

FEDERAL RESERVE SYSTEM

Bank of America Corporation
Charlotte, North Carolina

Order Approving the Acquisition of a Bank Holding Company

Bank of America Corporation (“Bank of America”), a financial holding company within the meaning of the Bank Holding Company Act (“BHC Act”), has requested the Board’s approval under section 3 of the BHC Act¹ to acquire ABN AMRO North America Holding Company (“ABN AMRO North America”) and thereby indirectly acquire LaSalle Bank Corporation (“LaSalle”), both of Chicago, Illinois, and its subsidiary banks, LaSalle Bank National Association (“LaSalle Bank”), Chicago, and LaSalle Bank Midwest National Association (“LaSalle Bank Midwest”), Troy, Michigan.²

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (72 Federal Register 31,582 (2007)).

¹ 12 U.S.C. § 1842.

² ABN AMRO North America is a wholly owned subsidiary of ABN AMRO Bank N.V. (“ABN AMRO”), Amsterdam, the Netherlands. Bank of America also proposes to acquire two other subsidiaries of ABN AMRO North America, Standard Federal International, LLC and LaSalle Trade Services Corporation, both of Chicago, which are agreement corporations under section 25 of the Federal Reserve Act (“FRA”), 12 U.S.C. § 601 et seq. In addition, Bank of America proposes to acquire the nonbanking subsidiaries of ABN AMRO North America, other than ABN AMRO WCS Holding Company (“WCS Holding”), New York, New York, in accordance with section 4(k) of the BHC Act, 12 U.S.C. § 1843(k). ABN AMRO North America would divest WCS Holding and its subsidiaries by distributing them to ABN AMRO before Bank of America consummates the proposed transaction.

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 the BHC Act.³

Bank of America, with total consolidated assets of approximately \$1.5 trillion, is the second largest depository organization in the United States.⁴ Bank of America controls seven insured depository institutions⁵ that operate in thirty-one states and the District of Columbia. In Illinois, Bank of America is the 14th largest depository organization, controlling deposits of \$5.4 billion, which represent 1.6 percent of the total amount of deposits of insured depository institutions in the state (“state deposits”).⁶

ABN AMRO North America has total consolidated assets of approximately \$160 billion and controls indirectly two depository institutions, LaSalle Bank and LaSalle Bank Midwest, which operate in Illinois, Indiana, and Michigan. In Illinois, ABN AMRO North America is the second largest depository organization, controlling deposits of \$37 billion, which represent 11.2 percent of state deposits.

On consummation of the proposal, Bank of America would remain the second largest depository organization in the United States, with total consolidated assets of approximately \$1.7 trillion. Bank of America would become the largest

³ Four commenters supported the proposal, and eighteen commenters expressed concerns about various aspects of the proposal.

⁴ Asset data are as of June 30, 2007, and are adjusted to reflect the acquisition by Bank of America of U.S. Trust Corporation and its subsidiary bank, United States Trust Company, National Association (“U.S. Trust Bank”), both of New York, New York, that was consummated on July 2, 2007. See Bank of America Corporation, 93 Federal Reserve Bulletin C49 (2007) (“BOA/U.S. Trust Order”).

⁵ In this context, insured depository institutions include commercial banks, savings banks, and savings associations.

⁶ State deposit data and rankings are as of June 30, 2006.

depository organization in Illinois, controlling deposits of approximately \$42.4 billion, which represent approximately 12.9 percent of the total amount of state deposits.

Interstate and Deposit Cap Analysis

Section 3(d) of the BHC Act allows the Board to approve an application by a bank holding company to acquire control of a bank located in a state other than the bank holding company's home state if certain conditions are met. For purposes of the BHC Act, the home state of Bank of America is North Carolina,⁷ and ABN AMRO North America's subsidiary banks are located in Illinois, Indiana, and Michigan.⁸

The Board may not approve an interstate acquisition under section 3(d) if the applicant (including all its insured depository institution affiliates) controls, or on consummation of the proposed transaction would control, more than 10 percent of the total amount of deposits of insured depository institutions in the United States ("nationwide deposit cap").⁹ As required by section 3(d), the Board has carefully considered whether Bank of America controls, or on consummation of the proposed transaction would control, more than 10 percent of the total amount of deposits of

⁷ See 12 U.S.C. § 1842(d). A bank holding company's home state is the state in which the total deposits of all banking subsidiaries of such company were the largest on July 1, 1966, or the date on which the company became a bank holding company, whichever is later.

⁸ For purposes of section 3(d) of the BHC Act, 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) and 1842(d)(1)(A) and (d)(2)(B).

⁹ Several commenters expressed concerns about the proposal's consistency with the nationwide deposit cap.

insured depository institutions¹⁰ in the United States. In analyzing this matter, the Board calculated the percentage of total deposits of insured depository institutions in the United States and the total deposits that Bank of America controls, and on consummation of the proposal would control, based on the definition of “deposit” in the FDI Act,¹¹ the deposit data collected in reports filed by all insured depository institutions,¹² and the methods and adjustments used by the FDIC to compute total deposits. These calculations were made using the methodology described in the Board’s 2004 order approving Bank of America’s acquisition of FleetBoston Financial Corporation¹³ and take into account the voluntary use by some insured

¹⁰ The BHC Act adopts the definition of “insured depository institution” used in the Federal Deposit Insurance Act (12 U.S.C. § 1811 et seq.) (“FDI Act”). See 12 U.S.C. § 1841(n). The FDI Act’s definition of “insured depository institution” includes all banks (whether or not the institution is a bank for purposes of the BHC Act), savings banks, and savings associations that are insured by the Federal Deposit Insurance Corporation (“FDIC”) and insured U.S. branches of foreign banks, as each of those terms is defined in the FDI Act. See 12 U.S.C. § 1813(c)(2).

