Leach-Bliley Act, rely on the appropriate state insurance regulators and the SEC for examination and other supervisory information to the extent appropriate in fulfilling the Board's responsibilities as the holding company's supervisor.

#### Convenience and Needs and CRA Performance Considerations

In acting on a proposal under section 3 of the BHC Act, the Board must consider the effects of the proposal on the convenience and needs of the communities to be served and take into account the records of the relevant depository institutions under the CRA.<sup>9</sup> The Board has carefully considered the convenience and needs factor

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<sup>9</sup> 12 U.S.C. § 2903; 12 U.S.C. § 1842(c)(2).

and the CRA performance records of Bank in light of all the facts of record. As provided in the CRA, the Board evaluates the record of performance of an institution in light of examinations by the appropriate federal supervisors of the CRA performance records of the relevant institutions.<sup>10</sup> Bank received a “satisfactory” rating under the CRA at its most recent performance evaluation by the FDIC, as of October 1, 2004 (the “FDIC Examination”). The FDIC Examination indicated that Bank’s loans were reasonably dispersed among borrowers of different incomes and businesses of different sizes and that its average loan-to-deposit ratio was excellent in light of Bank’s capacity and lending opportunities within the assessment area. Protective Life has represented that consummation of the proposal would permit Bank to continue its existing CRA programs and strengthen its ability to service low- and moderate-income communities. Based on a review of the entire record, the Board has concluded that considerations relating to convenience and needs considerations and the CRA performance record of Bank are consistent with approval of the proposal.

#### Nonbanking Activities

Protective Life engages in insurance and securities activities that are only permissible for a bank holding company that elects to become a financial holding company<sup>11</sup> and in activities that may not conform to the requirements of the BHC Act. Section 4 of the BHC Act by its terms provides any company that becomes a bank holding company two years within which to conform its existing nonbanking investments and activities to the section’s requirements, with the possibility of three one-year extensions.<sup>12</sup> Protective Life must conform any impermissible nonfinancial activities to the BHC Act and investments that it currently conducts or holds, directly or indirectly, within the time requirements of the act. Protective Life should be able to conform the

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<sup>10</sup> The Interagency Questions and Answers Regarding Community Reinvestment provide that a CRA examination is an important and often controlling factor in the consideration of an institution’s CRA record. See 74 Federal Register 498 at 527 (2009).

<sup>11</sup> See 12 U.S.C. § 1843(k).

<sup>12</sup> See 12 U.S.C. § 1843(a)(2).

majority of its activities to the requirements of the BHC Act by filing an effective election to become a financial holding company under section 4(*l*) of the BHC Act.<sup>13</sup>

Conclusion

Based on the foregoing and all the facts of record, the Board has determined that the application under section 3 of the BHC Act should be, and hereby is, approved. In reaching its conclusion, the Board has considered all the facts of record in light of the factors that the Board is required to consider under the BHC Act and other applicable statutes. The Board's approval is specifically conditioned on compliance by Protective Life with the conditions imposed in this order and all the commitments it made to the Board in connection with the application. For purposes of this action, the conditions and commitments are deemed to be conditions imposed in writing by the Board in connection with its findings and decision herein and, as such, may be enforced in proceedings under applicable law.

The proposed transaction may not be consummated before the fifteenth calendar day after the effective date of this order, or later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta, acting pursuant to delegated authority.

By order of the Board of Governors,<sup>14</sup> effective January 15, 2009.

(SIGNED)

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Robert deV. Frierson  
Deputy Secretary of the Board

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<sup>13</sup> 12 U.S.C. 1843(*l*)(1); 12 CFR 225.82.

<sup>14</sup> Voting for this action: Chairman Bernanke, Vice Chairman Kohn, and Governors Warsh, Kroszner, and Duke.