

FEDERAL RESERVE SYSTEM

First Citizens BancShares, Inc.  
Raleigh, North Carolina

Order Approving the Acquisition of a Bank Holding Company

First Citizens BancShares, Inc. (“First Citizens”), Raleigh, North Carolina, a financial holding company within the meaning of the Bank Holding Company Act of 1956 (“BHC Act”),<sup>1</sup> has requested the Board’s approval under section 3 of the BHC Act<sup>2</sup> to acquire all the voting shares of Entegra Financial Corp. (“Entegra”) and thereby indirectly acquire Entegra’s state nonmember bank subsidiary, Entegra Bank, both of Franklin, North Carolina. Following the proposed acquisition, Entegra Bank would be merged into First Citizens’ state nonmember bank subsidiary, First-Citizens Bank & Trust Company (“First Citizens Bank”), Raleigh, North Carolina.<sup>3</sup>

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (84 Federal Register 32,745 (July 9, 2019)).<sup>4</sup> The time for submitting 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.

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<sup>1</sup> 12 U.S.C. § 1841 et seq.

<sup>2</sup> 12 U.S.C. § 1842.

<sup>3</sup> The merger of Entegra Bank into First Citizens Bank is subject to approval by the Federal Deposit Insurance Corporation (“FDIC”), pursuant to section 18(c) of the Federal Deposit Insurance Act. 12 U.S.C. § 1828(c).

<sup>4</sup> 12 CFR 262.3(b).

First Citizens, which is part of the Holding F&L Family Chain,<sup>5</sup> has consolidated assets of approximately \$37.8 billion and is the 61st largest insured depository organization in the United States, controlling approximately \$32.7 billion in consolidated deposits, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the United States.<sup>6</sup> First Citizens controls First Citizens Bank, which operates in Arizona, California, Colorado, Florida, Georgia, Kansas, Maryland, Missouri, New Mexico, North Carolina, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Virginia, Washington, West Virginia, and Wisconsin. First Citizens Bank is the 19th largest insured depository institution in Georgia, controlling deposits of approximately \$1.2 billion, which represent less than 1 percent of the total deposits of insured depository institutions in that state. Similarly, First Citizens Bank is the fourth largest insured depository institution in North Carolina, controlling deposits of approximately \$15.8 billion, which represent 4.3 percent of the total deposits of insured depository institutions in that state.<sup>7</sup> First Citizens Bank also is the fourth largest insured depository institution in South Carolina, controlling deposits of approximately \$7.5 billion, which represent 8.9 percent of the total deposits of insured depository institutions in that state.

Entegra, with consolidated assets of approximately \$1.7 billion, is the 495th largest insured depository organization in the United States, controlling approximately \$1.3 billion in consolidated deposits, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the United States. Entegra Bank operates in Georgia, North Carolina, and South Carolina. Entegra Bank is

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<sup>5</sup> In addition to First Citizens, the Holding F&L Family Chain controls two other bank holding companies, Southern BancShares (N.C.), Inc., Mount Olive, and Fidelity BancShares (N.C.), Inc., Fuquay-Varina, both of North Carolina.

<sup>6</sup> Asset data are as of June 30, 2019, and deposit data are as of June 30, 2018, unless otherwise noted.

<sup>7</sup> In this context, insured depository institutions include commercial banks, savings and loan associations, and savings banks.

the 55th largest insured depository institution in Georgia, controlling deposits of approximately \$307.2 million, which represent less than 1 percent of the total deposits of insured depository institutions in that state. Entegra Bank is the 25th largest insured depository institution in North Carolina, controlling deposits of approximately \$829.9 million, which represent less than 1 percent of the total deposits of insured depository institutions in that state. Entegra Bank also is the 54th largest insured depository institution in South Carolina, controlling deposits of approximately \$87.2 million, which represent less than 1 percent of the total deposits of insured depository institutions in that state.

On consummation of the proposal, First Citizens would become the 60th largest insured depository organization in the United States, with consolidated assets of approximately \$39.3 billion, which represent less than 1 percent of the total assets of insured depository organizations in the United States. First Citizens would control total consolidated deposits of approximately \$34.0 billion, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the United States. In Georgia, First Citizens would remain the 19th largest insured depository organization, controlling deposits of approximately \$1.5 billion, which represent less than 1 percent of the total deposits of insured depository institutions in the state. In North Carolina, First Citizens would remain the fourth largest insured depository organization, controlling deposits of approximately \$16.6 billion, which represent 4.6 percent of the total deposits of insured depository institutions in the state. In South Carolina, First Citizens would remain the fourth largest insured depository organization, controlling deposits of approximately \$7.6 billion, which represent 9.0 percent of the total deposits of insured depository institutions in the state.

#### Interstate Analysis

Section 3(d) of the BHC Act generally provides that, if certain conditions are met, the Board may approve an application by a bank holding company that is well capitalized and well managed to acquire control of a bank located in a state other than the home state of the bank holding company without regard to whether the transaction would

be prohibited under state law.<sup>8</sup> Section 3(d) also provides that the Board (1) may not approve an application that would permit an out-of-state bank holding company to acquire a bank in a host state if the bank has not been in existence for the lesser of the state statutory minimum period of time or five years;<sup>9</sup> (2) must take into account the record of the applicant under the Community Reinvestment Act of 1977 (“CRA”)<sup>10</sup> and the applicant’s record of compliance with applicable state community reinvestment laws;<sup>11</sup> and (3) may not approve an application pursuant to section 3(d) if the bank holding company or resulting bank, upon consummation of the proposed transaction, would control more than 10 percent of the total deposits of insured depository institutions in the United States<sup>12</sup> or, in certain circumstances, if the bank holding company or resulting bank, upon consummation, would control 30 percent or more of the total deposits of insured depository institutions in any state in which the acquirer and target have overlapping banking operations.<sup>13</sup>

For purposes of the BHC Act, the home state of First Citizens is North Carolina.<sup>14</sup> Entegra is located in Georgia, North Carolina, and South Carolina.

