

FEDERAL RESERVE BOARD

The Toronto-Dominion Bank
Toronto, Canada

Order Approving the Acquisition of a Bank Holding Company

The Toronto-Dominion Bank (“TD”) and its subsidiary bank holding companies, TD US P & C Holdings ULC (“TD ULC”), Calgary, Canada, and TD Bank US Holding Company (“TD Bank US HC”), Portland, Maine (collectively, “Applicants”), have requested the Board’s approval under section 3 of the Bank Holding Company Act (“BHC Act”)¹ to acquire The South Financial Group, Inc. (“TSFG”) and its subsidiary bank, Carolina First Bank (“Carolina First”), both of Greenville, South Carolina.²

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (75 Federal Register 30,406 (2010)). 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.

TD, with total consolidated assets equivalent to \$568 billion, is the second largest depository organization in Canada.³ TD operates a branch in New York City and an agency in Houston. Through TD Bank US HC, TD controls two subsidiary banks in the United States, TD Bank and TD Bank USA, National Association (“TD Bank USA”), Portland, Maine. TD Bank US HC, with total consolidated assets of \$155 billion, is the 18th largest depository organization in the United States, controlling

¹ 12 U.S.C. § 1842.

² TD, TD ULC, and TD Bank US HC are all financial holding companies within the meaning of the BHC Act. TD filed an application with the Office of the Comptroller of the Currency (“OCC”) on June 18, 2010, for approval under the Bank Merger Act (12 U.S.C. § 1828(c)) to merge Carolina First into TD’s subsidiary bank, TD Bank, N.A., (“TD Bank”), Wilmington, Delaware.

³ Canadian asset and ranking data are as of April 30, 2010, and are based on the exchange rate as of that date.

\$125 billion in deposits.⁴ Its subsidiary banks operate in 12 states and the District of Columbia.⁵ In Florida, the only state where a subsidiary depository institution of TD Bank US HC and TSFG both operate, TD Bank US HC is the 16th largest depository organization, controlling deposits of approximately \$4.4 billion.

TSFG has total consolidated assets of approximately \$12.4 billion, and its subsidiary bank operates in South Carolina, North Carolina, and Florida. TSFG is the 13th largest depository organization in South Carolina, controlling deposits of \$5.5 billion. In Florida, TSFG is the 20th largest depository organization, controlling deposits of \$3 billion.

On consummation of the proposal, TD Bank US HC would become the 17th largest depository organization in the United States, with total consolidated assets of approximately \$167 billion. TD Bank US HC would control deposits of approximately \$134.7 billion, which represent 1.7 percent of the total amount of deposits of insured depository institutions in the United States.⁶ In Florida, TD Bank US HC would become the 11th largest depository organization, controlling deposits of approximately \$7.4 billion, which represent approximately 1.8 percent of deposits of insured depository institutions in the state.

Interstate 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

⁴ Asset data and nationwide deposit ranking data are as of March 31, 2010, and statewide deposit and ranking data are as of June 30, 2009.

⁵ TD Bank operates in Connecticut, Delaware, Florida, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Vermont, Virginia, and the District of Columbia. TD Bank USA operates in Maine.

⁶ In this context, insured depository institutions include commercial banks, savings banks, and savings associations.

BHC Act, the home state of TD is New York,⁷ and TSFG is located in South Carolina, North Carolina, and Florida.⁸

Based on a review of all the facts of record, including relevant state statutes, the Board finds that the conditions for an interstate acquisition enumerated in section 3(d) of the BHC Act are met in this case.⁹ In light of all the facts of record, the Board is permitted to approve the proposal under section 3(d) of the BHC Act.

Competitive Considerations

The BHC Act prohibits the Board from approving a proposal that would result in a monopoly or would be in furtherance of any attempt to monopolize the business of banking in any relevant banking market. 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 its probable effect in meeting the convenience and needs of the community to be served.¹⁰

Applicants and TSFG have subsidiary insured depository institutions that compete directly in five banking markets in Florida: Miami-Fort Lauderdale,

⁷ 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. 12 U.S.C. § 1841(o)(4)(C).