¹¹ Section 3(d) of the BHC Act specifically adopts the definition of “deposit” in the FDI Act. 12 U.S.C. § 1842(d)(2)(E) (incorporating the definition of “deposit” at 12 U.S.C. § 1813(1)).

¹² Each insured bank in the United States must report data regarding its total deposits in accordance with the definition of “deposit” in the FDI Act on the institution’s Consolidated Report of Condition and Income (“Call Report”). Each insured savings association similarly must report its total deposits on the institution’s Thrift Financial Report. Deposit data for FDIC-insured U.S. branches of foreign banks and federal branches of foreign banks are obtained from the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks. These data are reported quarterly to the FDIC and are publicly available.

¹³ Bank of America Corporation, 90 Federal Reserve Bulletin 217, 219 (2004) (“BOA/Fleet Order”); see also Bank of America Corporation, 92 Federal Reserve

depository institutions of the newly revised Call Report and Thrift Financial Report forms, which became available in the first quarter of 2007.¹⁴

Based on the latest available deposit data reported by all insured depository institutions, the total amount of deposits of insured depository institutions in the United States is approximately \$6.828 trillion as of June 30, 2007. Also based on the latest Call Report, Bank of America (including all its insured depository institution affiliates) controls deposits of approximately \$615.4 billion, and ABN AMRO North America controls deposits of approximately \$59.1 billion. Bank of America, therefore, currently controls approximately 9.01 percent of total U.S. deposits. On consummation of the proposed transaction, Bank of America would control approximately 9.88 percent of the total amount of deposits of insured depository institutions in the United States. Accordingly, the Board finds that Bank of America does not now control, and on consummation of the proposed transaction would not control, an amount of deposits that would exceed the nationwide deposit cap.¹⁵

Bulletin C5 (2006) (order approving Bank of America's merger with MBNA Corporation, Wilmington, Delaware) ("BOA/MBNA Order").

¹⁴ Reporting on the revised Call Report and Thrift Financial Report forms is voluntary until calendar year 2008. Most insured depository institutions continue to use the previously authorized version of these forms. To compute the amount of deposits held by those institutions, the Board used the formula described in the BOA/Fleet Order to combine the appropriate lines from the previous version of the forms. Some insured depository institutions are already using the revised versions of the Call Report and the Thrift Financial Report. The amount of deposits held by those institutions was computed as outlined in Appendix A.

¹⁵ Bank of America's lead bank, Bank of America, National Association, Charlotte, North Carolina, recently acquired nonvoting convertible shares of Countrywide Financial Corporation ("Countrywide"), Calabasas, California, which operates a savings association. This investment by Bank of America was a noncontrolling investment for purposes of the BHC Act and was made pursuant to section 4(c)(6)

Section 3(d) also prohibits the Board from approving a proposal if, on consummation, the applicant would control 30 percent or more of the total deposits of insured depository institutions in any state in which both the applicant and the organization to be acquired operate an insured depository institution, or the applicable percentage of state deposits established by state law (“state deposit cap”).¹⁶ On consummation of the proposal, Bank of America would control less than 30 percent of the total amount of deposits of insured depository institutions in Illinois, Indiana, and Michigan and would not hold deposits in excess of any applicable state deposit caps.

All other requirements of section 3(d) of the BHC Act also would be met on consummation of the proposal.¹⁷ Based on all the facts of record, the Board is permitted to approve the proposal under section 3(d) of the BHC Act.

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 banking market.

of the BHC Act. 12 U.S.C. § 1843(c)(6). Because the investment did not cause Countrywide’s subsidiary savings association to become an “affiliate” of Bank of America, as defined by the BHC Act, the deposits of Countrywide are not included in the calculation of the deposit cap, which, by statute, refers only to affiliated insured depository institutions of a bank holding company. See 12 U.S.C. § 1841(k).

¹⁶ 12 U.S.C. § 1842(d)(2)(B)-(D).

¹⁷ Bank of America is adequately capitalized and adequately managed as defined by applicable law. 12 U.S.C. § 1842(d)(1)(A). LaSalle Bank and LaSalle Bank Midwest have been in existence and operated for the minimum period of time required by applicable state law. See 12 U.S.C. § 1842(d)(1)(B). The other requirements in section 3(d) of the BHC Act also would be met on consummation of the proposal.

