

FEDERAL RESERVE SYSTEM

Community & Southern Holdings, Inc.  
Atlanta, Georgia

Order Approving the Acquisition of a Bank Holding Company

Community & Southern Holdings, Inc. (“CSH”), Atlanta, Georgia, has requested the Board’s approval under section 3 of the Bank Holding Company Act (“BHC Act”)<sup>1</sup> to acquire Verity Capital Group, Inc. (“Verity”) and thereby indirectly acquire its subsidiary bank, Verity Bank (“Verity Bank”), both of Winder, Georgia. Following the proposed acquisition, Verity Bank would be merged into CSH’s subsidiary bank, Community & Southern Bank (“C&S Bank”), Atlanta, a state nonmember bank.<sup>2</sup>

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published in the Federal Register (78 Federal Register 61352 (October 3, 2013)).<sup>3</sup> The time for submitting comments has expired, and the Board has considered the proposal and all comments received in light of the factors set forth in section 3 of the BHC Act.

CSH, with consolidated assets of approximately \$2.8 billion, is the 265th largest insured depository organization in the United States, controlling approximately \$2.2 billion in consolidated deposits.<sup>4</sup> C&S Bank, which operates only in Georgia, is the 11th largest depository institution in Georgia, controlling

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<sup>1</sup> 12 U.S.C. § 1842.

<sup>2</sup> The merger of Verity Bank into C&S Bank is subject to the approval of the Federal Deposit Insurance Corporation (“FDIC”) under the Federal Deposit Insurance Act. 12 U.S.C. § 1828(c).

<sup>3</sup> 12 CFR 262.3(b).

<sup>4</sup> Asset and nationwide deposit-ranking data are as of December 31, 2013, unless otherwise noted.

deposits of approximately \$2.0 billion, which represent less than 1 percent of the total deposits of insured depository institutions in that state.<sup>5</sup>

Verity, with consolidated assets of approximately \$162 million, controls Verity Bank, which operates only in Georgia. Verity Bank is the 119th largest insured depository institution in Georgia, controlling deposits of approximately \$145 million, which represent less than 1 percent of the total deposits of insured depository institutions in that state.

On consummation of this proposal, CSH would become the 248th largest depository organization in the United States, with consolidated assets of approximately \$3.0 billion, which represent less than 1 percent of the total amount of assets of insured depository institutions in the United States. CSH would control consolidated deposits of approximately \$2.4 billion. CSH would remain the 11th largest depository organization in Georgia, controlling deposits of approximately \$2.1 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 any attempt to monopolize the business of banking in any relevant market. 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.<sup>6</sup>

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<sup>5</sup> State deposit data are as of June 30, 2013. In this context, insured depository institutions include commercial banks, savings associations, and savings banks.

<sup>6</sup> 12 U.S.C. § 1842(c)(1).

CSH and Verity compete directly in the Atlanta Area, Georgia banking market.<sup>7</sup> The Board has considered the competitive effects of the proposal in this banking market in light of all the facts of record. In particular, the Board has considered the number of competitors that would remain in the banking market; the relative shares of total deposits in insured depository institutions in the market (“market deposits”) controlled by CSH and Verity<sup>8</sup>; the concentration levels of market deposits and the increase in those levels, as measured by the Herfindahl-Hirschman Index (“HHI”) under the Department of Justice Bank Merger Competitive Review guidelines (“DOJ Bank Merger Guidelines”)<sup>9</sup>; and other characteristics of the market.

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<sup>7</sup> The Atlanta Area, Georgia banking market is defined as Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, and Walton counties; and the towns of Auburn and Winder in Barrow County and Luthersville in Meriwether County, excluding the town of Clermont in Hall County, all in Georgia.

<sup>8</sup> Deposit and market share data are as of June 30, 2013, 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), and National City Corporation, 70 Federal Reserve Bulletin 743 (1984). Thus, the Board regularly has included thrift deposits in the market share calculation on a 50 percent weighted basis. See, e.g., First Hawaiian, Inc., 77 Federal Reserve Bulletin 52 (1991).

