

FEDERAL RESERVE SYSTEM

BNC Bancorp
High Point, North Carolina

Order Approving the Merger of Bank Holding Companies

BNC Bancorp (“BNC”), High Point, North Carolina, a bank holding company, has requested the Board’s approval under section 3 of the Bank Holding Company Act of 1956, as amended (“BHC Act”),¹ to merge with High Point Bank Corporation (“HPBC”), and thereby indirectly acquire High Point Bank and Trust Company (“High Point Bank”), both of High Point, North Carolina. Following the proposed acquisition, High Point Bank would be merged into BNC’s sole subsidiary state-chartered bank, Bank of North Carolina (“BNC Bank”), Thomasville, North Carolina.²

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (81 Federal Register 44610 (July 8, 2016)).³ 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.

¹ 12 U.S.C. § 1842.

² The merger of High Point Bank into BNC Bank is subject to the approval of the Federal Deposit Insurance Corporation (“FDIC”) pursuant to section 18(c) of the Federal Deposit Insurance Act (“Bank Merger Act”). 12 U.S.C. § 1828(c). The FDIC approved the bank merger on September 30, 2016.

³ 12 CFR 262.3(b).

BNC, with consolidated assets of approximately \$6.5 billion, is the 176th largest insured depository organization in the United States,⁴ controlling approximately \$5.4 billion in consolidated deposits, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the United States.⁵ BNC controls BNC Bank, which operates in North Carolina, South Carolina, and Virginia. BNC Bank is the 10th largest insured depository institution in North Carolina, controlling approximately \$3.0 billion in deposits, which represent less than 1 percent of the total deposits of insured depository institutions in that state.

HPBC, with consolidated assets of approximately \$779.6 million, is the 951st largest insured depository organization in the United States, controlling approximately \$634.0 million in consolidated deposits, which represent less than 1 percent of nationwide deposits. HPBC controls High Point Bank, which operates only in North Carolina. High Point Bank is the 29th largest insured depository institution in North Carolina, controlling deposits of approximately \$646.2 million, which represent less than 1 percent of the total deposits of insured depository institutions in that state.

On consummation of this proposal, BNC would become the 167th largest depository organization in the United States, with consolidated assets of approximately \$7.3 billion, which represent less than 1 percent of the total assets of insured depository organizations in the United States. BNC would control consolidated deposits of approximately \$6.0 billion, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the United States. In North Carolina, BNC Bank would become the 7th largest depository institution, controlling deposits of

⁴ National asset data, market share, and ranking data are as June 30, 2016, unless otherwise noted. State asset data, market share, and ranking data are as of June 30, 2015, unless otherwise noted.

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

approximately \$3.6 billion, which represent approximately 1 percent of the total deposits of insured depository institutions in that state.

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.⁶ The BHC Act also prohibits the Board from approving a proposal 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.⁷

BNC and HPBC have subsidiary depository institutions that compete directly in the Greensboro-High Point, North Carolina banking market (“Greensboro market”) and the Winston-Salem, North Carolina banking market (“Winston-Salem market”).⁸ The Board has considered the competitive effects of the proposal in each of the relevant 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 insured depository institutions in the markets (“market deposits”) that would be controlled by BNC;⁹ the concentration levels of market deposits

⁶ 12 U.S.C. § 1842(c)(1).

⁷ 12 U.S.C. § 1842(c)(1)(B).

⁸ The Greensboro market is defined as Davidson, Guilford, Randolph, and Rockingham Counties, all of North Carolina. The Winston-Salem market is defined as Davie, Forsyth, Stokes, and Yadkin Counties, all of North Carolina.

⁹ Local deposit and market share data are as of June 30, 2015, 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); National City Corporation, 70 Federal Reserve Bulletin 743 (1984). Thus, the Board regularly has included thrift deposits in the

and the increase in these levels, as measured by the Herfindahl-Hirschman Index (“HHI”) under the Department of Justice Bank Merger Competitive Review guidelines (“DOJ Bank Merger Guidelines”);¹⁰ and other characteristics of the markets.