The BHC Act also prohibits the Board from approving a 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.¹⁸

Bank of America and ABN AMRO North America have subsidiary depository institutions that compete directly in five banking markets in Illinois: Aurora, Chicago, Elgin, Joliet, and Woodstock. The Board has reviewed carefully the competitive effects of the proposal in each of these banking markets in light of all the facts of record. In particular, the Board has considered the number of competitors that would remain in the markets, the relative shares of total deposits in depository institutions in the markets (“market deposits”) controlled by Bank of America and ABN AMRO North America,¹⁹ 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 Merger Guidelines (“DOJ Guidelines”),²⁰ and other characteristics of the markets.

¹⁸ 12 U.S.C. § 1842(c)(1).

¹⁹ Deposit and market share data are as of June 30, 2007, adjusted to reflect mergers and acquisitions through July 9, 2007, 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 of commercial banks. See, e.g., Midwest Financial Group, 75 Federal Reserve Bulletin 386, 387 (1989); National City Corporation, 70 Federal Reserve Bulletin 743, 744 (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, 55 (1991).

²⁰ Under the DOJ Guidelines, a market is considered unconcentrated if the post-merger HHI is under 1000, moderately concentrated if the post-merger

Consummation of the proposal would be consistent with Board precedent and within the thresholds in the DOJ Guidelines in each of the five banking markets.²¹ The change in the HHI's measure of concentration would be small and numerous competitors would remain in each market. On consummation, three markets would remain unconcentrated and two markets would remain moderately concentrated, as measured by the HHI.

The DOJ has conducted a detailed review of the potential competitive effects of the proposal and has advised the Board that consummation of the transaction would not likely have a significantly adverse effect on competition in any 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 the facts of record, the Board concludes that consummation of the proposal would not have a significantly adverse effect on competition or on the concentration of resources in any of the five banking markets where Bank of America and ABN AMRO North America compete directly or in any other relevant banking market. Accordingly, the Board has determined that competitive considerations are consistent with approval.

HHI is between 1000 and 1800, and highly concentrated if the post-merger HHI exceeds 1800. The Department of Justice ("DOJ") has informed the Board that a bank merger or acquisition generally will 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. The DOJ has stated that the higher-than-normal HHI thresholds for screening bank mergers and acquisitions for anticompetitive effects implicitly recognize the competitive effects of limited-purpose and other nondepository financial entities.

²¹ These markets and the effects of the proposal on the concentration of banking resources in these markets are described in Appendix B.

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 depository institutions involved in the proposal and certain other supervisory factors. The Board has considered these factors in light of all the facts of record, including confidential reports of examination and other supervisory information received from the relevant federal and state supervisors of the organizations involved in the proposal, publicly reported and other financial information, and information provided by Bank of America.

In evaluating financial factors in expansion proposals by banking organizations, the Board reviews the financial condition of the organizations involved on both a parent-only and consolidated basis, as well as the financial condition of the subsidiary banks and significant nonbanking operations. In this evaluation, the Board considers a variety of information, including capital adequacy, asset quality, and earnings performance. In assessing financial factors, the Board consistently has considered capital adequacy to be especially important. The Board also evaluates the financial condition of the combined organization at consummation, including its capital position, asset quality, and earnings prospects, and the impact of the proposed funding of the transaction.

The Board has considered carefully the proposal under the financial factors. Bank of America and its subsidiary banks, LaSalle Bank, and LaSalle Bank Midwest are all well capitalized and would remain so on consummation of the proposal. Based on its review of the record, the Board finds that Bank of America has sufficient financial resources to effect the proposal. The proposed transaction is structured as a cash purchase of shares, and Bank of America will use existing resources to fund the purchase.

The Board also has considered the managerial resources of the organizations involved and the proposed combined organization. The Board has reviewed the examination records of Bank of America, ABN AMRO North America, and their subsidiary banks, including assessments of their management, risk-management systems, and operations.²² In addition, the Board has considered its supervisory experiences and those of the other relevant bank supervisory agencies with the organizations and their records of compliance with applicable banking law, including anti-money laundering laws.²³ The Board also has considered Bank of America's plans for implementing the proposal, including with respect to the proposed management of the organization after consummation.

Based on all the facts of record, the Board has concluded that considerations relating to the financial and managerial resources and future

²² A commenter opposing the proposal expressed concern about Bank of America's connection to investigations and lawsuits related to the bankruptcy of Parmalat SpA, Parma, Italy. The commenter also expressed unsubstantiated concerns about Bank of America's student loan policies. The Board has considered these comments in light of all the facts of record, including reports of examination assessing the financial and managerial resources of the organizations, information on the allegations raised by the pending lawsuits, and information provided by the Office of the Comptroller of the Currency ("OCC").

²³ As part of its consideration of managerial factors, the Board has reviewed confidential supervisory information on the policies, procedures, and practices of Bank of America and its subsidiary banks for complying with the Bank Secrecy Act and consulted with the OCC. One commenter reiterated concerns that it previously expressed about the handling of certain money transfers through the New York branch of Bank of America, National Association ("BA Bank"), Charlotte, North Carolina. The Board notes that this matter was addressed in the BOA/U.S. Trust Order at fn. 22 and incorporates those findings in this order.

prospects of the organizations involved in the proposal are consistent with approval, as are the other supervisory factors under the BHC Act.²⁴