<sup>9</sup> Under the DOJ Bank Merger Guidelines, a market is considered unconcentrated if the post-merger HHI is under 1000, moderately concentrated if the post-merger HHI is between 1000 and 1800, and highly concentrated if the post-merger HHI exceeds 1800. The 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 (see Press Release, Department of Justice (Aug. 19, 2010),

Consummation of the proposal would be consistent with Board precedent and within the thresholds in the DOJ Bank Merger Guidelines for this market. On consummation of the proposal, the banking market would remain moderately concentrated, as measured by the HHI, and numerous competitors would remain.<sup>10</sup>

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.<sup>11</sup>

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[www.justice.gov/opa/pr/2010/August/10-at-938.html](http://www.justice.gov/opa/pr/2010/August/10-at-938.html)), the DOJ has confirmed that its Bank Merger Guidelines, which were issued in 1995, were not modified.

<sup>10</sup> CSH operates the 15th largest depository institution in the Atlanta Area, Georgia banking market with approximately \$1 billion in deposits, which represent less than 1 percent of market deposits. Verity operates the 53rd largest depository institution in the same market, controlling deposits of approximately \$122 million, which represent less than 1 percent of market deposits. On consummation of the proposed transaction, CSH would operate the 13th largest depository institution in the market, controlling weighted deposits of approximately \$1.1 billion, which represent less than 1 percent of market deposits. The HHI would remain unchanged at 1517 and 97 competitors would remain in the market.

<sup>11</sup> A commenter asserted that the proposed transaction should not be permitted under Georgia law because Verity Bank is a de novo bank, established on October 27, 2008. However, under Georgia law, a registered Georgia bank holding company is permitted to directly or indirectly acquire ownership of any bank provided that the bank has been in existence, and continually operating or incorporated as a bank, for a period of three years or more prior to the date of acquisition. See GA. CODE § 7-1-608 (2013). Because Verity Bank has been in existence for longer than three years, the proposal would not be in violation of Georgia law. In that regard, the Georgia Department of Banking and Finance approved the proposal on January 8, 2014. Letter from Murali Ramachandran, Corporate Manager, Financial Institutions, Georgia Department of Banking and Finance, to Patrick M. Frawley, Chief Executive Officer, Community & Southern Holdings, Inc. (Jan. 8, 2014).

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

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

Section 3(c) of the BHC Act requires the Board to consider the financial and managerial resources (including the competence, experience, and integrity of the officers, directors, and principal shareholders) and future prospects of the company and banks concerned, as well as the effectiveness of the company in combatting money laundering.

In evaluating financial factors in expansionary 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 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. The Board evaluates the financial condition of the combined organization, including its capital position, asset quality, liquidity, and 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 the proposed integration of the operations of the institutions. In assessing financial factors, the Board consistently has considered capital adequacy to be especially important.

The Board has considered the financial factors of the proposal. CSH and C&S Bank are well capitalized and would remain so on consummation of the

proposed acquisition, which is a bank holding company merger, structured as a cash transaction.<sup>12</sup> CSH is in satisfactory financial condition, and the asset quality, earnings, and liquidity of C&S Bank and Verity Bank are consistent with approval. Based on its review of the record, the Board finds that CSH has sufficient financial resources to effect the proposal.

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 CSH, Verity, and their subsidiary depository institutions, including assessments of their management teams, risk-management systems, and operations. In addition, the Board has considered its supervisory experiences and those of other relevant bank supervisory agencies with the organizations and their records of compliance with applicable banking and anti-money laundering laws.

CSH, Verity, and their subsidiary depository institutions are each considered to be well managed. CSH's existing risk-management program and its directorate and senior management are considered to be satisfactory. The directors and senior executive officers of CSH have substantial knowledge of, and experience in, the banking and financial services sectors.<sup>13</sup>

The Board also has considered CSH's plans for implementing the proposal. CSH is devoting significant financial and other resources to address all aspects of the post-acquisition integration process for this proposal. CSH would implement its risk-management policies, procedures, and controls at the combined organization, and these are considered acceptable from a supervisory perspective.

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<sup>12</sup> All Verity common stock will be acquired for cash consideration. The Board has confirmed that CSH has the resources to fund the transaction.