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. 12 U.S.C. §§ 1841(o)(4)-(7), 1842(d)(1)(A), and 1842(d)(2)(B).

⁹ 12 U.S.C. §§ 1842(d)(1)(A)-(B) and 1842(d)(2)-(3). TD is adequately capitalized and adequately managed, as defined by applicable law. TSFG's subsidiary bank has been in existence and operated for the minimum period of time required by applicable state laws and for more than five years. See 12 U.S.C. § 1842(d)(1)(B)(i)-(ii). On consummation of the proposal, TD would control less than 10 percent of the total amount of deposits of insured depository institutions in the United States. 12 U.S.C. § 1842(d)(2)(A). TD also would control less than 30 percent of, and less than the applicable state deposit cap for, the total amount of deposits in insured depository institutions the relevant states. 12 U.S.C. § 1842(d)(2)(B)-(D). All other requirements of section 3(d) of the BHC Act would be met on consummation of the proposal.

¹⁰ 12 U.S.C. § 1842(c)(1).

Orlando, Palatka, St. Augustine, and West Palm Beach. 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 banking markets, the relative shares of total deposits in depository institutions (“market deposits”) controlled by Applicants and TSFG in the markets,¹¹ the concentration levels of market deposits and the increases in those levels as measured by the Herfindahl-Hirschman Index (“HHI”) under the Department of Justice Merger Guidelines (“DOJ Guidelines”),¹² other characteristics of the markets, and commitments that TD has made to divest branches in the Palatka banking market.

A. Banking Market with Divestiture

Applicants and TSFG compete directly in one banking market, the Palatka banking market, that warrants a detailed review of competitive effects.¹³ TD Bank is the largest insured depository institution in the Palatka banking market, controlling deposits

¹¹ Deposit and market share data are based on data reported by insured depository institutions in the summary of deposits data as of June 30, 2009, 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 (1989); National City Corporation, 70 Federal Reserve Bulletin 743 (1984). Thus, the Board regularly has included thrift deposits in the market share calculation on a 50 percent weighted basis. See, e.g., First Hawaiian, Inc., 77 Federal Reserve Bulletin 52 (1991).

¹² Under the DOJ Guidelines, a market is considered unconcentrated if the post-merger HHI is less than 1000, moderately concentrated if the post-merger HHI is between 1000 and 1800, and highly concentrated if the post-merger HHI is more than 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 for anticompetitive effects implicitly recognize the competitive effects of limited-purpose lenders and other nondepository financial entities.

¹³ The Palatka banking market is defined as Putnam County and the Hastings area of St. Johns County, Florida.

of approximately \$250.2 million, which represent approximately 34.3 percent of market deposits. Carolina First is the fourth largest depository institution in the market, controlling deposits of approximately \$92.7 million, which represent approximately 12.7 percent of market deposits. On consummation and without the proposed divestiture, the HHI in this market would increase by 873 points, from 2071 to 2944, and the pro forma market share of the combined entity would be 47 percent.

To reduce the potential adverse effects on competition in the Palatka banking market, TD has committed to divest branches with no less than \$59 million in deposits, in the aggregate, to an out-of-market insured depository organization.¹⁴ On consummation of the proposed merger, and after accounting for the divestiture, TD would remain the largest depository institution in the market, controlling deposits of approximately \$283.9 million, which represent 38.9 percent of market deposits. The HHI would increase no more than 243 points to 2313.