Convenience and Needs Considerations

In acting on a proposal under section 3 of the BHC Act, the Board is required to consider the effects of the proposal on the convenience and needs of the communities to be served and to take into account the records of the relevant insured depository institutions under the Community Reinvestment Act (“CRA”).²⁵ 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 they operate, consistent with their safe and sound operation, and requires the appropriate federal financial supervisory agency to take into account a relevant depository institution’s record of meeting the credit needs of its entire community, including low- and moderate-income (“LMI”) neighborhoods, in evaluating bank expansionary proposals.²⁶

²⁴ Some commenters expressed concerns about Bank of America’s relations with unaffiliated third parties engaged in subprime lending. The commenters provided no evidence that Bank of America has originated, purchased, or securitized “predatory” loans or otherwise engaged in abusive lending practices. Bank of America has policies and procedures to help ensure that the subprime loans it purchases and securitizes are in compliance with applicable state and federal consumer protection laws. Bank of America stated that it conducts extensive due diligence reviews of the third-party loan originators with which it does business, as well as the loans that it purchases and the servicers of each pool, to help ensure that Bank of America is not facilitating “predatory” lending. The Board expects all banking organizations to conduct their operations in a safe and sound manner with adequate systems to manage operational, compliance, and reputational risks and will take appropriate supervisory actions to address and prevent abusive lending practices.

²⁵ 12 U.S.C. § 2901 *et seq.*; 12 U.S.C. § 1842(c)(2).

²⁶ 12 U.S.C. § 2903.

The Board has considered carefully all the facts of record, including reports of examination of the CRA performance records of the subsidiary banks of Bank of America and ABN AMRO North America, data reported by Bank of America under the Home Mortgage Disclosure Act (“HMDA”),²⁷ other information provided by Bank of America, confidential supervisory information, and public comments received on the proposal.

Four commenters supported the proposal. Those commenters commended Bank of America’s focus on economic integration in the communities in which it operates, sponsorship of homebuyer events in LMI communities, and financial support for small business and microlending programs. Several other commenters expressed concerns about either the lending record of Bank of America or its ability to adequately meet its CRA obligations, and some of them opposed the proposal or recommended approval only if subject to conditions suggested by the commenter.²⁸ Some commenters alleged that Bank of America has not addressed the diversity and community reinvestment needs of California communities or expressed concern about the CRA performance of Bank of America in California. Another commenter alleged that Bank of America has discriminated against, and

²⁷ 12 U.S.C. § 2801 et seq.

²⁸ Some commenters criticized Bank of America’s performance under its previous community reinvestment pledges, urged the Board to require Bank of America to provide specific pledges or plans or to take certain future actions, or asked the Board to condition its approval on a commitment by Bank of America to improve its CRA record. The Board consistently has stated that neither the CRA nor the federal banking agencies’ CRA regulations require depository institutions to make pledges or enter into commitments or agreements with any organization and that the enforceability of any such third-party pledges, initiatives, and agreements are matters outside the CRA. See BOA/Fleet Order at 232-33. Instead, the Board focuses on the existing CRA performance record of an applicant and the programs that an applicant has in place to serve the credit needs of its assessment areas at the time the Board reviews a proposal under the convenience and needs factor.

has not addressed the convenience and needs of, LMI and minority residents of Chicago. One other commenter alleged more generally, based on HMDA data, that Bank of America has engaged in disparate treatment of minority individuals in home mortgage lending.

A. CRA Performance Evaluations

As provided in the CRA, the Board has evaluated the convenience and needs factor in light of the evaluations by the appropriate federal supervisors of the CRA performance records of the relevant insured depository institutions. 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 of the institution's overall record of performance under the CRA by its appropriate federal supervisor.²⁹

Bank of America's lead bank, BA Bank, received an "outstanding" rating at its most recent CRA performance evaluation by the OCC, as of December 31, 2001 ("BOA 2001 Evaluation").³⁰ The two other subsidiary banks of Bank of America subject to the CRA, FIA Card Services, N.A., Wilmington, Delaware, and U.S. Trust Bank, also received "outstanding" ratings at their most recent CRA performance evaluations.³¹

²⁹ See Interagency Questions and Answers Regarding Community Reinvestment, 66 Federal Register 36,620 and 36,639 (2001).

³⁰ The evaluation period for the BOA 2001 Evaluation was January 1, 2000, through December 31, 2001.

³¹ FIA Card Services, N.A., formerly known as MBNA America Bank, National Association, was last evaluated by the OCC as of April 4, 2005. U.S. Trust Bank was formed in 2006 by the conversion of United States Trust Company of New York ("USTC New York") to a national bank charter and its subsequent merger with U.S. Trust Company, National Association ("USTC Los Angeles"). The CRA performance of USTC New York was

ABN AMRO North America's lead subsidiary bank, LaSalle Bank, received an "outstanding" rating at its most recent CRA performance evaluation by the OCC, as of December 31, 2002 ("2002 Evaluation").³² The other subsidiary bank, LaSalle Bank Midwest, received a "satisfactory" rating at its most recent CRA performance evaluation by the OCC, as of December 31, 2002.³³ Bank of America has represented that it would combine the community development and community investment activities of BA Bank and ABN AMRO North America's subsidiary banks to strengthen and help meet the banking needs of communities its communities.³⁴

CRA Performance of BA Bank. The BOA 2001 Evaluation was discussed in the BOA/Fleet Order.³⁵ The Board also considered BA Bank's CRA performance earlier this year in the BOA/U.S. Trust Order. Based on a review of the record in this case, the Board hereby reaffirms and adopts the facts

evaluated by the Federal Reserve Bank of New York as of March 15, 2004, before its sale to Bank of America and conversion to a national bank charter in 2006. The CRA performance of USTC Los Angeles was last evaluated by the OCC as of October 15, 2002. The OCC has not yet evaluated U.S. Trust Bank's CRA performance.