<sup>13</sup> CSH's board of directors and senior management team would remain the same after consummating the acquisition.

CSH's management has the experience and resources to ensure that the combined organization operates in a safe and sound manner.<sup>14</sup>

CSH's supervisory record, managerial and operational resources, and plans for operating the combined institution after consummation provide a reasonable basis to conclude that managerial factors are consistent with approval.

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 and CSH's money laundering policies are consistent with approval.

#### Convenience and Needs Considerations

In acting on a proposal under section 3 of the BHC Act, the Board must consider the effects of the proposal on the convenience and needs of the communities to be served and take into account the records of the relevant depository institutions under the Community Reinvestment Act ("CRA").<sup>15</sup> The CRA requires the federal financial supervisory agencies to encourage insured depository institutions to help meet the credit needs of the local communities

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<sup>14</sup> A commenter alleged that C&S Bank has improperly handled foreclosures on assets previously acquired from the FDIC through the failed bank resolution process. These assets are subject to loss sharing agreements with the FDIC. CSH represents that C&S Bank is required to explore loan modification and other loan workout alternatives before initiating the foreclosure process on assets subject to the loss sharing agreements. C&S Bank has established a "Resolution Management Group" in which dedicated workout officers work with borrowers to explore available resolution strategies for troubled assets. C&S Bank is subject to oversight and monitoring by the FDIC in connection with its compliance with the loss sharing agreements. The Board has consulted with the FDIC, the bank's primary federal regulator, which expressed no concerns with C&S Bank's compliance with the loss sharing agreements regarding foreclosures.

<sup>15</sup> 12 U.S.C. § 1842(c)(2); 12 U.S.C. § 2901 *et seq.*

in which they operate, consistent with their safe and sound operation,<sup>16</sup> 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.<sup>17</sup>

The Board has considered all the facts of record, including reports of examination of the CRA performance of C&S Bank and Verity Bank, data reported by C&S Bank and Verity Bank under the Home Mortgage Disclosure Act ("HMDA"),<sup>18</sup> C&S Bank's small business lending data, other information provided by CSH, confidential supervisory information, and the public comments received on the proposal. The commenter objected to the proposal by generally alleging that C&S Bank has failed to adequately lend within its assessment areas, and generally questioning the public benefits of the proposal.

#### 1. Records of Performance Under the CRA

As provided in the CRA, 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.<sup>19</sup> The CRA requires that the appropriate federal financial supervisory agency for a depository institution prepare a written evaluation of the institution's record of meeting the credit needs of its entire community, including LMI neighborhoods.<sup>20</sup> An institution's most recent CRA performance evaluation is a particularly important

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<sup>16</sup> 12 U.S.C. § 2901(b).

<sup>17</sup> 12 U.S.C. § 2903.

<sup>18</sup> 12 U.S.C. § 2801 *et seq.*

<sup>19</sup> See Interagency Questions and Answers Regarding Community Reinvestment, 75 Federal Register 11642 at 11665 (March 11, 2010).

<sup>20</sup> 12 U.S.C. § 2906.

consideration in the application process because it represents a detailed, onsite evaluation of the institution's overall record of performance under the CRA by its appropriate federal supervisor.

*CRA Performance of C&S Bank.*

C&S Bank was assigned an overall "satisfactory" rating at its most recent CRA performance evaluation by the FDIC, as of January 28, 2011 ("C&S Bank Evaluation").<sup>21</sup> Examiners considered C&S Bank to have a reasonable record of lending inside of its assessment areas and a reasonable record in small business lending.<sup>22</sup>

As described in the C&S Bank Evaluation, FDIC examiners found that the bank had a good record of serving its assessment areas' credit needs.<sup>23</sup> The bank had a reasonable record of lending to businesses of different sizes, especially

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<sup>21</sup> The C&S Bank Evaluation was conducted using the Small Bank CRA Examination Procedures. Examiners focused on the bank's small business and residential lending record from the time C&S Bank began operations on January 29, 2010, through January 28, 2011. CSH provided a copy of the public evaluation portion of the C&S Bank Evaluation to the commenter at the commenter's request. Prior to receiving the public evaluation portion, the commenter erroneously alleged that the FDIC had failed to perform a CRA examination of C&S Bank.