Consummation of the proposal would be consistent with Board precedent and within the thresholds in the DOJ Bank Merger Guidelines in the Greensboro and Winston-Salem markets. On consummation of the proposal, the Greensboro market would remain moderately concentrated, as measured by the HHI. The HHI in this market would increase 101 points, from 1050 to 1151, and numerous competitors would remain in the market.¹¹ On consummation of the proposal, the Winston-Salem market would remain highly concentrated, as measured by the HHI; however, market concentration

market share calculation on a 50 percent weighted basis. See, e.g., First Hawaiian, Inc., 77 Federal Reserve Bulletin 52 (1991).

¹⁰ 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 Department of Justice (“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), available at www.justice.gov/opa/pr/2010/August/10-at-938.html.

¹¹ BNC operates the 3rd largest depository institution in the Greensboro market, controlling approximately \$1.7 billion in deposits, which represent approximately 11.7 percent of market deposits. HPBC operates the 8th largest depository institution in the same market, controlling deposits of approximately \$623.4 million, which represent 4.3 percent of market deposits. On consummation of the proposed transaction, BNC would become the 2nd largest depository organization in the market, controlling deposits of approximately \$2.3 billion, which would represent approximately 16.0 percent of market deposits. Twenty-one other competitors would remain in the market.

would increase by less than one point as measured by the HHI. Numerous competitors would also remain in the market.¹²

The DOJ has advised the Board that consummation of the proposal 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 of 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 the Greensboro and Winston-Salem markets 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 the BHC Act, the Board considers the financial and managerial resources and the future prospects of the institutions involved.¹³ 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. In this evaluation, the Board considers a variety of information, including capital adequacy, asset quality, and earnings performance, as well as public comments on the proposal.

¹² BNC operates the 9th largest depository institution in the Winston-Salem market, controlling approximately \$124 million in deposits, which represent approximately 0.4 percent of market deposits. HPBC operates the 15th largest depository institution in the same market, controlling deposits of approximately \$22.9 million, which represent 0.07 percent of market deposits. On consummation of the proposed transaction, BNC would remain the 9th largest depository organization in the market, controlling deposits of approximately \$146.9 million, which would represent approximately 0.5 percent of market deposits. The HHI for the Winston-Salem market would increase by less than 1 point to 6740 on consummation, and 17 other competitors would remain in the market.

¹³ 12 U.S.C. § 1842(c)(2), (5), and (6).

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 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.

BNC and HPBC are both well capitalized and the combined entity would remain so on consummation of the proposed transaction. The proposed transaction is a bank holding company merger that is structured as a cash and stock purchase, with a subsequent merger of the subsidiary depository institutions.¹⁴ The asset quality, earnings, and liquidity of BNC Bank and High Point Bank are consistent with approval, and BNC appears to have adequate resources to absorb the costs of the proposal and to complete integration of the institutions' operations. In addition, future prospects 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 BNC, HPBC, and their subsidiary depository institutions, including assessments of their management, risk-management systems, and operations. In addition, the Board has considered information provided by BNC; the Board's supervisory experiences with BNC and HPBC 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; as well as information provided by the commenter.

¹⁴ To effect the holding company merger, each share of HPBC common stock would be converted into a right to receive BNC common stock and cash, based on a certain exchange ratio. BNC has the financial resources to fund the transaction.

BNC and its subsidiary depository institution are both considered to be well managed. BNC has a record of successfully integrating organizations into its operations and risk-management systems after acquisitions. BNC's directors and senior executive officers have substantial knowledge of and experience in the banking and financial services sectors, and its risk-management program appears consistent with approval of this expansionary proposal.

The Board also has considered BNC's plans for implementing the proposal. BNC has conducted comprehensive due diligence and is devoting sufficient financial and other resources to address all aspects of the post-acquisition integration process for this proposal. BNC would implement its risk-management policies, procedures, and controls at the combined organization, and these are considered acceptable from a supervisory perspective. In addition, BNC's management has the experience and resources to ensure that the combined organization operates in a safe and sound manner, and BNC plans to integrate HPBC's existing management and personnel in a manner that augments BNC's management.¹⁵

Based on all the facts of record, including BNC's supervisory record, managerial and operational resources, plans for operating the combined institution after consummation, and the comments received on the proposal, the Board concludes that considerations relating to the financial and managerial resources and future prospects of the organizations involved in the proposal, as well as the records of effectiveness of BNC and HPBC 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.¹⁶ In its evaluation of the effects of the proposal on the convenience and needs

¹⁵ On consummation of the proposal, one of High Point Bank's directors will be added to the boards of directors of BNC and BNC Bank.