The Board has considered carefully whether other factors either mitigate the competitive effects of the proposal or indicate that the proposal would have a significantly adverse effect on competition in the market.¹⁵ In this market, the anticompetitive effects of this proposal are mitigated by several factors. On consummation of the proposal and the proposed divestiture to an out-of-market

¹⁴ TD has committed that, before consummation of the proposed merger, it will execute an agreement for the proposed divestiture in the Palatka banking market with a purchaser that the Board determines to be competitively suitable. TD also has committed to complete the divestiture within 180 days after consummation of the proposed merger. In addition, TD has committed that, if it is unsuccessful in completing the proposed divestiture within such time period, it will transfer the unsold branches to an independent trustee who will be instructed to sell the branches to an alternate purchaser or purchasers in accordance with the terms of this order and without regard to price. The trust agreement, trustee, and any alternate purchaser must be deemed acceptable by the Board. See BankAmerica Corporation, 78 Federal Reserve Bulletin 338 (1992); United New Mexico Financial Corporation, 77 Federal Reserve Bulletin 484 (1991).

¹⁵ The number and strength of factors necessary to mitigate the competitive effects of a proposal depend on the size of the increase in and resulting level of concentration in a banking market.

insured depository institution, five other insured depository institutions would continue to operate in the market.

In addition, the Board notes that three community credit unions also exert a competitive influence in the Palatka banking market.¹⁶ These credit unions offer a wide range of consumer products, operate street-level branches, and have membership open to almost all the residents in the market. The Board concludes that their activities in this banking market exert sufficient competitive influence that mitigate, in part, the potential competitive effects of the proposal.¹⁷

B. Banking Markets without Divestiture

Consummation of the proposal would be consistent with Board precedent and within the thresholds in the DOJ Guidelines in the four remaining banking markets in which TD's subsidiary depository institutions and Carolina First directly compete.¹⁸ On consummation of the proposal, three markets would remain moderately concentrated, and one would remain unconcentrated, as measured by the HHI. The change in the HHI measure of concentration in each of the banking markets would be small, however, and numerous competitors would remain in each market.

C. Views of Other Agencies and Conclusion on Competitive Considerations

The DOJ also has conducted a detailed review of the potential competitive effects of the proposal and 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 competitive effects of the proposal.

¹⁶ The Board previously has considered the competitiveness of certain active credit unions as a mitigating factor. See, e.g., Regions Financial Corporation, 93 Federal Reserve Bulletin C16 (2007); Wachovia Corporation, 92 Federal Reserve Bulletin C183 (2006); F.N.B. Corporation, 90 Federal Reserve Bulletin 481 (2004).

¹⁷ If credit unions are factored into the market calculations on a 50 percent weighted basis, TD would control approximately 35 percent of market deposits on consummation of the proposal, and the HHI would increase 196 points to 1920.

¹⁸ These banking markets and the effects of the proposal on their concentrations of banking resources are described in the appendix.

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 the five banking markets in which TD and TSFG compete directly or in any other relevant banking market. Accordingly, the Board has determined that competitive considerations are consistent with approval.

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 carefully considered these factors in light of all the facts of record, including confidential supervisory and examination information from the U.S. banking supervisors of the institutions involved and publicly reported and other financial information, including substantial information provided by Applicants. The Board also has consulted with the Office of the Superintendent of Financial Institutions (“OSFI”), the agency with primary responsibility for the supervision and regulation of Canadian banks, including TD.

In evaluating the financial resources 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 insured depository institutions 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 resources, 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 financial resources of the organizations involved in the proposal in light of information provided by Applicants and supervisory information on these organizations available to the Federal Reserve, including information from the Federal Deposit Insurance Corporation (“FDIC”), the

primary federal supervisor of Carolina First. The capital levels of TD exceed the minimum levels that would be required under the Basel Capital Accord and are, therefore, considered to be equivalent to the capital levels that would be required of a U.S. banking organization. TD also plans to raise an additional \$240 million in capital before consummation that will be downstreamed to its U.S. operations. In addition, the subsidiary depository institutions of TD involved in the proposal are well capitalized and would remain so on consummation. The proposed transaction is structured as a partial share exchange and a partial cash purchase of shares. Applicants will use existing resources to fund the cash purchase of shares.¹⁹ Based on its review of the record, the Board finds that Applicants have sufficient financial resources to effect the proposal.