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<sup>8</sup> 12 U.S.C. § 1842(d)(1)(A).

<sup>9</sup> 12 U.S.C. § 1842(d)(1)(B).

<sup>10</sup> 12 U.S.C. § 2901 et seq.

<sup>11</sup> 12 U.S.C. § 1842(d)(3).

<sup>12</sup> 12 U.S.C. § 1842(d)(2)(A).

<sup>13</sup> 12 U.S.C. § 1842(d)(2)(B). For purposes of section 3(d) of the BHC Act, the acquiring and target institutions have overlapping banking operations in any state in which any bank to be acquired is located and the acquiring bank holding company controls any insured depository institution or a branch. The Board considers a bank to be located in the states in which the bank is chartered or headquartered or operates a branch. See 12 U.S.C. § 1841(o)(4)-(7).

<sup>14</sup> See 12 U.S.C. § 1841(o)(4). A bank holding company’s home state is the state in which the total deposits of all banking subsidiaries of each company were the largest on July 1, 1966, or the date on which the company became a bank holding company, whichever is later.

First Citizens is well capitalized and well managed under applicable law and has a satisfactory rating under the CRA. Georgia has an age requirement that applies to First Citizens' acquisition of Entegra.<sup>15</sup> South Carolina does not have a minimum age requirement. Entegra Bank has been in existence for more than five years.

On consummation of the proposed transaction, First Citizens would control less than 1 percent of the total amount of consolidated deposits in insured depository institutions in the United States. South Carolina and Georgia each impose a 30 percent limit on the total amount of in-state deposits that a single banking organization may control.<sup>16</sup> First Citizens would control less than 1 percent of the total deposits of insured depository institutions in Georgia and 9.0 percent of the total deposits of insured depository institutions in South Carolina.

The Board has considered all other requirements under section 3(d) of the BHC Act. Accordingly, in light of all the facts of record, the Board determines that it is not prohibited by section 3(d) from approving the proposal.

#### Competitive Considerations

Section 3 of the BHC Act prohibits the Board from approving a proposal that would result in a monopoly or would be in furtherance of an attempt to monopolize the business of banking in any relevant market.<sup>17</sup> The BHC Act also prohibits the Board from approving a proposal that would substantially lessen competition or tend to create a monopoly in any 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 communities to be served.<sup>18</sup>

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<sup>15</sup> Ga. Code Ann. § 7-1-628.8 (3 years).

<sup>16</sup> Ga. Code Ann. § 7-1-622(b) and S.C. Code Ann. § 34-25-50. North Carolina does not impose a limit on the total amount of deposits an insured depository institution may control.

<sup>17</sup> 12 U.S.C. § 1842(c)(1)(A).

<sup>18</sup> 12 U.S.C. § 1842(c)(1)(B).

First Citizens and Entegra have subsidiary banks that compete directly in eight banking markets in Georgia, North Carolina, and South Carolina. The Board has considered the competitive effects of the proposal in these banking markets. In particular, the Board has considered the relative share of total deposits in insured depository institutions in each market (“market deposits”) that First Citizens would control;<sup>19</sup> the concentration level of market deposits and the increase in this level, as measured by the Herfindahl-Hirschman Index (“HHI”) under the Department of Justice Bank Merger Competitive Review guidelines (“DOJ Bank Merger Guidelines”);<sup>20</sup> the number of competitors that would remain in each market; and other characteristics of each market.

*Banking Markets Within Established Guidelines*

Consummation of the proposal would be consistent with Board precedent and within the thresholds in the DOJ Bank Merger Guidelines in four banking markets. On consummation, two banking markets would remain moderately concentrated, and two

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<sup>19</sup> Local deposit and market share data are as of June 30, 2018, and are based on calculations in which the deposits of thrift institutions are included at 50 percent. The Board previously has indicated that thrift institutions have become, or have the potential to become, significant competitors to commercial banks. See, e.g., Midwest Financial Group, 75 Federal Reserve Bulletin 386 (1989); and National City Corporation, 70 Federal Reserve Bulletin 743 (1984). Thus, the Board regularly has included thrift deposits in the market share calculation on a 50-percent weighted basis. See, e.g., First Hawaiian, Inc., 77 Federal Reserve Bulletin 52 (1991).

<sup>20</sup> Under the DOJ Bank Merger Guidelines, a market is considered unconcentrated if the post-merger HHI is under 1000, moderately concentrated if the post-merger HHI is between 1000 and 1800, and highly concentrated if the post-merger HHI exceeds 1800. The DOJ has informed the Board that a bank merger or acquisition generally would not be challenged (in the absence of other factors indicating anticompetitive effects) unless the post-merger HHI is at least 1800 and the merger increases the HHI by more than 200 points. Although the DOJ and the Federal Trade Commission issued revised Horizontal Merger Guidelines in 2010, the DOJ has confirmed that its Bank Merger Guidelines, which were issued in 1995, were not modified. See Press Release, Department of Justice (August 19, 2010), [www.justice.gov/opa/pr/2010/August/10-at-938.html](http://www.justice.gov/opa/pr/2010/August/10-at-938.html).

banking markets would remain unconcentrated, as measured by the HHI. The change in the HHI in these markets would be small, consistent with Board precedent, and within the thresholds in the DOJ Bank Merger Guidelines. In addition, numerous competitors would remain in most of these banking markets.<sup>21</sup>

*Banking Markets Warranting Special Scrutiny*

The structural effects that consummation of the proposal would have in the Cherokee, Transylvania County, Jackson, and Macon County banking markets, all in North Carolina, warrant a detailed review because the concentration levels on consummation would exceed the thresholds in the DOJ Bank Merger Guidelines and would result in the market deposit share of First Citizens, its affiliates, and Entegra Bank equaling or exceeding 35 percent when using initial competitive screening data.

