

FEDERAL RESERVE press release



For immediate release

December 16, 1996

The Federal Reserve Board today announced its approval of the applications and notices of NationsBank Corporation and NB Holdings Corporation, both of Charlotte, North Carolina, to merge with Boatmen's Bancshares, Inc., St. Louis, Missouri ("Boatmen's"), and thereby acquire Boatmen's banking and nonbanking subsidiaries.

Attached is the Board's Order relating to this action.

Attachment

FEDERAL RESERVE SYSTEM

NationsBank Corporation
Charlotte, North Carolina

NB Holdings Corporation
Charlotte, North Carolina

Order Approving the Merger of Bank Holding Companies

NationsBank Corporation and NB Holdings Corporation, both of Charlotte, North Carolina (collectively, "NationsBank"), bank holding companies within the meaning of the Bank Holding Company Act ("BHC Act"), have filed applications and notices under sections 3 and 4(c)(8) of the BHC Act (12 U.S.C. §§ 1842 and 1843(c)(8)) to acquire the banking and nonbanking subsidiaries of Boatmen's Bancshares, Inc., St. Louis, Missouri ("Boatmen's").^{1/} NationsBank also has filed a notice under sections 211.4 and 211.5 of Regulation K (12 C.F.R. 211.4 and 211.5) to acquire Boatmen's Foreign Investment Company, an agreement corporation under section 25 of the Federal Reserve Act (12 U.S.C. §§ 601-604a), also of St. Louis, Missouri. Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (61 Federal Register 53,375 (1996)). The time for filing comments has expired, and the Board has considered the applications and notices and all comments received in light of the factors set forth in the BHC Act, the Federal Reserve Act, and regulations promulgated thereunder.

^{1/} Boatmen's would merge with and into NB Holding Corporation, a wholly owned subsidiary of NationsBank, with NB Holdings the surviving corporation. Boatmen's subsidiary banks are listed in Appendix A, and Boatmen's nonbank subsidiaries are listed in Appendix B. NationsBank also has requested the Board's approval for an option to purchase up to 19.9 percent of the voting shares of Boatmen's if certain events occur. The option would expire on consummation of the proposal.

NationsBank, with total consolidated assets of approximately \$192.3 billion, is the fifth largest commercial banking organization in the United States, controlling approximately 4.6 percent of total banking assets of insured commercial banks ("total banking assets^{2/}). Its subsidiary banks operate in North Carolina, Delaware, the District of Columbia, Florida, Georgia, Kentucky, Maryland, South Carolina, Tennessee, Texas, and Virginia. NationsBank also engages in a number of permissible nonbanking activities nationwide. Boatmen's, with total consolidated assets of approximately \$40.7 billion, is the 24th largest banking organization in the United States. Boatmen's, which operates subsidiary banks in Missouri, Arkansas, Illinois, Iowa, Kansas, New Mexico, Oklahoma, Tennessee, and Texas, controls approximately 1.1 percent of total banking assets in the United States.

After consummation of the proposal, NationsBank would become the fourth largest commercial banking organization in the United States, with total consolidated assets of approximately \$233 billion, and would control approximately 5.7 percent of total banking assets in the United States. NationsBank would also control 5 percent of the total deposits in banks and savings associations insured by the Federal Deposit Insurance Corporation ("FDIC").

Interstate Analysis

Section 3(d) of the BHC Act, as amended by Section 101 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, ("Riegle-Neal 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 home state of such bank holding company, if certain conditions are met. For purposes of the BHC Act, NationsBank's home state is North

^{2/} State asset and banking data are as of June 1995, and consolidated asset data are as of June 30, 1996.

Carolina.^{3/} As noted above, Boatmen's controls banks in Missouri, Arkansas, Illinois, Iowa, Kansas, New Mexico, Oklahoma, Tennessee, and Texas. The conditions for an interstate acquisition enumerated in section 3(d) are met in this case.^{4/} In view of all the facts of record, the Board is permitted to approve this proposal under section 3(d) of the BHC Act.^{5/}

^{3/} Pub. L. No. 103-328, 108 Stat. 2338 (1994). A bank holding company's home state is that state in which the operations of the bank holding company's banking subsidiaries were principally conducted on July 1, 1966, or the date on which the company became a bank holding company, whichever is later.

^{4/} 12 U.S.C. §§ 1842(d)(1)(A) and (B) and 1842(d)(2)(A) and (B). Comments from Inr City Press/Community on the Move, the Mid-South Peace and Justice Center of Memphis Tennessee, and the Statewide New Mexico Alliance (collectively, the "Coalition"), maintain that the proposal does not meet the conditions in section 3(d) because NationsBank is not adequately managed and because NationsBank would acquire a percent of the insured deposits in New Mexico and Missouri that exceed state law limits. Based on all the facts of record, and for the reasons discussed in the order, the Board concludes that NationsBank is adequately managed and adequately capitalized. In addition, on consummation of the proposal, NationsBank and its affiliates would control less than 10 percent of the total amount of deposits of insured depository institutions in the United States, and less than 30 percent of the total amount of deposits of insured depository institutions in any state in which Boatmen's bank subsidiaries are currently located, including New Mexico, which imposes a 40-percent deposit limitation. The Missouri Commissioner of Finance has confirmed that the deposit limitation in Missouri law does not apply to an initial acquisition by an out-of-state banking organization and has approved the transaction. All the Boatmen's banks to be acquired by NationsBank also would have been in existence and have continuously operated for at least the minimum period of time required under applicable state law. All other requirements of section 3(d) of the BHC Act would be met on consummation of the proposal.