³² The evaluation period for the 2002 Evaluation was January 1, 2000, through December 31, 2002.

³³ LaSalle Bank Midwest was formerly known as Standard Federal Bank, N.A., Troy, Michigan.

³⁴ Several commenters questioned Bank of America's efforts in awarding contracts to minority- and women-owned businesses. Although the Board fully supports programs designed to promote equal opportunity and economic opportunities for all members of society, the comments about supplier diversity programs are beyond the factors the Board is authorized to consider under the BHC Act. See e.g., Deutsche Bank AG, 85 Federal Reserve Bulletin 509, 513 (1999).

³⁵ BOA/Fleet Order at 225-229.

and findings detailed in those orders concerning BA Bank's CRA performance record. Bank of America also provided the Board with additional information about its CRA performance since the Board last reviewed such matters in the BOA/U.S. Trust Order. In addition, the Board has consulted with the OCC with respect to BA Bank's CRA performance since the BOA/U.S. Trust Order.

In the BOA 2001 Evaluation, examiners commended BA Bank's overall lending performance, which they described as demonstrating excellent or good lending-test results in all its rating areas. Examiners reported that the bank's distribution of HMDA-reportable mortgage loans among areas of different income levels was good, and they commended BA Bank for developing mortgage loan programs with flexible underwriting standards. In addition, examiners reported that the bank's small business lending was excellent or good in the majority of its rating areas, and they commended the distribution of small business loans among businesses of different sizes in several of BA Bank's assessment areas.³⁶ Examiners also noted in the BOA 2001 Evaluation that BA Bank's level of community development lending was excellent.

Since the BOA 2001 Evaluation, BA Bank has maintained a substantial level of home mortgage, small business, and community development lending. In 2005 and 2006, the bank originated more than 756,000 HMDA-reportable home mortgage loans totaling approximately \$161 billion throughout its assessment areas, including more than \$18 billion in loans to LMI individuals.³⁷ In 2006, BA Bank

³⁶ In this context, "small business loans" are loans with original amounts of \$1 million or less that are secured by nonfarm, nonresidential properties or are commercial and industrial loans to borrowers in the United States.

³⁷ In California in 2005 and 2006, the bank originated more than 150,000 HMDA-reportable home mortgage loans totaling approximately \$51 billion throughout its assessment areas, including more than \$2.8 billion in loans to LMI individuals. In the Chicago metropolitan statistical area ("MSA"), the

was recognized by the U.S. Small Business Administration (“SBA”) for the ninth consecutive year as the leading small business lender in the country, based on its origination of SBA loans totaling more than \$405 million.³⁸ As noted in the BOA/US Trust Order, BA Bank’s community development lending during 2005 and 2006 totaled approximately \$5.8 billion.³⁹

In the BOA 2001 Evaluation, examiners reported that BA Bank consistently demonstrated strong performance under the investment test, noting that its performance was excellent or good in the majority of its assessment areas.⁴⁰ During the evaluation period, BA Bank funded more than 17,000 housing units for LMI families with its community development investments throughout its

bank originated more than 20,000 HMDA-reportable home mortgage loans totaling approximately \$2.2 billion throughout its assessment areas, including more than \$610 million in loans to LMI individuals.

³⁸ Bank of America represented that BA Bank’s small business loans of less than \$50,000 in California in 2006 more than doubled from the level attained in 2005, both in number and dollar amounts of such loans.

³⁹ BA Bank’s community development lending during 2005 and 2006 in its California assessment areas and in the Chicago market totaled approximately \$1.2 billion and \$34 million, respectively. BA Bank has entered into partnerships with approximately 500 housing-counseling agencies throughout its assessment areas, including 16 housing-counseling agencies in the Chicago metropolitan area, to offer pre- and post-purchase home mortgage counseling to LMI borrowers. Such counseling includes reviewing the buyer’s credit report, income, and debt; preparing a budget; and conducting an affordability analysis.

⁴⁰ One commenter criticized the amount of Bank of America’s charitable donations and its methodology for making these donations. Bank of America represented that it has a record of providing significant corporate philanthropic donations in all the communities that it serves. The Board notes that neither the CRA nor the agencies’ implementing rules require institutions to engage in charitable giving.

assessment areas.⁴¹ Examiners commended BA Bank for taking a leadership role in developing and participating in complex investments that involved multiple participants and both public and private funding.