*Markets Without Divestitures*

Cherokee, North Carolina, Banking Market. First Citizens Bank is the second largest depository institution in the Cherokee banking market, controlling approximately \$133.1 million in deposits, which represent 21.1 percent of market deposits.<sup>22</sup> Entegra Bank is the fourth largest depository institution in the market, controlling approximately \$59.7 million in deposits, which represent 9.5 percent of market deposits. On consummation of the proposal, First Citizens Bank would remain the second largest depository institution in the Cherokee banking market, controlling approximately \$192.8 million in deposits, which would represent approximately 30.6 percent of market deposits. The HHI in this market would increase 400 points, from 2369 to 2769.

The Board has considered whether other factors either mitigate the competitive effects of the proposal or indicate that the proposal would not have a significantly adverse effect on competition in the Cherokee banking market. In

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<sup>21</sup> These banking markets and the competitive effects of the proposal in these markets are described in the Appendix.

<sup>22</sup> The Cherokee banking market is defined as Cherokee and Clay counties, both in North Carolina.

particular, the Board has considered that the market has a large and active credit union that offers a full range of retail banking products. North Carolina's State Employee's Credit Union ("SECU") is the second largest credit union in the United States, and approximately 21 percent of market residents in the Cherokee banking market are members of the SECU. In addition, the SECU operates street-level branches that are easily accessible to residents in the market. SECU controls approximately \$166 million in deposits in the Cherokee banking market. The Board concludes that this credit union exerts a competitive influence that mitigates, in part, the potential anticompetitive effects of the proposal. In addition, another credit union in the Cherokee banking market, which offers a wide range of consumer banking products, operates street-level branches, and has broad membership criteria that include almost all of the residents in the relevant banking market, exerts a competitive influence in the market.<sup>23</sup> The Board finds that the deposits of these credit unions should be included at a 50-percent weight in calculating their estimated market influence. This weighting takes into account the limited lending done by credit unions to small businesses relative to commercial banks' lending levels.

After weighting the deposits of the credit unions at 50 percent, the combined organization would control approximately 26.7 percent of market deposits, and the HHI would increase by 304 points to a level of 2237. In addition to First Citizens Bank, six other depository institutions, including the credit unions, compete in the Cherokee market, including one competitor with more than 35 percent of market deposits. The presence of these market competitors suggests that First Citizens Bank would have limited ability unilaterally to offer less attractive terms to consumers, and these depository institutions would be able to exert competitive pressure on First Citizens Bank in the Cherokee banking market.

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<sup>23</sup> The Board previously has considered competition from certain active credit unions with these features as a mitigating factor. See, e.g., Huntington Bancshares Incorporated, FRB Order No. 2016-13 (July 29, 2016); BB&T Corporation, FRB Order No. 2015-18 (July 7, 2015); and Wachovia Corporation, 92 Federal Reserve Bulletin C183 (2006).



Transylvania County, North Carolina, Banking Market. First Citizens Bank is the largest depository institution in the Transylvania County banking market, controlling approximately \$138.4 million in deposits, which represent 26.2 percent of market deposits.<sup>24</sup> Entegra Bank is the fourth largest depository institution in the market, controlling approximately \$59.6 million in deposits, which represent 11.3 percent of market deposits. On consummation of the proposal, First Citizens Bank would remain the largest depository institution in the Transylvania County banking market, controlling approximately \$198.0 million in deposits, which would represent approximately 37.4 percent of market deposits. The HHI in this market would increase 589 points, from 1812 to 2401.

The Board has considered whether other factors either mitigate the competitive effects of the proposal or indicate that the proposal would not have a significantly adverse effect on competition in the Transylvania County banking market. In particular, the Board has considered that the SECU is a large and active credit union in the market that offers a full range of retail banking products. Approximately 12 percent of market residents in the Transylvania County banking market are members of the SECU. In addition, the SECU operates street-level branches that are easily accessible to residents in the market. SECU controls approximately \$121 million in deposits in the Transylvania County banking market. The Board concludes that this credit union exerts a competitive influence that mitigates, in part, the potential anticompetitive effects of the proposal. In addition, three other credit unions in the Transylvania County banking market, which offer a wide range of consumer banking products, operate street-level branches, and have broad membership criteria that include almost all of the residents in the relevant banking market, exert a competitive influence in the market. The Board finds that the deposits of these credit unions should be included at a 50-percent weight in calculating their estimated market influence.

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<sup>24</sup> The Transylvania County banking market is defined as Transylvania County, North Carolina.

After weighting the deposits of the credit unions at 50 percent, the combined organization would control approximately 30.2 percent of market deposits, and the HHI would increase by 385 points to a level of 1692. In addition to First Citizens Bank, nine other depository institutions, including the credit unions, would compete in the Transylvania County banking market, including two competitors with more than 16 percent of market deposits.