<sup>22</sup> The C&S Bank Evaluation reviewed data available to the FDIC as of the date of the evaluation concerning residential mortgage and small business loans originated or purchased within the relevant assessment areas. The C&S Bank Evaluation included a full-scope review of the Atlanta-Sandy Springs-Marietta, Georgia MSA assessment area (the "Atlanta MSA Assessment Area") and Fannin, Gilmer, Union, and Lumpkin counties in Georgia (the "Non-MSA Assessment Area"). Limited-scope reviews were performed in the Athens-Clarke County MSA, Gainesville MSA, and Dalton MSA assessment areas, all in Georgia. Examiners placed greater weight on the bank's performance in the Atlanta MSA Assessment Area than in the other assessment areas due to the bank's significant concentration of loan originations and loan purchases in that MSA; 95 percent of the bank's loans and loan purchases were made in that market.

<sup>23</sup> Small business and residential mortgage lending were the bank's primary lending focus.

smaller-sized businesses, and a reasonable record of residential lending to borrowers of different incomes. Examiners noted that, considering the differences among the bank's markets and their respective demographics, C&S Bank had adequately penetrated LMI geographies throughout its assessment areas. Examiners also noted that the bank's penetration among low-income borrowers was good with regard to both the percentage of originations and the percentage of total dollar volume.

*CRA Performance of Verity Bank.*

Verity Bank was assigned a "satisfactory" rating at its most recent CRA performance evaluation by the FDIC, as of October 26, 2009 ("Verity Bank Evaluation").<sup>24</sup> Examiners concluded that Verity Bank's lending performance represents reasonable responsiveness to community credit needs. Examiners also noted that Verity Bank showed excellent penetration in its construction and land

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<sup>24</sup> The Verity Bank Evaluation was conducted using the Small Bank CRA Examination Procedures. Examiners reviewed Verity Bank's small business and construction and land development lending activity from October 27, 2008, to September 30, 2009. These products were selected for analysis because they represented approximately 70 percent of the bank's loan portfolio.

The commenter objected to the proposal on the basis that the FDIC had failed to perform a timely CRA examination of Verity Bank. However, the FDIC's examination of Verity Bank was performed in accordance with the timeframe provided in the FDIC compliance manual for examinations. The manual requires the FDIC to perform a CRA evaluation for newly chartered and insured institutions after the institution has been in operation from 0-12 months, and then again between 48-60 months. See FDIC Compliance Manual, Compliance Examinations – Examination and Visitation Frequency (December 2013). The FDIC opened a new consumer compliance and CRA examination of Verity Bank in December 2013. The Board has conferred with the FDIC regarding the examination.

development lending, and in its small business lending in moderate-income census tracts in its assessment areas.<sup>25</sup>

*C&S Bank's Efforts Since the 2011 CRA Evaluation.*

CSH has provided information on the record of performance of C&S Bank since the C&S Bank Evaluation. CSH represents that in 2013, C&S Bank extended six community development loans in its assessment areas totaling \$23.5 million, which funded affordable housing facilities, a church and service center, and a regional food bank. In addition, C&S Bank has funded, or committed to fund, \$11.1 million in qualified investments in affordable housing projects in the bank's assessment areas, and has purchased \$1.1 million of mortgage-backed securities guaranteed by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation to LMI borrowers within its assessment areas. CSH also noted that the bank has provided several community development donations and sponsorships to organizations serving primarily women-owned microbusinesses and LMI entrepreneurs, as well as youth financial literacy programs.<sup>26</sup>

2. Fair Lending Record and Public Comments on the Application

The Board has considered C&S Bank's record in complying with fair lending and other consumer protection laws. In addition to reviewing the C&S Bank Evaluation and C&S Bank's record of performance in providing community development lending and services since its evaluation, as discussed above, the

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<sup>25</sup> The Verity Bank Evaluation included a full-scope review of the Atlanta MSA Assessment Area and the Non-MSA Assessment Area.