The Board also has considered the managerial resources of the organizations involved. The Board has reviewed the examination records of Applicants, TSFG, and their subsidiary depository institutions, including assessments of their management, risk-management systems, and operations. In addition, the Board has considered its supervisory experiences and those of other relevant banking supervisory agencies, including the OCC and the FDIC, with the organizations and their records of compliance with applicable banking law and with anti-money laundering laws.

The Board also has considered carefully the future prospects of the organizations involved in the proposal in light of the financial and managerial strength that Applicants will bring to the operations of TSFG. The Board notes that TSFG and Carolina First have recently experienced financial and managerial difficulties and are operating under formal supervisory actions by the Federal Reserve Bank of Richmond and the FDIC. Consummation of this proposal would create a combined organization that would serve as a strong provider of banking and other financial services in the markets served by Carolina First. Moreover, the Board has considered Applicants' plans for implementing the acquisition and managing the integration of TSFG into the

¹⁹ On May 18, 2010, TD entered into a Securities Purchase Agreement with the U.S. Department of the Treasury ("Treasury") under which TD will purchase from Treasury all the issued and outstanding shares of TSFG's preferred stock and the related warrant issued in connection with the Treasury's Capital Purchase Program on December 5, 2008.

TD organization and the proposed management after consummation.²⁰ The Board also has considered Applicants' experience with acquiring banking organizations and successfully integrating them into the TD organization.

Based on all the facts of record, the Board has concluded that considerations relating to the financial and managerial resources and future prospects of the organizations involved in the proposal are consistent with approval, as are the other supervisory factors.²¹

Section 3 of the BHC Act also provides that the Board may not approve an application involving a foreign bank unless the bank is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.²² As noted, the OSFI is the primary supervisor of Canadian banks,

²⁰ The Board received a comment expressing concern about a lawsuit that has been filed by certain shareholders of TSFG concerning the price that TD has offered for TSFG shares. These allegations are subject to litigation before a court of competent jurisdiction and are not within the discretion of the Board to resolve. Western Bancshares, Inc. v. Board of Governors, 480 F.2d 749 (10th Cir. 1973).

²¹ Section 3 of the BHC Act also requires the Board to determine that an applicant has provided adequate assurances that it will make available to the Board such information on its operations and activities and those of its affiliates that the Board deems appropriate to determine and enforce compliance with the BHC Act. 12 U.S.C. § 1842(c)(3)(A). The Board has reviewed the restrictions on disclosure in the relevant jurisdictions in which TD operates and has communicated with relevant government authorities concerning access to information. In addition, TD previously has committed that, to the extent not prohibited by applicable law, it will make available to the Board such information on the operations of its affiliates that the Board deems necessary to determine and enforce compliance with the BHC Act, the International Banking Act, and other applicable federal laws. TD also previously has committed to cooperate with the Board to obtain any waivers or exemptions that may be necessary to enable its affiliates to make such information available to the Board. Based on all facts of record, the Board has concluded that TD has provided adequate assurances of access to any appropriate information the Board may request.

²² 12 U.S.C. § 1843(c)(3)(B). As provided in Regulation Y, the Board determines whether a foreign bank is subject to consolidated home country supervision under the standards set forth in Regulation K. See 12 CFR 225.13(a)(4). Regulation K provides that a foreign bank will be considered subject to comprehensive supervision or regulation on a consolidated basis if the Board determines that the bank is supervised or regulated in such a manner that its home country supervisor receives sufficient information on the

including TD. The Board previously has determined that TD is subject to comprehensive supervision on a consolidated basis by its home country supervisor.²³ Based on this finding and all the facts of record, the Board has concluded that TD continues to be subject to comprehensive supervision on a consolidated basis by its home country supervisor.