Since the BOA 2001 Evaluation, BA Bank has maintained a substantial level of community development investment activities in its assessment areas. Bank of America represented that BA Bank's qualifying community development investments totaled approximately \$3.7 billion during 2005 and 2006 and that BA Bank's subsidiary community development corporation had helped develop more than 6,200 housing units in LMI census tracts or for LMI individuals since 2003.⁴²

Examiners commended BA Bank's service performance throughout its assessment areas in the BOA 2001 Evaluation. They reported that the bank's retail delivery systems were generally good and that the bank's distribution of branches among geographies of different income levels was adequate. Examiners also commended BA Bank for its community development services, which typically responded to the needs of the communities served by the bank throughout its assessment areas.

⁴¹ Bank of America also has provided grants to nonprofit organizations that promote SBA programs and originate microloans in amounts as low as \$500.

⁴² Bank of America represented that BA Bank's qualifying community development investments during 2005 and 2006 in its California assessment areas and in the Chicago market totaled approximately \$821 million and \$82 million, respectively. Bank of America further represented that BA Bank made at least 11 Low Income Housing Tax Credit investments totaling more than \$134 million in 2005 and 2006 in California, which supported the renovation or construction of 1,070 housing units for LMI individuals and senior citizens. The bank also stated that it has allocated more than \$27 million to California Community Development Financial Institutions ("CDFIs") since 2005 in more than 20 of its assessment areas, including \$9.4 million for CDFIs focused on small business microfinancing and \$17.7 million for CDFIs focused on affordable housing.

CRA Performance of LaSalle Bank. As noted, LaSalle Bank received an overall “outstanding” rating in the 2002 Evaluation, with “outstanding” ratings on both the lending and investment tests and a “high satisfactory” rating on the service test. Examiners noted that LaSalle Bank’s mortgage and small business lending performance was excellent and had a positive impact on individuals and businesses in LMI areas as well as persons of different income levels. In addition, examiners found that the bank’s community development lending activity was excellent and that several lines of business, ranging from commercial credit to apartment lending, contributed to the bank’s community development lending efforts. Examiners noted that during the evaluation period, LaSalle Bank extended 390 community development loans totaling more than \$523 million, including \$182 million in loans for affordable housing and multifamily community development projects.

In the 2002 Evaluation, examiners characterized LaSalle Bank’s performance under the investment test as excellent. They reported that the bank made more than 700 qualified community development investments totaling approximately \$140 million during the evaluation period, despite significant competition from more than 300 insured depository institutions in its assessment areas. Examiners also reported that LaSalle Bank made 715 CRA qualified grants and contributions to community organizations in its assessment areas during the evaluation period, totaling more than \$4 million, with half of those grants and contributions to organizations providing community development services to LMI individuals. In addition, examiners commended LaSalle Bank’s excellent level of community development services, particularly in providing financial education.

B. HMDA and Fair Lending Record

The Board has carefully considered the fair lending records and HMDA data of Bank of America in light of public comments received on the proposal. One commenter alleged, based on 2005 HMDA data, that Bank of America denied the home mortgage loan applications of African American and Hispanic borrowers more frequently than those of nonminority applicants in various MSAs and nationwide. The commenter also alleged, based on 2005 and preliminary 2006 HMDA data, that Bank of America and its subsidiary banks made disproportionately higher-cost loans to African American and Hispanic borrowers than to nonminority borrowers.⁴³ The Board has focused its analysis primarily on the 2006 HMDA data reported by BA Bank.⁴⁴

Although the HMDA data might reflect certain disparities in the rates of loan applications, originations, and denials among members of different racial or ethnic groups in certain local areas, they provide an insufficient basis by themselves on which to conclude whether or not Bank of America is excluding or imposing higher costs on any group on a prohibited basis. The Board recognizes that HMDA data alone, even with the recent addition of pricing information, provide only limited information about the covered loans.⁴⁵ HMDA data, therefore, have

⁴³ Beginning January 1, 2004, the HMDA data required to be reported by lenders were expanded to include pricing information for loans on which the annual percentage rate (APR) exceeds the yield for U.S. Treasury securities of comparable maturity by 3 or more percentage points for first-lien mortgages and by 5 or more percentage points for second-lien mortgages. 12 CFR 203.4.

⁴⁴ The Board reviewed HMDA data for BA Bank nationwide and in the MSAs noted by the commenter.

⁴⁵ The data, for example, do not account for the possibility that an institution's outreach efforts may attract a larger proportion of marginally qualified applicants than other institutions attract and do not provide a basis for an independent

limitations that make them an inadequate basis, absent other information, for concluding that an institution has engaged in illegal lending discrimination.

The Board is nevertheless concerned when HMDA data for an institution indicate disparities in lending and believes that all lending institutions are obligated to ensure that their lending practices are based on criteria that ensure not only safe and sound lending but also equal access to credit by creditworthy applicants regardless of their race or ethnicity. Because of the limitations of HMDA data, the Board has considered these data carefully and taken into account other information, including examination reports that provide on-site evaluations of compliance with fair lending laws by Bank of America and its subsidiaries. The Board also has consulted with the OCC, the primary federal supervisor of Bank of America's subsidiary banks.

The record, including confidential supervisory information, indicates that Bank of America has taken steps through policies and procedures to ensure compliance with fair lending and other consumer protection laws and regulations.⁴⁶

assessment of whether an applicant who was denied credit was, in fact, creditworthy. In addition, credit history problems, excessive debt levels relative to income, and high loan amounts relative to the value of the real estate collateral (reasons most frequently cited for a credit denial or higher credit cost) are not available from HMDA data.