<sup>26</sup> These loans, investments, and donations have not yet been evaluated by the FDIC, and the CRA does not require any specific level or type of lending, investment, or service. The next CRA examination for C&S Bank is scheduled for the second quarter of 2014. The bank will be evaluated under the Large Bank CRA Examination Procedures.

Board's consideration includes an evaluation of C&S Bank's fair lending policies and procedures. This also includes consideration of other agencies' views on C&S Bank's record of performance under fair lending laws, other confidential supervisory information, and the public comments on the proposal.

*C&S Bank's Fair Lending Program.*

C&S Bank has instituted policies and procedures to help ensure compliance with all fair lending and other consumer protection laws and regulations. C&S Bank maintains a Fair Lending Compliance Program, which is part of its Consumer Compliance Program, which, in turn, is a component of the bank's overall Risk Management Program. The two primary components of C&S Bank's fair lending monitoring program are ongoing monitoring and periodic testing. The bank has created a "Director of Enterprise Risk Management" position to provide direct oversight over C&S Bank's Consumer Compliance Unit, which also includes a consumer compliance manager with oversight of four compliance officers. Each compliance officer has responsibility for overseeing specific bank functions, including lending, CRA, and fair lending compliance, as well as internal compliance monitoring. The bank maintains a policy of secondary reviews for all denials of consumer, mortgage, and commercial loans, and the Consumer Compliance Unit reviews all advertisements, website content, signage, and customer communications to ensure compliance with fair lending and other consumer protection laws and regulations. Regular reports are provided to C&S Bank's Audit Committee and board of directors, which review and discuss various compliance matters, including development of new policies and procedures, special projects, results of monitoring programs, customer complaints, training, and regulatory examination status. C&S Bank's risk-management systems, and its policies and procedures for assuring compliance with fair lending laws, would be implemented at the combined organization.

*Public Comment on the Application and Analysis of HMDA and CRA Data.*

Although the commenter did not allege specific discriminatory lending practices or cite HMDA data disparities in lending to minorities, the commenter generally asserted that C&S Bank failed to adequately lend within its assessment areas, particularly to LMI borrowers.<sup>27</sup> In response to the comments, the Board analyzed C&S Bank's HMDA and CRA data. The Board's analysis included a review of C&S Bank's 2011 and 2012 HMDA data in its combined assessment areas, in the Atlanta MSA Assessment Area, in Verity Bank's assessment area, and in Barrow County.<sup>28</sup> The Board also consulted with the FDIC and considered examination reports of onsite evaluations by the FDIC regarding C&S Bank's compliance with fair lending laws and regulations.

C&S Bank extended approximately 80 percent of its mortgage-related loans within its combined assessment area in 2011 and 2012, and its HMDA application and origination volume nearly doubled between 2011 and 2012. Similarly, an analysis of CRA small business lending data indicates that the bank originated a greater percentage of its total loans and of its loans, to businesses with gross annual revenues of \$1 million or less, in LMI tracts than the aggregate of all lenders.

C&S Bank received a greater percentage of applications from, and extended a greater percentage of its loans to, Hispanic individuals in all markets

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<sup>27</sup> The commenter also alleged that C&S Bank failed to comply with HMDA data reporting requirements. The FDIC previously reviewed C&S Bank's 2011 HMDA data, and CSH represents that C&S Bank has filed all HMDA and CRA data as required by law. The Board consulted with the FDIC, which did not express any concerns in this regard.

<sup>28</sup> HMDA data do not provide a basis for an independent assessment of an applicant's creditworthiness. In addition, credit history problems, excessive debt levels relative to income, and high loan amounts relative to the value of the real estate collateral are not available from HMDA data.

under review compared to the aggregate, except Barrow County, where the bank received no applications from Hispanic individuals. However, there are no minority census tracts in Barrow County.<sup>29</sup> Although C&S Bank made significant progress in increasing the number of mortgage applications from African Americans and from predominantly minority census tracts from 2012 to 2013, the Board notes that the bank continues to lag the aggregate in both respects.<sup>30</sup> The data do not suggest that C&S Bank is systematically excluding African American or predominantly minority geographies. The Board encourages C&S Bank to continue its progress by seeking opportunities to increase its outreach in these communities.