*Markets With Divestitures*

Jackson, North Carolina, Banking Market. First Citizens Bank is the largest depository institution in the Jackson banking market, controlling approximately \$419.3 million in deposits, which represent 41.3 percent of market deposits.<sup>25</sup> Entegra Bank is the fourth largest depository institution in the market, controlling approximately \$120.0 million in deposits, which represent 11.8 percent of market deposits. On consummation of the proposal, First Citizens Bank would remain the largest depository institution in the Jackson banking market, controlling approximately \$539.4 million in deposits, which would represent approximately 53.1 percent of market deposits. The HHI in this market would increase 978 points, from 2929 to 3907.

To mitigate the potentially adverse competitive effects of the proposal in the Jackson banking market, First Citizens has committed to divest one branch, accounting for a total of approximately \$63.6 million in deposits, to a competitively suitable institution.<sup>26</sup> Other factors also mitigate the competitive effects of the proposal

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<sup>25</sup> The Jackson banking market is defined as Jackson, Swain, and Graham counties, all in North Carolina.

<sup>26</sup> As a condition of consummation of the proposed merger, First Citizens has committed that it will execute, before consummation of the proposed merger, a sales agreement with a competitively suitable banking organization. First Citizens has provided a similar commitment to the DOJ. First Citizens also has committed to complete the divestiture within 180 days after consummation of the proposed transaction. In addition, First Citizens has committed that if the proposed divestiture is not completed within the 180-day period, First Citizens would transfer the unsold branches to an independent trustee, who would be instructed to sell them to an alternate purchaser or purchasers in

or indicate that the proposal would not have a significantly adverse effect on competition in the Jackson banking market. In particular, the Board has considered that the SECU is a large and active credit union in the market that offers a full range of retail banking products. Approximately 28 percent of market residents in the Jackson banking market are members of the SECU. In addition, the SECU operates street-level branches that are easily accessible to residents in the market. SECU controls approximately \$386 million in deposits in the Jackson banking market. The Board concludes that this credit union exerts a competitive influence that mitigates, in part, the potential anticompetitive effects of the proposal. In addition, another credit union in the Jackson banking market, which offers a wide range of consumer banking products, operates street-level branches, and has broad membership criteria that include almost all of the residents in the relevant banking market, exerts a competitive influence in the market. The Board finds that the deposits of these credit unions should be included at a 50-percent weight in calculating their estimated market influence.

First Citizens also argues that certain of its deposits in the Jackson banking market distort the measure of the competitive effects of the proposal in the market because the deposits cannot be used for lending. In conducting its competitive analysis in previous cases, the Board generally has not adjusted its market share calculations to exclude categories of deposits because all deposits are typically available to support lending and other banking activities at any location, and the deposits maintained in a specific market represent a firm's ability to compete in that market. The Board, however, has adjusted market deposits to exclude specific types of out-of-market deposits held by an acquirer in rare situations when evidence supports a finding that the out-of-market deposits are subject to legal or other restrictions that constrain an organization's ability to

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accordance with the terms of this order and without regard to price. Both the trustee and any alternate purchaser must be deemed acceptable to the Board. See, e.g., BankAmerica Corporation, 78 Federal Reserve Bulletin 338 (1992); United New Mexico Financial Corporation, 77 Federal Reserve Bulletin 484 (1991).

use those deposits to support its general banking activities and that there are data available to make comparable adjustments to the market shares of other participants, if appropriate.<sup>27</sup> In this case, First Citizens has some tribal deposits in the market that are subject to legal or other restrictions on the organization's ability to lend on such deposits.<sup>28</sup>

After making these adjustments, accounting for the divestiture of the branch, and weighting the deposits of credit unions at 50 percent, the combined organization would control approximately 26.8 percent of market deposits, and the HHI would increase by 166 points to a level of 2170. In addition to First Citizens Bank, six other depository institutions, including the credit unions, would compete in the Jackson market, including one competitor with more than 30 percent of market deposits.

Macon County, North Carolina, Banking Market. First Citizens Bank is the third largest depository institution in the Macon County banking market, controlling approximately \$102.1 million in deposits, which represent 8.4 percent of market deposits.<sup>29</sup> Entegra Bank is the second largest depository institution in the market, controlling approximately \$334.5 million in deposits, which represent 27.5 percent of market deposits. On consummation of the proposal, First Citizens Bank would become the second largest depository institution in the Macon County banking market, controlling approximately \$436.6 million in deposits, which would represent approximately 35.8 percent of market deposits. The HHI in this market would increase 460 points, from 3110 to 3570.

To mitigate the potentially adverse competitive effects of the proposal in the Macon County banking market, First Citizens has committed to divest two branches,

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<sup>27</sup> See Central Bancompany, Inc., FRB Order No. 2017-03, 5–6 (February 8, 2017); Huntington Bancshares Incorporated, FRB Order No. 2016-13, 12–15 (July 29, 2016). In this case, no other competitor in the market has a branch of such a size that comparable adjustments are appropriate.

<sup>28</sup> N.C. Gen. Stat. § 53C-6-3.

<sup>29</sup> The Macon County banking market is defined as Macon County, North Carolina.

accounting for a total of approximately \$115.7 million in deposits, to a competitively suitable institution. Other factors also mitigate the competitive effects of the proposal or indicate that the proposal would not have a significantly adverse effect on competition in the Macon County banking market. In particular, the Board has considered that the SECU is a large and active credit union in the market that offers a full range of retail banking products. Approximately 21 percent of market residents in the Macon County banking market are members of the SECU. In addition, the SECU operates street-level branches that are easily accessible to residents in the market. SECU controls approximately \$133 million in deposits in the Macon County banking market. The Board concludes that this credit union exerts a competitive influence that mitigates, in part, the potential anticompetitive effects of the proposal. The Board finds that the deposits of this credit union should be included at a 50-percent weight in calculating its estimated market influence.