⁴⁶ One commenter alleged that the terms of Bank of America's credit card contracts are unfair and deceptive and suggested that the Board should require Bank of America to modify its credit card contracts to avoid unfair and deceptive consequences and to adopt certain credit card-related practices that have been adopted by other banking organizations. Bank of America has stated that it does not engage in or condone deceptive practices and that it conducts multiple, ongoing reviews to ensure that the terms, conditions, and marketing of its credit card products are appropriate and comply with applicable laws and regulations, including the Truth in Lending Act and the Board's Regulation Z. The Board has consulted with the OCC, the primary federal supervisor of Bank of America's subsidiary bank that engages in credit card operations.

Bank of America's compliance program includes fair-lending policy and product guides, compliance file reviews, testing of HMDA data's integrity, and other quality-assurance measures. In addition, Bank of America represented that it provides fair lending training annually to ensure that Bank of America's associates understand their responsibility for complying with the fair lending policy and how to employ fair lending "best practices" in all aspects of the lending process. Bank of America has stated that its fair lending policies will continue to apply to current Bank of America operations and that it will review and make appropriate modifications to the fair lending policies that will apply to the operations of LaSalle Bank and LaSalle Bank Midwest after consummation of the proposal.

The Board also has considered the HMDA data in light of other information, including the programs described above and the overall performance records of the subsidiary banks of Bank of America under the CRA. These established efforts and record of performance demonstrate that the institutions are active in helping to meet the credit needs of their entire communities.

C. Conclusion on Convenience and Needs and CRA Performance

The Board has considered carefully all the facts of record, including reports of examination of the CRA records of the institutions involved, information provided by Bank of America, comments received on the proposal, and confidential supervisory information.⁴⁷ Bank of America represented that the proposal would result in greater convenience for Bank of America and LaSalle customers through

⁴⁷ Some commenters expressed concern that the proposed acquisition would result in a loss of jobs. The effect of a proposed transaction on employment in a community is not among the factors that the Board is authorized to consider under the BHC Act, and the federal banking agencies, courts, and the Congress consistently have interpreted the convenience and needs factor to relate to the effect of a proposal on the availability and quality of banking services in the community. See, e.g., Wells Fargo & Company, 82 Federal Reserve Bulletin 445, 457 (1996).

expanded delivery channels and a broader range of products and services. Based on a review of the entire record, and for the reasons discussed above, the Board concludes that considerations relating to the convenience and needs factor and the CRA performance records of the relevant insured depository institutions are consistent with approval of the proposal.⁴⁸

Conclusion

Based on the foregoing, and in light of all the facts of record, the Board has determined that the application should be, and hereby is, approved.⁴⁹

⁴⁸ One commenter reiterated comments it made in connection with the BOA/Fleet Order and BOA/MBNA Order, urging the Board not to approve the proposal until Bank of America meets certain “commitments” regarding its lending programs in Hawaii and its goal for mortgage lending to Native Hawaiians on Hawaiian Home Lands. See e.g., BOA/Fleet Order at 232-33. As noted in that order, Bank of America’s publicly announced plans to engage in certain lending programs in Hawaii were not commitments to the Board, and these plans were not conditions to the Board’s approvals in earlier applications by Bank of America or its predecessors. See id. As also previously noted, the Board views the enforceability of such third-party pledges, initiatives, and agreements as matters outside the CRA. Bank of America has represented that it has complied with its commitment to the State of Hawaii’s Department of Hawaiian Home Lands by making loans and investments exceeding \$151 million under the terms of that commitment.

⁴⁹ Several commenters requested that the Board hold a public meeting or hearing on the proposal. Section 3 of the BHC Act does not require the Board to hold a public hearing on an application unless the appropriate supervisory authority for the bank to be acquired makes a written recommendation of denial of the application. The Board has not received such a recommendation from the appropriate supervisory authorities. Under its rules, the Board also may, in its discretion, hold a public meeting or hearing on an application to acquire a bank if necessary or appropriate to clarify factual issues related to the application and to provide an opportunity for testimony. 12 CFR 225.16(e), 262.25(d). The Board has considered carefully the commenters’ requests in light of all the facts of record. In the Board’s view, the commenters had ample opportunity to submit their views and, in fact, submitted written comments that the Board has considered carefully

In reaching its conclusion, the Board has considered all the facts of record in light of the factors that is required to consider under the BHC Act, the FRA, and other applicable statutes.⁵⁰ The Board's approval is specifically conditioned on compliance by Bank of America with the conditions in this order and all the commitments made to the Board in connection with the proposal. For purposes of this transaction, these commitments and conditions are deemed to be conditions imposed in writing by the Board in connection with its findings and decision 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 after the

in acting on the proposal. The commenters' requests fail to demonstrate why written comments do not present their views adequately or why a meeting or hearing otherwise would be necessary or appropriate. For these reasons, and based on all the facts of record, the Board has determined that a public meeting or hearing is not required or warranted in this case. Accordingly, the requests for a public meeting or hearing on the proposal are denied.