The Board also reviewed C&S Bank's CRA small business and small farm lending data for 2012 and from January 1, 2013, to September 30, 2013, in its combined assessment areas, in the Atlanta MSA Assessment Area, in Verity Bank's assessment area, and in Barrow County, Georgia.<sup>31</sup> C&S Bank extended more than 30 percent of its small business loans and loans to businesses with gross annual revenues of \$1 million or less in LMI census tracts, in both cases exceeding the aggregate's percentage of such loans in 2012, often significantly. Moreover, C&S Bank extended almost 60 percent of its small business loans to businesses with gross annual revenues of \$1 million or less in its combined assessment areas and the Atlanta MSA Assessment Area. The data do not suggest that C&S Bank is failing to lend to small businesses.

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<sup>29</sup> For Barrow County, the aggregate reported a small percentage (approximately 3 percent) of mortgage applications from and originations to Hispanic individuals.

<sup>30</sup> CSH provided C&S Bank's 2013 HMDA data, which is preliminary and has not been verified, to the Board.

<sup>31</sup> C&S Bank was not required to report small business or small farm lending data for 2011. The bank makes few small farm loans, and the Board does not consider them to be a major product of the bank.

The Board notes that C&S Bank's percentage of loan applications and originations for properties located in LMI census tracts, and involving LMI individuals, as well as of its small business loans and loans to businesses with gross annual revenues of \$1 million or less in LMI census tracts, has generally met or exceeded the aggregate.

3. Additional Information on Convenience and Needs of Communities to Be Served by the Combined Organization

In assessing the effects of a proposal on the convenience and needs of the communities to be served, the Board also considers the extent to which the proposal would result in public benefits. CSH stated that it would provide expanded retail and commercial banking products and services to Verity Bank's customers, including a broader range of deposit and loan products, enhanced online and mobile banking, and a higher lending limit to its customers. The capital and human resources of the combined entity would enable it to be a stronger competitor in Verity Bank's assessment areas than is presently the case. The merger also would benefit current customers of Verity Bank through access to significantly larger branch and ATM networks. The branch network available to current Verity Bank customers would increase from 2 to 41 branch locations throughout Georgia.

The commenter alleged that the proposal would not provide a clear or significant public benefit and asserted that C&S Bank plans to close both existing Verity Bank branches, which would result in a loss of jobs in the community.<sup>32</sup>

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<sup>32</sup> The commenter also asserted that the FDIC loss sharing agreements to which C&S Bank is subject create "negative lending incentives" that encourage C&S Bank to foreclose on assets acquired from the FDIC rather than extend new credit. The commenter further asserted that Verity Bank is the only remaining community bank in the local market not subject to an FDIC loss sharing agreement, the loss of which would reduce the overall availability of credit to LMI borrowers. Finally, the commenter asserted that CSH's profits would not be reinvested in its

Contrary to the commenter's assertion, CSH represents that it plans to continue operating both Verity Bank branches following completion of the bank merger. Any future branch closings or consolidations would be completed in accordance with C&S Bank's branch closing policy, which includes procedures for mitigating any potential negative impacts on the community which may result from the branch's closure. The Board consulted with the FDIC, which did not express any concerns regarding the bank's branch closing policy.

In order to ensure that CSH continues to meet its obligations under the CRA and fair lending laws, CSH has committed that, within thirty (30) days following consummation of the merger with Verity, CSH will develop and adopt a statement of goals and objectives, consistent with CSH's strategic business plan and the combined organization's size and complexity, to continue meeting the credit needs of the communities that the combined organization serves, including low- and moderate-income neighborhoods and small businesses.