After accounting for the divestiture of the two branches and weighting the deposits of the credit union at 50 percent, the combined organization would control approximately 26.1 percent of market deposits, and the HHI would decrease by 39 points to a level of 3021.<sup>30</sup> In addition to First Citizens Bank, two other depository institutions, including the SECU, would compete in the Macon County market, both with more than 18 percent of market deposits.

#### *Conclusion Regarding Competitive Effects*

The DOJ conducted a review of the potential competitive effects of the proposal and has advised the Board that consummation of the proposal with the proposed divestitures of branches in the banking markets, as discussed above, would not likely have a significantly adverse effect on competition in those markets or in any other

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<sup>30</sup> The HHI decrease in the Macon County banking market is attributable to the divestiture of the deposits at the two Entegra Bank branches in the market, which exceed the amount of deposits held by First Citizens in the Macon County banking market.

relevant banking market. In addition, the appropriate banking agencies have been afforded an opportunity to comment and have not objected to the proposal.

Based on all of the facts of record, including the proposed divestitures, and for the reasons explained above, the Board concludes that consummation of the proposal would not have a significantly adverse effect on competition or on the concentration of resources in the banking markets in which First Citizens and Entegra compete directly or in any other relevant banking market. Accordingly, the Board determines that competitive considerations are consistent with approval.

#### Financial, Managerial, and Other Supervisory Considerations

In reviewing a proposal under section 3 of the BHC Act, the Board considers the financial and managerial resources and the future prospects of the institutions involved, as well as the effectiveness of the institutions in combatting money laundering.<sup>31</sup> In its evaluation of financial factors, the Board reviews information regarding the financial condition of the organizations involved on both parent-only and consolidated bases, as well as information regarding the financial condition of the subsidiary depository institutions and the organizations' significant nonbanking operations, if applicable. In this evaluation, the Board considers a variety of information regarding capital adequacy, asset quality, liquidity, and earnings performance. The Board evaluates the financial condition of the combined organization, including its capital position, asset quality, liquidity, earnings prospects, and the impact of the proposed funding of the transaction. The Board also considers the ability of the organization to absorb the costs of the proposal and to complete effectively the proposed integration of the operations of the institutions. In assessing financial factors, the Board considers capital adequacy to be especially important. The Board considers the future prospects of the organizations involved in the proposal in light of their financial and managerial resources and the proposed business plan.

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<sup>31</sup> 12 U.S.C. § 1842(c)(2), (5), and (6).

First Citizens, Entegra, and their subsidiary depository institutions are well capitalized, and the combined organization would remain so on consummation of the proposal. The proposed transaction is a bank holding company merger that is structured as a cash and share exchange.<sup>32</sup> The asset quality, earnings, and liquidity of First Citizens are consistent with approval, and First Citizens appears to have adequate resources to absorb the related costs of the proposal and to complete the integration of the institutions' operations. In addition, the future prospects of the institutions under the proposal are considered consistent with approval.

The Board also has considered the managerial resources of the organizations involved and of the proposed combined organization. The Board has reviewed the examination records of First Citizens, Entegra, and their subsidiary depository institutions, including assessments of their management, risk-management systems, and operations. In addition, the Board has considered information provided by First Citizens; the Board's supervisory experiences and those of other relevant bank supervisory agencies with the organizations; and the organizations' records of compliance with applicable banking, consumer protection, and anti-money-laundering laws.

First Citizens, Entegra, and their subsidiary depository institutions are each considered to be well managed. First Citizens has a record of successfully integrating organizations into its operations and risk-management systems after acquisitions.

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<sup>32</sup> To effect the merger, First Citizens Bank formed a wholly owned subsidiary, FC Merger Subsidiary VII, Inc. ("Merger Sub"), for the sole purpose of facilitating the transaction. Merger Sub would merge with Entegra, with Entegra as the surviving entity. As a result, First Citizens Bank would become a bank holding company for a moment in time before Entegra Bank is merged with and into First Citizens Bank.

At the effective time of the merger of Merger Sub with Entegra, each share of Entegra common stock would be converted into a right to receive cash. Immediately thereafter, Entegra would merge with First Citizens, with First Citizens as the surviving entity. Entegra Bank would then merge with and into First Citizens Bank, with First Citizens Bank as the surviving entity. First Citizens has the financial resources to effect the proposed transaction.

First Citizens' directors and senior executive officers have knowledge of and experience in the banking and financial services sectors, and First Citizens' risk-management program appears to be consistent with approval of this expansionary proposal.

The Board also has considered First Citizens' plans for implementing the proposal. First Citizens has conducted comprehensive due diligence and is devoting significant financial and other resources to address all aspects of the post-acquisition integration process for this proposal. First Citizens would implement its risk-management policies, procedures, and controls at the combined organization, and these are considered acceptable from a supervisory perspective. In addition, First Citizens' management has the experience and resources to operate the combined organization in a safe and sound manner.

Based on all of the facts of record, including First Citizens' supervisory record, managerial and operational resources, and plans for operating the combined institution after consummation, the Board determines that considerations relating to the financial and managerial resources and the future prospects of the organizations involved in the proposal, as well as the record of effectiveness of First Citizens and Entegra in combatting money-laundering activities, are consistent with approval.