¹⁶ 12 U.S.C. § 1842(c)(2).

of the communities to be served, 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 the communities to be served. In this evaluation, the Board 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 they operate, consistent with their safe and sound operation,¹⁷ 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.¹⁸

In addition, the Board considers the banks' overall compliance records and the results of 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 the assessments of other relevant supervisors, the supervisory views of examiners, other supervisory information, information provided by the applicant, and comments received on the proposal. The Board also may consider the applicant institution's business model, its 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 BNC Bank and High Point Bank; the fair lending and compliance records of both banks, the supervisory views of the Federal Deposit Insurance Corporation ("FDIC"), confidential supervisory information, information provided by BNC, and the public comments received on the proposal.

¹⁷ 12 U.S.C. § 2901(b).

¹⁸ 12 U.S.C. § 2903.

Public Comments Regarding the Proposal

In this case, the Board received comments from a commenter who objected to the proposal on the basis of alleged disparities by BNC Bank in the number of conventional home purchase loans made to African Americans and Hispanics, as compared to whites, by BNC Bank in the Charleston-North Charleston-Summerville, South Carolina (“Charleston”) Metropolitan Statistical Area (“MSA”), the number of refinance loans made to African Americans, as compared to whites, in the Charleston MSA, as reflected in data reported under the Home Mortgage Disclosure Act (“HMDA”)¹⁹ for 2014, and the number of conventional home purchase loans made to African Americans, compared to whites, in the Charleston MSA, as reported under HMDA for 2015. The commenter also objected to the proposal on the basis of alleged disparities in the number of conventional home purchase loans made to African Americans and Hispanics, as compared to whites, and the number of refinance loans and home improvement loans made to African Americans, as compared to whites, by High Point Bank in the Greensboro-High Point, North Carolina MSA (“Greensboro MSA”), as reported under HMDA for 2014. In addition, the commenter alleged disparities in the number of home purchase loans made to African Americans, as compared to whites, by High Point Bank in the Winston-Salem, North Carolina MSA (“Winston-Salem MSA”). The commenter also criticized the rate at which BNC Bank denied refinance loan applications from African Americans, as compared to whites, in the Charleston MSA, and the rate at which High Point Bank denied refinance loan applications from African Americans, as compared to whites, in the Greensboro MSA, as reported under HMDA for 2014.

Businesses of the Involved Institutions and Response to the Comments

BNC Bank is a state-chartered commercial bank, headquartered in Thomasville, North Carolina. It offers a full range of banking and financial services, including deposit accounts; commercial, real estate, and consumer loan products;

¹⁹ 12 U.S.C. § 2801 et seq.

mortgage brokerage services; and a full line of commercial and consumer insurance and investment products and services. The bank's main loan focus is small and medium-sized businesses.

High Point Bank is a state-chartered commercial bank that offers a broad range of consumer and commercial banking products and services through its branch network in North Carolina and its wholly-owned subsidiaries. The products and services that it offers include checking, savings, money market, and certificate of deposit accounts; and mortgages, consumer installment, and loan products. In addition, High Point Bank offers the following services through its wholly-owned subsidiaries: home, health, life, automotive, and other insurance products; trust and estate planning; investment management; and retirement services.

BNC asserted that BNC Bank's lending record to minorities in the Charleston MSA, as reflected in 2014 HMDA data, was attributable to the bank's recent entry into the MSA in mid-2012. BNC represented that although the bank did not receive many mortgage applications in the Charleston MSA, the bank's approval rates for minorities were very favorable. BNC also asserted that BNC Bank has increased its lending to African Americans and Hispanics since its entry into the Charleston MSA, as reflected in the bank's HMDA lending data reported in 2014, as compared to its 2013 HMDA lending data. Also, BNC asserted that the Charleston MSA is a very competitive market, and the bank is making progress in expanding its Charleston branch network. BNC expects that the larger branch network will allow BNC Bank to better serve the community.