#### Conclusion on Convenience and Needs Considerations

The Board has considered all the facts of record, including reports of examination of the CRA records of the institutions involved, information provided by CSH, confidential supervisory information, and the public comments on the proposal. Based on the Board's analysis of the HMDA data, evaluation of the mortgage and small business lending operations and compliance programs of C&S Bank and Verity Bank, review of examination reports, and consultation with the

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assessment areas because it is a Delaware corporation with top-tier investors that are located outside of Georgia. The Board notes that the current proposal does not involve a loss sharing agreement with the FDIC. Additionally, C&S Bank has a business model that encourages extending new credit and the record does not suggest that the proposal would reduce the overall availability of credit to LMI borrowers. The Board also notes that C&S Bank is subject to the provisions of the CRA, which require a bank to meet the credit needs of the communities in which it operates, without regard to the location of the holding company's registration, investors, or board members.

FDIC, the Board believes that the convenience and needs factor, including the CRA record of the insured depository institutions involved in this transaction, is consistent with approval of the application.

### 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 “the extent to which a proposed acquisition, merger, or consolidation would result in greater or more concentrated risk to the stability of the United States banking or financial system.”<sup>33</sup>

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.<sup>34</sup> These categories are not exhaustive, and additional categories could inform the Board’s decision. In addition to these quantitative measures, the Board considers qualitative factors, such as the opaqueness and complexity of an institution’s internal organization, which are indicative of the relative degree of difficulty of

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<sup>33</sup> Section 604(d) of the Dodd-Frank Act, Pub. L. No. 111-203, 124 Stat. 1376, codified at 12 U.S.C. § 1842(c)(7).

<sup>34</sup> Many of the metrics considered by the Board measure an institution’s activities relative to the U.S. financial system.

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.<sup>35</sup>

The Board has considered information relevant to risks to the stability of the U.S. banking or financial system. After consummation of the proposed transaction, CSH would have approximately \$3.0 billion in consolidated assets, and by any of a number of alternative measures of firm size, CSH would be outside the 100 largest U.S. financial institutions. The Board generally presumes that a merger resulting in a firm with less than \$25 billion in total consolidated assets would 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. The companies engage and would continue to engage in traditional commercial banking activities. The resulting organization would experience small increases in the metrics that the Board considers to measure an institution's complexity and interconnectedness, with the resulting firm generally ranking outside of the top 100 U.S. financial institutions in terms of those metrics. For example, CSH's intrafinancial assets and liabilities would comprise a negligible share of the systemwide total, both before and after the transaction. The resulting organization would not engage in complex activities, nor would it provide critical services in such volume that disruption in those services would have a significant impact on the macroeconomic condition of the United States by disrupting trade or resulting in increased resolution difficulties.

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

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<sup>35</sup> For further discussion of the financial stability standard, see Capital One Financial Corporation, FRB Order No. 2012-2 (Feb. 14, 2012).

of the U.S. banking or financial system. Based on these and all other facts of record, the Board has determined that considerations relating to financial stability are consistent with approval.

### Conclusion

Based on the foregoing and all the facts of record, the Board has determined that the application should be, and hereby is, approved.<sup>36</sup> 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 CSH with all the conditions imposed in this order, including receipt of all required regulatory approvals, and on the commitments made to the Board in connection with the application. For purposes of this action, the conditions and commitments are deemed to be conditions imposed in writing by the Board in connection with its

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<sup>36</sup> The commenter requested that the Board hold public hearings on the proposal. Section 3(b) of the BHC Act does not require the Board to hold a public hearing on an 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 present their views. The Board has considered the commenter's request in light of all the facts of record. In the Board's view, commenters have had ample opportunity to submit comments on the proposal and, in fact, the commenter submitted written comments that the Board has considered in acting on the proposal. The commenter's request does not identify disputed issues of fact that are material to the Board's decision and that would be clarified by a public hearing. In addition, the request does not demonstrate why the written comments do not present the commenter's views adequately or why a 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 hearing is not required or warranted in this case. Accordingly, the request for a public hearing on the proposal is denied.

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 Reserve Bank, acting pursuant to delegated authority.

By order of the Board of Governors,<sup>37</sup> effective March 31, 2014.

*Margaret McCloskey Shanks (signed)*

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Margaret McCloskey Shanks  
Deputy Secretary of the Board

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<sup>37</sup> Voting for this action: Chair Yellen, and Governors Tarullo, Stein, and Powell.