#### Convenience and Needs Considerations

In acting on a proposal under section 3 of the BHC Act, the Board considers the effects of the proposal on the convenience and needs of the communities to be served.<sup>33</sup> In its evaluation, the Board considers whether the relevant institutions are helping to meet the credit needs of the communities they serve, as well as other potential effects of the proposal on the convenience and needs of these communities, and places particular emphasis on the records of the relevant depository institutions under the CRA. The CRA requires the federal financial supervisory agencies to encourage insured depository institutions to help meet the credit needs of the local communities in which

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<sup>33</sup> 12 U.S.C. § 1842(c)(2).



they operate, consistent with the institutions' safe and sound operation,<sup>34</sup> and requires the appropriate federal financial supervisory agency to assess a depository institution's record of helping to meet the credit needs of its entire community, including low- and moderate-income ("LMI") neighborhoods, in evaluating bank expansionary proposals.<sup>35</sup>

In addition, the Board considers the banks' overall compliance records and recent fair lending examinations. Fair lending laws require all lending institutions to provide applicants with equal access to credit, regardless of their race, ethnicity, or certain other characteristics. The Board also considers assessments of other relevant supervisors, the supervisory views of examiners, other supervisory information, and information provided by the applicant. The Board also may consider the institution's business model and marketing and outreach plans, the organization's plans after consummation, and any other information the Board deems relevant.

In assessing the convenience and needs factor in this case, the Board has considered all the facts of record, including reports of examination of the CRA performance of First Citizens Bank and Entegra Bank; the consumer compliance, including fair lending, records of both banks; the supervisory views of the FDIC; confidential supervisory information; and information provided by First Citizens.

*Records of Performance under the CRA*

In evaluating the convenience and needs factor and CRA performance, the Board evaluates an institution's performance record in light of examinations by the appropriate federal supervisors of the CRA performance records of the relevant institutions, as well as information and views provided by the appropriate federal

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<sup>34</sup> 12 U.S.C. § 2901(b).

<sup>35</sup> 12 U.S.C. § 2903.

supervisors. In this case, the Board considered the supervisory views of and information provided by the FDIC.<sup>36</sup>

The CRA requires that the appropriate federal financial supervisor for a depository institution prepare a written evaluation of the institution's record of helping to meet the credit needs of its entire community, including LMI neighborhoods.<sup>37</sup> An institution's most recent CRA performance evaluation is a particularly important consideration in the applications process because it represents a detailed, on-site evaluation by the institution's primary federal supervisor of the institution's overall record of lending in its communities.

In general, federal financial supervisors apply a lending test ("Lending Test"), investment test ("Investment Test"), and service test ("Service Test") to evaluate the performance of large insured depository institutions, such as First Citizens Bank, in helping to meet the credit needs of the communities they serve. The Lending Test specifically evaluates an institution's lending to determine whether the institution is helping to meet the credit needs of individuals and geographies of all income levels. As part of the Lending Test, examiners review and analyze an institution's data reported under the Home Mortgage Disclosure Act of 1975,<sup>38</sup> in addition to small business, small farm, and community development loan data collected and reported under the CRA regulations, to assess an institution's lending activities with respect to borrowers and geographies of different income levels. The institution's lending performance is based on a variety of factors, including (1) the number and amounts of home mortgage, small business, small farm, and consumer loans (as applicable) in the institution's CRA assessment areas ("AAs"); (2) the geographic distribution of the institution's lending, including the proportion and dispersion of the

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<sup>36</sup> See Interagency Questions and Answers Regarding Community Reinvestment, 81 Federal Register 48,506, 48,548 (July 25, 2016).

<sup>37</sup> 12 U.S.C. § 2906.

<sup>38</sup> 12 U.S.C. § 2801 et seq.

institution's lending in its AAs and the number and amounts of loans in low-, moderate-, middle-, and upper-income geographies; (3) the distribution of loans based on borrower characteristics, including, for home mortgage loans, the number and amounts of loans to low-, moderate-, middle-, and upper-income individuals;<sup>39</sup> (4) the institution's community development lending, including the number and amounts of community development loans and their complexity and innovativeness; and (5) the institution's use of innovative or flexible lending practices to address the credit needs of LMI individuals and geographies.<sup>40</sup> The Investment Test evaluates the number and amounts of qualified investments that benefit the institution's AAs, and the Service Test evaluates the availability and effectiveness of the institution's systems for delivering retail banking services and the extent and innovativeness of the institution's community development services.<sup>41</sup>

To evaluate the performance of an intermediate small bank, such as Entegra Bank, federal financial supervisors apply the Lending Test and a community development test ("Community Development Test"). The Community Development Test evaluates the number and amounts of an institution's community development loans and qualified investments; the extent to which the institution provides community development services; and the institution's responsiveness to community development lending, investment, and service needs.<sup>42</sup>

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<sup>39</sup> Examiners also consider the number and amounts of small business and small farm loans to businesses and farms with gross annual revenues of \$1 million or less, small business and small farm loans by loan amount at origination, and consumer loans, if applicable, to low-, moderate-, middle-, and upper-income individuals. See, e.g., 12 CFR 228.22(b)(3).

<sup>40</sup> See 12 CFR 228.22(b).

<sup>41</sup> See 12 CFR 228.21 et seq.

<sup>42</sup> 12 CFR 228.26(c).

### *CRA Performance of First Citizens Bank*

First Citizens Bank was assigned an overall “Satisfactory” rating at its most recent CRA performance evaluation by the FDIC, as of June 6, 2016 (“First Citizens Bank Evaluation”).<sup>43</sup> First Citizens Bank received a “High Satisfactory” rating for each of the Lending, Investment, and Service Tests.