BNC maintained that High Point Bank approved all home purchase applications received from African Americans in the Greensboro and Winston-Salem MSAs. BNC attributes the low approval rate by High Point Bank for home refinance loans to African Americans to the low volume of applications received from African Americans by High Point Bank. BNC asserted that High Point Bank's low mortgage application volume was attributable to the highly competitive banking markets, the bank's limited number of locations, the bank's small overall staffing levels, and the

bank's recent entry and lack of name recognition in the Greensboro and Winston-Salem MSAs.

BNC pointed to the "Satisfactory" CRA performance ratings of BNC Bank and High Point Bank as an indication that these banks are meeting the credit needs of their communities. BNC further asserted that BNC Bank is committed to ensuring that the credit needs of its communities are being met and is developing initiatives and programs focused on lending, investment, and service activities in its communities, with emphasis on developing programs for LMI individuals.

Records of Performance Under the CRA

In evaluating the convenience and needs factor and CRA performance, the Board considers substantial information in addition to information provided by public commenters and the response to comments by the applicant. In particular, 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 supervisors.²⁰ In this case, the Board considered the supervisory views of and information provided by the FDIC.

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.²¹ 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 lending, investment, and service tests to evaluate the performance of a large insured depository institution in

²⁰ See Interagency Questions and Answers Regarding Community Reinvestment, 81 Federal Register 48506, 48548 (July 25, 2016).

²¹ 12 U.S.C. § 2906.

helping to meet the credit needs of the communities it serves. The lending test specifically evaluates the institution's home mortgage, small business, small farm, and community development 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 HMDA, 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 assessment areas; (2) the geographic distribution of the institution's lending, including the proportion and dispersion of the institution's lending in its assessment areas 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;²² (4) the institution's community development lending, including the number and amount 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.

The Board is concerned when HMDA data reflect disparities in the rates of loan applications, originations, and denials among members of different racial or ethnic groups in local areas. These types of disparities may indicate weaknesses in the

²² Examiners also consider the number and amounts of small business and small farm loans made 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).

adequacy of policies and programs at an institution for meeting its obligations to extend credit fairly. However, other information critical to an institution's credit decisions is not available from HMDA data.²³ Consequently, HMDA data disparities must be evaluated in the context of other information regarding the lending record of an institution.

CRA Performance of BNC Bank

BNC Bank was assigned an overall "Satisfactory" rating by the FDIC at its most recent CRA performance evaluation ("BNC Bank Evaluation"), as of April 28, 2014.²⁴ BNC Bank received a "High Satisfactory" rating for both the Lending Test and the Service Test, and a "Low Satisfactory" rating for the Investment Test.²⁵ The Board has consulted with the FDIC regarding the BNC Bank Evaluation.

²³ Other data relevant to credit decisions could include credit history problems, debt-to-income ratios, and loan-to-value ratios. Accordingly, when conducting fair lending examinations, examiners analyze such additional information before reaching a determination regarding an institution's compliance with fair lending laws.

²⁴ The BNC Bank Evaluation was conducted using the CRA Large Bank Examination Procedures and covered the time period from June 27, 2011, to April 28, 2014. For the Lending Test, the evaluation included a review of loans reportable under HMDA and CRA data collection requirements for 2012 and 2013, focusing on home purchase and home refinance loans only. For the Investment and Service Tests, the evaluation also covered the period from June 27, 2011, to April 28, 2014. The Investment Test also included investments prior to June 27, 2011, that were still outstanding as of April 28, 2014.