⁵⁰ A number of commenters have contended that a longer public comment period should have been provided in light of, or that consideration of the proposal should be delayed until a final disposition of, litigation in the Netherlands concerning the need for ABN AMRO shareholder approval of the proposed transaction. As discussed above, the Board has carefully reviewed the record in this case, in light of the Board's limited jurisdiction under the BHC Act and the International Banking Act (12 U.S.C. §3101 *et seq.*). The Board notes that the Supreme Court of the Netherlands has ruled that the proposed acquisition of ABN AMRO North America did not require shareholder approval and, accordingly, this matter has been resolved. Further, as noted above, the commenters have had ample opportunity to submit their views and, in fact, have provided written submissions that the Board has considered carefully in acting on the proposal. Moreover, the Board is required under applicable law and its regulations to act on applications submitted under the BHC Act and the FRA within specified time periods. Based on all the facts of record, the Board concludes that the record is sufficient to act on this proposal under the factors the Board is required to consider under the relevant

effective date of this order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Richmond, acting pursuant to delegated authority.

By order of the Board of Governors,⁵¹ effective September 14, 2007.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

statutes and that delay in considering the proposal or extension of the comment period on the bases set forth by these commenters is not warranted.

⁵¹ Voting for this action: Chairman Bernanke, Vice Chairman Kohn, and Governors Warsh, Kroszner, and Mishkin.

Appendix A

Computation of the Amount of Deposits Held by Institutions Using the Revised Call Report and Thrift Financial Report Forms

Insured Banks without Foreign Deposits

The amount of deposits held by insured banks without foreign deposits using the revised Call Report was computed by adding the “Total deposit liabilities before exclusions (gross) as defined in Section 3(1) of the Federal Deposit Insurance Act and FDIC regulations,” reported on Schedule RC-O, and the “Interest accrued and unpaid on deposits in domestic offices,” reported on Schedule RC-G.

Insured Banks with Foreign Deposits

The amount of deposits held by insured banks with foreign deposits using the revised Call Report was computed by subtracting “Total foreign deposits” from the “Total deposit liabilities before exclusions (gross) as defined in Section 3(1) of the Federal Deposit Insurance Act and FDIC regulations,” reported on Schedule RC-O, and adding the “Interest accrued and unpaid on deposits in domestic offices,” reported on Schedule RC-G.

Insured Savings Associations

The amount of deposits held by insured savings associations using the revised Thrift Financial Report was computed by subtracting “Total Foreign Deposits” from the “Total Deposit Liabilities Before Exclusions (Gross) as Defined in Section 3(1) of the FDI Act and FDIC Regulations,” reported on Schedule DI, and adding “Accrued Interest Payable – Deposits,” reported on Schedule SC.

Appendix B

Illinois Banking Markets with Competitive Overlap

All amounts of deposits are unweighted. All rankings, market deposit shares, and HHIs are based on thrift deposits weighted at 50 percent.

Aurora – The southern three tiers of townships in Kane County (Virgil, Campton, St. Charles, Kaneville, Blackberry, Geneva, Batavia, Big Rock, Sugar Grove, and Aurora townships); Little Rock, Bristol, Oswego, Fox, and Kendall townships in Kendall County; and Sandwich township in De Kalb County.

	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>Bank of America Pre-Consummation</i>	27	\$42.5 mil.	0.6	1042	+ 1	40
<i>ABN AMRO North America</i>	25	\$50.6 mil.	0.7			
<i>Bank of America Post-Consummation</i>	18	\$93.1 mil.	1.4			

Chicago – Cook, Du Page, and Lake Counties.

	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>Bank of America Pre-Consummation</i>	12	\$4.6 bil.	2.1	807	+ 69	192
<i>ABN AMRO North America</i>	1	\$36.5 bil.	16.5			
<i>Bank of America Post-Consummation</i>	1	\$41.1 bil.	18.6			

Elgin – Marengo, Seneca, Nunda, Riley, Coral, Grafton, and Algonquin townships in McHenry County; and the northern two tiers of townships in Kane County (Hampshire, Rutland, Dundee, Burlington, Plato, and Elgin townships).

	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>Bank of America Pre-Consummation</i>	27	\$28.4 mil.	0.5	573	+ 2	38
<i>ABN AMRO North America</i>	19	\$107.4 mil.	1.7			
<i>Bank of America Post-Consummation</i>	15	\$135.7 mil.	2.2			

Joliet – Will County (excluding Florence, Wilmington, Reed, Custer, and Wesley townships); Aux Sable township in Grundy County; and Na-Au-Say and Seward townships in Kendall County.						
	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>Bank of America Pre-Consummation</i>	28	\$46.5 mil.	0.6	1203	+ 3	53
<i>ABN AMRO North America</i>	8	\$202.2 mil.	2.5			
<i>Bank of America Post-Consummation</i>	8	\$248.7 mil.	3.1			

Woodstock – Chemung, Alden, Hebron, Richmond, Burton, Dunham, Hartland, Greenwood, McHenry, and Dorr townships in McHenry County.						
	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>Bank of America Pre-Consummation</i>	19	\$7.5 mil.	0.3	843	+ 2	24
<i>ABN AMRO North America</i>	9	\$84.9 mil.	3.7			
<i>Bank of America Post-Consummation</i>	9	\$92.3 mil.	4.0			