Examiners found that First Citizens Bank’s lending levels reflected good responsiveness to community credit needs. Examiners noted that the bank’s geographic distribution of loans reflected good penetration throughout the bank’s AAs. Examiners found that the bank’s lending to borrowers reflected a good distribution among businesses of different sizes, as well as a good distribution among retail customers of different incomes. Examiners noted that the bank used flexible lending practices in order to serve AA credit needs. In addition, examiners found that the bank originated a relatively high level of community development loans.

Examiners found that First Citizens Bank had a significant level of qualified community development investments and donations. Examiners noted that the bank exhibited good responsiveness to credit and community economic development

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<sup>43</sup> The First Citizens Bank Evaluation was conducted using Large Institution CRA Examination Procedures. Examiners reviewed home mortgage lending data, other CRA data (small loans to businesses and farms), community development loans, community development investments and services, and delivery systems for the bank’s products and services from May 28, 2013, through June 6, 2016. The First Citizens Bank Evaluation covered First Citizens Bank’s 74 AAs located in 16 states and five multistate metropolitan statistical areas (“MSAs”): Arizona; California; Colorado; Florida; Georgia; Maryland; New Mexico; North Carolina; Oklahoma; Oregon; South Carolina; Tennessee; Texas; Virginia; Washington; West Virginia; Augusta–Richmond County, Georgia–South Carolina, MSA; Charlotte–Concord–Gastonia, North Carolina–South Carolina, MSA; Kansas City, Missouri–Kansas, MSA; Myrtle Beach–Conway–North Myrtle Beach, South Carolina–North Carolina, MSA; Washington–Arlington–Alexandria, District of Columbia–Virginia–Maryland–West Virginia, MSA. The First Citizens Bank Evaluation included a full-scope review of 43 of these AAs, including all five multistate MSAs. A limited-scope review was conducted in the remaining 21 AAs.

needs. Examiners also noted that the bank occasionally used innovative and complex investments to support community development initiatives.

Examiners found that First Citizens Bank’s delivery systems were accessible to essentially all of the bank’s AAs. Examiners noted that the services and business hours offered by First Citizens Bank did not vary in a way that inconvenienced customers in its AAs, particularly LMI geographies or individuals. Examiners also noted that the bank provided a relatively high level of community development services: those that benefited organizations throughout its AAs, including organizations focused on economic development and revitalization; affordable housing; small business development; financial education; services for at-risk youth; and basic human needs for LMI individuals and areas.

#### *CRA Performance of Entegra Bank*

Entegra Bank was assigned an overall “Satisfactory” rating at its most recent CRA performance evaluation by the FDIC, as of January 9, 2017 (“Entegra Bank Evaluation”).<sup>44</sup> Entegra Bank received “Satisfactory” ratings for both the Lending Test and the Community Development Test.

Examiners found that Entegra Bank’s loan-to-deposit ratio was reasonable given the bank’s size and financial condition as well as the credit needs of its AAs. Examiners noted that the bank made a majority of its small business loans, and a substantial majority of its home mortgage loans, in its AAs. Examiners found that the geographic distribution of the loans reflected an excellent dispersion throughout the AAs

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<sup>44</sup> The Entegra Bank Evaluation was conducted using the Interagency Intermediate Small Institution CRA Examination Procedures. Examiners reviewed home mortgage lending data, other CRA data (small loans to businesses and farms), and qualified investments from March 3, 2014, through January 9, 2017. The Entegra Bank Evaluation covered four AAs in North Carolina and South Carolina, and included full-scope reviews of the Asheville, North Carolina, MSA; Greenville–Anderson–Mauldin, South Carolina, MSA; and the Non-MSA area of North Carolina, including Cherokee, Jackson, Macon, Polk, and Transylvania counties. A limited-scope review was conducted in the Spartanburg, South Carolina, MSA.

and that the distribution of borrowers reflected a reasonable penetration of loans among businesses of different sizes and retail customers of different income levels.

Examiners found that Entegra Bank demonstrated adequate responsiveness to the community development needs of its AAs through community development loans, qualified investments, and community development services. In particular, examiners noted that the levels of community development loans and qualified investments were higher than those from the previous evaluation period. Examiners observed that the bank's board members, officers, and employees were involved with various charitable groups and organizations throughout the AAs.

*Additional Convenience and Needs Considerations*

The Board also considers other potential effects of the proposal on the convenience and needs of the communities to be served. First Citizens represents that, following consummation of the proposal, existing customers of Entegra Bank would have access to a broader network of branches and ATMs. In addition, First Citizens represents that customers of Entegra Bank would have access to additional services, including personal, small business, and commercial property and casualty insurance; international banking; treasury services; wealth management; leasing services; and merchant services.

*Conclusion on Convenience and Needs Considerations*

The Board has considered all the facts of record, including the records of the relevant depository institutions under the CRA, the institutions' records of compliance with fair lending and other consumer protection laws, confidential supervisory information, information provided by First Citizens, and other potential effects of the proposal on the convenience and needs of the communities to be served. Based on that review, the Board determines that the convenience and needs factor is consistent with approval.