²⁵ During the BNC Bank Evaluation, examiners reviewed eight assessment areas of the bank in North Carolina and four assessment areas of the bank in South Carolina. Examiners placed greater weight on the bank's performance in North Carolina in assigning the overall CRA rating, because 35 of the bank's 45 branches were located in North Carolina, and over 86 percent of the bank's lending occurred within the state. Three of the bank's eight assessment areas in North Carolina received full-scope reviews. Examiners assigned the most weight to the Charlotte-Gastonia-Rock Hill MSA assessment area in North Carolina and to the Myrtle Beach-North Myrtle Beach-Conway MSA assessment area in South Carolina, based on the significant volume of lending, deposits, and number of branches in those areas, to arrive at the individual state ratings. Examiners also considered the timing of BNC Bank's entry into the Charleston MSA in June 2012, the Burlington, NC MSA in 2013, and the Durham-Chapel Hill, NC MSA in

Examiners found that the bank's overall lending activity reflected good responsiveness to the assessment areas' credit needs. Examiners noted that the bank originated a significant majority of home mortgage loans and small business loans within its combined assessment areas, and the geographic distribution of loans reflected good penetration throughout the assessment areas. Examiners also noted that the bank originated a relatively high level of community development loans in its assessment areas and made good use of flexible lending practices in order to serve the assessment areas' credit needs. BNC Bank is qualified as a U.S. Small Business Administration ("SBA") lender, and examiners highlighted that the bank was one of the most active SBA lenders in North Carolina over the evaluation period and that it ranked among the top ten of all lenders, with the banks ranked ahead of BNC Bank having larger asset sizes and national or regional presences. The bank also offered flexible mortgage loan products through the Federal Housing Administration, the SBA, the U.S. Department of Veterans Affairs, the U.S. Department of Agriculture, and the North Carolina Housing Finance Agency.

Examiners found that BNC Bank had an adequate level of qualified community development investments and grants and that it exhibited adequate responsiveness to the credit needs of the assessment areas. Examiners noted that the bank's level of qualified equity investments and charitable donations had significantly improved from the last examination. Examiners highlighted that nearly all of the bank's qualified CRA grants and donations were made directly to community development-related organizations located within the bank's assessment areas. The remainder of the bank's CRA grants and donations were made to qualified individuals and community development-related organizations in the broader regional area that included the bank's assessment areas. Examiners noted that the grants and donations provided much needed financial assistance to organizations with the primary purpose of economic development,

September 2012, along with other extenuating factors in performing limited-scope reviews of these assessment areas.

community revitalization, affordable housing, financial education, scholarships for LMI students, and basic human services to LMI individuals.

Examiners noted that the bank's overall "High Satisfactory" rating under the Service Test was based primarily on the community development services, but examiners also considered the bank's retail account services. Examiners highlighted that BNC Bank's management, directorate, and other personnel provided a relatively high level of community development services in the bank's assessment areas. Examiners also noted that the bank offered a full array of financial services throughout its assessment areas to ensure that the needs of the communities were met through several delivery methods and that the bank's delivery systems were reasonably accessible to essentially all portions of the institution's assessment areas. In addition, examiners noted that the quantity, quality, and accessibility of service-delivery systems to all segments of its assessment areas supported a "High Satisfactory" rating.

Examiners noted that the bank's "Low Satisfactory" rating under the Investment Test was based primarily on the dollar amount of the bank's qualified investments. Examiners also noted that the bank rarely used innovative and/or complex investments to support community development initiatives. However, examiners found that the bank had an adequate level of qualified community development investments and grants, and the bank exhibited adequate responsiveness to credit and community economic development needs through its investments and contributions.

BNC Bank's efforts since the BNC Bank Evaluation

BNC asserts that, since the BNC Bank Evaluation, BNC Bank has initiated a number of efforts to enhance its support of all of the communities in which the bank operates. For example, BNC represents that BNC Bank has created two new products that should allow the bank to better serve the needs of the unbanked and underbanked in the communities served by the bank. The first new product is a deposit account titled "BNC Beginnings," which is targeted to individuals working to establish or reestablish a banking relationship with the institution. BNC believes that this product will be particularly beneficial or attractive to younger individuals as well as the unbanked or

underbanked populations in the communities that the bank serves. The second new product is an affordable mortgage product that is designed for potential homeowners with income of 80 percent or less of the area's median income. BNC Bank asserts that the features and benefits of this product are very attractive to the market and the bank has received tremendous interest across its footprint.