Convenience and Needs Considerations

In acting on a proposal under section 3 of the BHC Act, the Board also must consider the effects of the proposal on the convenience and needs of the communities to be served and take into account the records of the relevant insured depository institutions under the Community Reinvestment Act (“CRA”).²⁴ 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 expansionary proposals.²⁵

The Board has considered carefully all the facts of record, including reports of examination of the CRA performance records of TD’s subsidiary insured depository

worldwide operations of the bank, including its relationship with any affiliates, to assess the bank’s overall financial condition and its compliance with laws and regulations. See 12 CFR 211.24(c)(1).

²³ See The Toronto-Dominion Bank, 94 Federal Reserve Bulletin C51 (2008); 92 Federal Reserve Bulletin C100 (2006); and 91 Federal Reserve Bulletin 277 (2005).

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

²⁵ 12 U.S.C. § 2903. The commenter also criticized TD Bank for acquiring assets and liabilities of failed insured depository institutions in FDIC resolution transactions, because those transactions provided no public comment period to submit comments on the bank’s CRA performance record. The Board notes that the transactions were processed under emergency review procedures specifically authorized by statute. Moreover, in connection with this proposal, the commenter provided public information about the possible locations of bank’s future branches.

institutions and Carolina First, data reported by TD under the Home Mortgage Disclosure Act (“HMDA”),²⁶ other information provided by TD, confidential supervisory information, and public comment received on the proposal. A commenter alleged, based on 2009 HMDA data, that TD has engaged in disparate treatment of minority individuals in home mortgage lending.

A. CRA Performance Evaluations

As provided in the CRA, the Board has considered 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.²⁷

TD Bank received an “outstanding” rating at its most recent CRA performance evaluation by the OCC, as of December 8, 2008.²⁸ Carolina First received an “outstanding” rating at its most recent CRA performance evaluation by the FDIC, as of September 5, 2006. After the merger with TD Bank, Carolina First’s operations will adopt the CRA program of TD Bank, as modified to address issues specific to the markets served by Carolina First.

B. HMDA and Fair Lending Record

The Board has carefully considered the fair lending records and HMDA data of TD in light of public comment received on the proposal. A commenter alleged that, based on 2009 HMDA data, TD has denied the home mortgage loan applications of African American, Hispanic, and Native American borrowers more frequently than those

²⁶ 12 U.S.C. §2801 *et seq.*

²⁷ See Interagency Questions and Answers Regarding Community Reinvestment, 75 Federal Register 11642 at 11665 (2010).

²⁸ TD’s other bank subsidiary, TD Bank USA, received a “satisfactory” rating at its most recent CRA performance evaluation by the OCC, as of December 8, 2008.

of nonminority applicants.²⁹ The commenter also alleged that TD made higher-cost mortgage loans disproportionately to African American borrowers than to nonminority borrowers.

Although the HMDA data might reflect certain disparities in the rates of loan applications, originations, denials, or pricing 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 TD is excluding any racial or ethnic 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.³⁰ HMDA data, therefore, have 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. Moreover, the Board believes that all bank holding companies and their affiliates must conduct their mortgage lending operations without any abusive lending practices and in compliance with all consumer protection laws.

Because of the limitations of HMDA data, the Board has considered these data carefully and taken into account other information, including examination reports

²⁹ The Board reviewed HMDA data for 2009 for TD Bank in its combined assessment area and in its statewide assessment areas for Maine, Massachusetts, New Hampshire, New Jersey, and Pennsylvania.

³⁰ 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 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.

that provide on-site evaluations of compliance by TD's subsidiary insured depository institutions with fair lending laws. The Board also has consulted with the OCC, the primary federal supervisor of TD's subsidiary banks. In addition, the Board has considered information provided by TD about its compliance risk-management systems.