## Financial Stability

Section 3 of the BHC Act requires the Board to consider “the extent to which a proposed acquisition, merger, or consolidation would result in greater or more concentrated risks to the stability of the United States banking or financial system.”<sup>45</sup>

To assess the likely effect of a proposed transaction on the stability of the United States banking or financial system, the Board considers a variety of metrics that capture the systemic “footprint” of the resulting firm and the incremental effect of the transaction on the systemic footprint of the acquiring firm. These metrics include measures of the size of the resulting firm, the availability of substitute providers for any critical products and services offered by the resulting firm, the interconnectedness of the resulting firm with the banking or financial system, the extent to which the resulting firm contributes to the complexity of the financial system, and the extent of the cross-border activities of the resulting firm.<sup>46</sup> These categories are not exhaustive, and additional categories could inform the Board’s decision. In addition to these quantitative measures, the Board considers qualitative factors, such as the opaqueness and complexity of an institution’s internal organization, that are indicative of the relative degree of difficulty of resolving the resulting firm. A financial institution that can be resolved in an orderly manner is less likely to inflict material damage on the broader economy.<sup>47</sup>

The Board’s experience has shown that proposals involving an acquisition of less than \$10 billion in total assets, or that result in a firm with less than \$100 billion in total assets, are generally not likely to pose systemic risks. Accordingly, the Board presumes that a proposal does not raise material financial stability concerns if the assets involved fall below either of these size thresholds, absent evidence that the transaction

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<sup>45</sup> 12 U.S.C. § 1842(c)(7).

<sup>46</sup> Many of the metrics considered by the Board measure an institution’s activities relative to the United States financial system.

<sup>47</sup> For further discussion of the financial stability standard, see Capital One Financial Corporation, FRB Order 2012-2 (February 14, 2012).

would result in a significant increase in interconnectedness, complexity, cross-border activities, or other risk factors.<sup>48</sup>

In this case, the Board has considered information relevant to risks to the stability of the United States banking or financial system. The proposal involves a target that has less than \$10 billion in total assets and a pro forma organization of less than \$100 billion in total assets. Both the acquirer and the target are predominantly engaged in retail and commercial banking activities.<sup>49</sup> The pro forma organization would not have cross-border activities and would not exhibit an organizational structure, complex interrelationships, or unique characteristics that would complicate resolution of the firm in the event of financial distress. In addition, the organization would not be a critical services provider or so interconnected with other firms or the markets that it would pose a significant risk to the financial system in the event of financial distress.

In light of all the facts and circumstances, this transaction would not appear to result in meaningfully greater or more concentrated risks to the stability of the United States banking or financial system. Based on these and all other facts of record, the Board determines that considerations relating to financial stability are consistent with approval.

### Conclusion

Based on the foregoing and all the facts of record, the Board determines that the application 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 it is required to consider under the BHC Act and other applicable statutes. The Board's approval is

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<sup>48</sup> See People's United Financial, Inc., FRB Order No. 2017-08 at 25-26 (March 16, 2017). Notwithstanding this presumption, the Board has the authority to review the financial stability implications of any proposal. For example, an acquisition involving a global systemically important bank could warrant a financial stability review by the Board, regardless of the size of the acquisition.

<sup>49</sup> First Citizens and Entegra both offer a broad array of retail and commercial banking products and services. First Citizens has, and as a result of the proposal would continue to have, a small market share in these products and services on a nationwide basis.



specifically conditioned on compliance by First Citizens with all the conditions imposed in this order, including receipt of all required regulatory approvals, and on the commitments 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 proposal may not be consummated before the fifteenth calendar day after the effective date of this order or later than three months thereafter, unless such period is extended for good cause by the Board or the Federal Reserve Bank of Richmond, acting under delegated authority.

By order of the Board of Governors,<sup>50</sup> effective December 16, 2019.

*Ann E. Misback (signed)*

Ann E. Misback  
Secretary of the Board

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<sup>50</sup> Voting for this action: Chair Powell, Vice Chair Clarida, Vice Chair for Supervision Quarles, and Governors Brainard and Bowman.

## Appendix

<b>First Citizens/Entegra Banking Markets Consistent with Board Precedent and DOJ Bank Merger Guidelines</b>						
Data are as of June 30, 2019. All rankings, market deposit shares, and HHIs are based on thrift deposits weighted at 50 percent. The remaining number of competitors noted in each market includes thrift institutions.						
<b>Atlanta, Georgia</b> – Bartow, Cherokee, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Jasper, Newton, Paulding, Rockdale, and Walton counties; the towns of Auburn and Winder in Barrow County; and Luthersville in Meriwether County, all in Georgia.						
	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>First Citizens Pre-Consummation</i>	21	\$750.7M	0.4	1547	0	85
<i>Entegra</i>	43	\$143.1M	0.1			
<i>First Citizens Post-Consummation</i>	20	\$893.9M	0.5			
<b>Asheville, North Carolina</b> – Buncombe, Henderson, Haywood, and Madison counties, all in North Carolina.						
	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>First Citizens Pre-Consummation</i>	2	\$1.5B	19.2	1283	83	19
<i>Entegra</i>	11	\$170.6M	2.2			
<i>First Citizens Post-Consummation</i>	1	\$1.7B	21.4			
<b>Greenville, South Carolina</b> – Anderson, Greenville, Laurens, and Pickens counties, all in South Carolina.						
	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>First Citizens Pre-Consummation</i>	7	\$915.0M	5.4	901	3	34
<i>Entegra</i>	26	\$44.9M	0.3			
<i>First Citizens Post-Consummation</i>	7	\$959.9M	5.7			

<b>Spartanburg, South Carolina–North Carolina – Cherokee, Spartanburg, and Union counties, all in South Carolina; and Polk County, in North Carolina.</b>						
	<b>Rank</b>	<b>Amount of Deposits</b>	<b>Market Deposit Shares (%)</b>	<b>Resulting HHI</b>	<b>Change in HHI</b>	<b>Remaining Number of Competitors</b>
<i>First Citizens Pre-Consummation</i>	3	\$709.3M	11.6	956	48	21
<i>Entegra</i>	15	\$127.6M	2.1			
<i>First Citizens Post-Consummation</i>	2	\$836.9M	13.7			