BNC represents that BNC Bank is developing initiatives to expand outreach and increase lending activities, focusing on LMI individuals within its communities. BNC further represents that the bank has formed a Fair Banking Team, responsible for compliance with fair lending, CRA, HMDA, and Unfair, Deceptive, Abusive Acts and Practices laws. Additionally, the bank has formed a CRA committee, which consists of a number of senior officers of the bank, including the director of mortgage banking, chief credit officer, and the bank's CRA officer. BNC also represents that the bank has hired a director of community relations who is directly responsible for helping to increase interaction with the communities the bank serves.

CRA Performance of High Point Bank

High Point Bank was assigned an overall "Satisfactory" rating by the FDIC at its most recent CRA performance evaluation ("High Point Bank Evaluation"), as of September 8, 2014.²⁶ High Point Bank received a "Satisfactory" rating for both the Lending Test²⁷ and the Community Development Test.

²⁶ The High Point Bank Evaluation was conducted by the FDIC using the Intermediate Small Bank CRA Examination Procedures, which include the Lending and Community Development Tests. Under the Lending Test, examiners evaluated the bank's home mortgage loans and small business loans from 2012 and 2013. As part of the Community Development Test, qualified community development loans, investments, and services from October 3, 2011, to September 8, 2014, were reviewed. The High Point Bank Evaluation included full-scope evaluations of Guilford and Randolph Counties in the Greensboro MSA and Forsythe County in the Winston-Salem MSA.

²⁷ The Lending Test applicable to intermediate small banks specifically evaluates the institution's loan-to-deposit ratio and other lending-related activities, such as loan originations for sale to the secondary markets, community development loans, or qualified investments; the percentage of loans and other lending-related activities located

Examiners found that High Point Bank's loan-to-deposit ratio was reasonable, given the institution's size and financial condition and the credit needs of its assessment areas. Examiners noted that a majority of the bank's loans were originated within its assessment areas. Examiners also found that the bank had an excellent distribution of loans among geographies of different income levels within its assessment areas. Examiners noted that the bank had a reasonable borrower distribution among businesses of different sizes and individuals of different income levels.

Examiners found that the bank's community development performance demonstrated an adequate responsiveness to the community development needs of the bank's assessment areas through community development loans, qualified investments, and community development services considering the bank's capacity and the need and availability of such opportunities for community development in the bank's assessment areas.

Views of Other Regulator, and FDIC Approval of Bank Merger

The Board has consulted with the FDIC, the primary federal supervisor of both BNC Bank and High Point Bank, regarding the FDIC's review of the proposed merger of these two institutions. After a full review of the proposal, including review of the HMDA data cited by the commenter in the public comments opposing the application before the Board, the FDIC determined that the proposal met the standards of the Bank Merger Act and approved the proposal without conditions. In addition, the FDIC has indicated its non-objection to approval of this application.

The commenter filed similar CRA and fair lending comments with respect to BNC Bank's lending in the Charleston MSA as had been previously filed in

in the bank's assessment areas; the bank's record of lending to and engaging in other lending-related activities for borrowers of different income levels and businesses and farms of different sizes; the geographic distribution of the bank's loans; and the bank's record of taking action in response to written complaints about its performance in helping to meet credit needs in its assessment areas. See, e.g., 12 CFR 228.26(b).

connection with BNC's acquisition of Southcoast Financial Corporation, Mount Pleasant, South Carolina, which was approved in June 2016.²⁸ In that case, the Board noted that BNC Bank was previously required by the FDIC to develop and submit a supplement to its existing compliance plan to strengthen the bank's fair lending compliance program. The FDIC has indicated that BNC Bank has developed an acceptable supplemental plan and continues to operate in accordance with its compliance plan and the supplement to that plan.

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. BNC represents that, upon consummation of the proposal, customers will find enhanced convenience with a larger, more robust branch network within the Greensboro and Winston-Salem MSAs. BNC also asserts that the convenience and needs of the communities in which High Point Bank currently operates will be better served by increased access to capital and the economies of scale High Point Bank will have as a result of being a part of the resulting institution. Moreover, BNC maintains that its two new product offerings, the "New Beginnings" deposit account and the affordable mortgage product, should allow BNC Bank to better serve the needs of the unbanked and underbanked in the communities served by the combined bank. Finally, BNC Bank notes that the bank's staff is currently working with the City of High Point to build, remodel, and resell homes in certain struggling neighborhoods currently served by High Point Bank.