The record of this application, including confidential supervisory information, indicates that TD has taken steps to ensure compliance with fair lending and other consumer protection laws and regulations. TD also represents that its subsidiary banks have such compliance policies and procedures in place. Specifically, TD Bank maintains a fair lending compliance program that includes a second-review process to identify and prevent any discriminatory practices and a process for resolving fair lending complaints. TD Bank provides annual fair lending training for all employees and compliance personnel involved in any respect with mortgage and consumer lending activities and conducts periodic internal audits of its fair lending and consumer protection programs, which also are subject to periodic review by the OCC. TD has stated that Carolina First's operations would be integrated into TD's existing fair lending and consumer protection compliance programs after consummation of the proposal.

The Board also has considered the HMDA data in light of other information, including overall performance records of the subsidiary banks of TD and TSFG under the CRA. These established efforts and records 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 the evaluation of the CRA performance records of TD Bank and TD Bank USA, information provided by TD, comments received on the proposal, and confidential supervisory information. TD represented that it would offer a broader array of banking products and services to the customers serviced by Carolina First. In addition, consummation of the proposal would allow the combined organization to continue to provide credit and other

financial services in support of the convenience and needs of the communities served by Carolina First. Based on a review of the entire record, 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 transaction.

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. In reaching its conclusion, the Board has considered all the facts of record in light of the factors that it is required to consider under the BHC Act and other applicable statutes. The Board's approval is specifically conditioned on compliance by Applicants with the conditions in this order and all the commitments made to the Board in connection with the proposal.³¹ 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.

³¹ The commenter 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 a supervisory authority. 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 material factual issues related to the application and to provide an opportunity for testimony. 12 CFR 225.16(e), 262.3(e), and 262.25(d). The Board has considered carefully the commenter's request in light of all the facts of record. As noted, the commenter had ample opportunity to submit its views and, in fact, submitted written comments that the Board has considered carefully in acting on the proposal. The commenter's request fails to demonstrate why written comments do not present its 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 request for a public meeting or hearing on the proposal is denied.

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

By order of the Board of Governors,³² effective July 22, 2010.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

³² Voting for this action: Chairman Bernanke and Governors Kohn, Warsh, Duke, and Tarullo.

Appendix

TD/TSFG Banking Markets in Florida Consistent with Board Precedent and DOJ Guidelines						
Deposit data are as of June 30, 2009. Deposit amounts are unweighted. Rankings, market deposit shares, and HHIs are based on thrift deposits weighted at 50 percent.						
Miami-Fort Lauderdale – Broward and Miami-Dade Counties.						
	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>TD Bank US HC Pre-Consummation</i>	28	\$495.7 mil.	0.5	753	+ 1	102
TSFG	33	\$398.5 mil.	0.4			
<i>TD Bank US HC Post-Consummation</i>	22	\$894.2 mil.	0.8			
Orlando – Orange, Osceola, and Seminole Counties; the western half of Volusia County; and the towns of Clermont and Groveland in Lake County.						
	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>TD Bank US HC Pre-Consummation</i>	20	\$266.6 mil.	0.8	1199	+ 1	49
TSFG	15	\$335.1 mil.	1.0			
<i>TD Bank US HC Post-Consummation</i>	10	\$601.7 mil.	1.8			

St. Augustine – St. Johns County, excluding the towns of Fruit Cove, Ponte Vedra, Ponte Vedra Beach, Jacksonville, Switzerland, and Hastings.						
	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>TD Bank US HC Pre-Consummation</i>	4	\$105.5 mil.	6.2	1266	+ 36	14
TSFG	11	\$49.2 mil.	2.9			
<i>TD Bank US HC Post-Consummation</i>	4	\$154.7 mil.	9.1			
West Palm Beach – Palm Beach County, east of Loxahatchee; and the towns of Indiantown and Hobe Sound in Martin County.						
	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>TD Bank US HC Pre-Consummation</i>	10	\$843.1 mil.	2.3	1100	+ 2	58
TSFG	29	\$164.7 mil.	0.5			
<i>TD Bank US HC Post-Consummation</i>	8	\$1.0 bil.	2.8			