Conclusion on Convenience and Needs Considerations

The Board has considered all the facts of record, including the CRA records of the relevant depository institutions involved; the institutions' records of compliance with fair lending and other consumer protection laws; consultations with the FDIC, including regarding BNC Bank's progress in implementing its compliance plan and the supplement to that plan; confidential supervisory information; information provided by

²⁸ See BNC Bancorp, FRB Order 2016-06 (June 2, 2016).

BNC; the public comments on the proposal; and other potential effects of the proposal on the convenience and needs of the communities to be served. Based on that review, the Board concludes that the convenience and needs factor is consistent with approval.

Financial Stability

The Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) amended section 3 of the BHC Act to require the Board to consider a proposal’s “risk to the stability of the United States banking or financial system.”²⁹

To assess the likely effect of a proposed transaction on the stability of the U.S. 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.³⁰ 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 to the broader economy.³¹

In this case, the Board has considered information relevant to risks to the stability of the U.S. banking or financial system. After consummation, BNC would have

²⁹ Section 604(d) of the Dodd-Frank Act, Pub. L. No. 111-203, 124 Stat. 1376, 1601, codified at 12 U.S.C. § 1842(c)(7).

³⁰ Many of the metrics considered by the Board measure an institution’s activities relative to the U.S. financial system.

³¹ For further discussion of the financial stability standard, see Capital One Financial Corporation, FRB Order 2012-2 (February 14, 2012).

approximately \$7.3 billion in consolidated assets and, by any of a number of alternative measures of firm size, BNC would not be likely to pose systemic risks. The Board generally presumes that a merger that involves an acquisition of less than \$2 billion in assets, or that results in a firm with less than \$25 billion in total consolidated assets, will not pose significant risks to the financial stability of the United States absent evidence that the transaction would result in a significant increase in interconnectedness, complexity, cross-border activities, or other risk factors. Such additional risk factors are not present in this transaction.

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 U.S. 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 proposal should be, and hereby is, approved.³² In reaching its conclusion, the

³² The commenter requested that the Board hold a public hearing or meeting on the proposal. Section 3(b) of the BHC Act does not require that the Board hold a public hearing on any application unless the appropriate supervisory authorities for the bank to be acquired make a timely written recommendation of denial of the application. 12 CFR 225.16(e). 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 hearing if appropriate to allow interested persons an opportunity to provide relevant testimony when written comments would not adequately represent their views. The Board has considered the commenter's request in light of all the facts of record. In the Board's view, the commenter has had ample opportunity to submit comments on the proposal and, in fact, submitted written comments that the Board has considered in acting on the proposal. The commenter's request did not identify disputed issues of fact that are material to the Board's decision that would be clarified by a public meeting. In addition, the request did not demonstrate why written comments do not present the commenter's views adequately or why a hearing or meeting otherwise would be necessary or appropriate. For these reasons, and based on all the facts of record, the Board has determined that a public hearing or meeting is not required or warranted in this case. Accordingly, the request for a public hearing or meeting on the proposal is denied. The

Board has considered all the facts of record in light of the factors that it is required to consider under the BHC Act. Approval of this proposal is specifically conditioned on compliance by BNC with all the conditions set forth in this Order, including receipt of all required regulatory approvals, and on the commitments made to the Board in connection with the proposal. 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 15th 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 pursuant to delegated authority.

By order of the Board of Governors,³³ effective October 14, 2016.

Margaret McCloskey Shanks (signed)

Margaret McCloskey Shanks
Deputy Secretary of the Board

commenter also requested an extension of the comment period. The Board provides a public comment period for an application to provide interested persons the opportunity to submit information and views related to the statutory factors it must consider under the BHC Act. The Board's rules contemplate that the public comment period will not be extended absent a clear demonstration of hardship or other meritorious reason for seeking additional time. The commenter's request for additional time to comment does not identify circumstances that would warrant an extension of the public comment period for this proposal. Accordingly, the Board has determined not to extend the comment period.

³³ Voting for this action: Chair Yellen, Vice Chairman Fischer, and Governors Tarullo, Powell, and Brainard.