^{5/} The Coalition also notes that a federal court has recently invalidated the relocation of the main office of a NationsBank's subsidiary bank in Texas into New Mexico because the bank retained a branch at its former Texas location.

Ghiglieri v. Sun World, N.A. and Eugene Ludwig, No. EP 96 CA 324 (W.D. Tex. 1996). The relocation had been approved by the Office of the Comptroller of the Currency ("OCC")

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Competitive Considerations

Section 3 of the BHC Act prohibits the Board from approving any proposal that would result in a monopoly, or that would substantially lessen competition for banking services in any relevant part of the country unless the Board finds that the anticompetitive effects are outweighed in the public interest by a proposal's effect on the convenience and needs of the community. NationsBank and Boatmen's compete directly in three banking markets in Tennessee (Lawrence County, Memphis and Nashville) and in banking markets in Texas (El Paso and Austin^{6/}). The Board has carefully reviewed the competitive effects of the proposal in these banking markets in light of all the facts of record, including the number of competitors that would remain in the markets, the characteristics of the markets, the projected increase in the concentration of total deposits in depository institutions^{7/} in the markets ("market deposits") as measured by the Herfindahl-Hirschman Index ("HHI") under the Department of Justice Merger Guidelines ("DOJ Guidelines")^{8/}, and commitments made by NationsBank to divest certain branches.]

^{5/}(...continued)

under section 30 of the National Bank Act and the OCC has appealed the court's decision NationsBank will abide by the final disposition of the matter by the courts.

^{6/} The banking markets are described in Appendix C.

^{7/} In this context, depository institutions include commercial banks, savings banks, and savings associations. Market data used for the table in Appendix C are as of June 30, 1995. Market concentration calculations include deposits of thrift institutions at 50 percent. The Board has previously indicated that thrift institutions have become, or have the potential to become, significant competitors of commercial banks. See Midwest Financial Group 75 Federal Reserve Bulletin 386 (1989), National City Corporation 70 Federal Reserve Bulletin 743 (1984). Thus, the Board has regularly included thrift deposits in the calculation of market concentration on a 50-percent weighted basis. See e.g., First Hawaiian, Inc. 77 Federal Reserve Bulletin 52 (1991).

^{8/} Under the revised DOJ Guidelines, 49 Federal Register 26,823 (June 29, 1984), a
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evaluating the competitive factors in this case, the Board also has considered carefully comments from the Coalition that assert that the proposal would have a significantly adverse effect on competition in the El Paso banking market.

Consummation of the proposal would not exceed the threshold levels of market concentration, as measured by the HHI, in the Memphis, Nashville, and Austin banking markets.^{9/} In order to mitigate the potential anticompetitive effects of the proposal in the Lawrence County and El Paso banking markets, NationsBank has committed to divest all the Boatmen's branches in Lawrence County and two Boatmen's branches in El Paso.^{10/}

^{8/}(...continued)

market in which the post-merger HHI is less than 1000 is considered unconcentrated, and market in which the post-merger HHI is between 1000 and 1800 is considered moderately concentrated. The Justice Department 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 Justice Department has stated that the higher than normal HHI thresholds for screening bank mergers for anticompetitive effects implicitly recognize the competitive effect of limited-purpose lenders and other non-depository financial institutions.

^{9/} The HHI would remain unchanged at a level of 1468 in the Nashville banking market, increase 23 points to 1689 in the Memphis banking market, and increase 69 points to 1055 in the Austin banking market.

^{10/} Nationsbank has committed to execute sales agreements for each of the proposed divestitures prior to consummation of this transaction, and to complete the divestiture within 180 days of consummation. NationsBank also has committed that, in the event it is unsuccessful in completing these divestitures within 180 days of consummation, it will transfer the unsold branches to an independent trustee that is acceptable to the Board and that will be instructed to sell the branches promptly. See Bankamerica Corporation

78 Federal Reserve Bulletin 338 (1992); United New Mexico Financial Corporation 77 Federal Reserve Bulletin 484 (1991). NationsBank also has committed to submit to the Board, before

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Although the HHI for the El Paso banking market would increase 222 points to 2199 after the proposed divestitures, the Board believes that a number of factors would mitigate any potential anticompetitive effect. Ten commercial banking organizations, including three large multi-state banking organizations, would remain in the market. Two of the multi-state banking organizations together would control more than 50 percent of the market deposits, and two additional bank competitors would each control at least 5 percent of the market deposits. NationsBank would become the third largest competitor in the El Paso banking market, controlling market deposits of approximately 23 percent. The market also has characteristics that make it attractive for entry for out-of-market firms.^{10/} Two banking organizations have entered the market de novo since 1990, and 14 commercial bank branches have opened or been announced to open in the market since 1995.

The Board sought comments from the United States Attorney General, Department of Justice ("Attorney General"), the OCC, the FDIC, and the Office of Thrift Supervision ("OTS") on the competitive effects of this proposal. The Attorney General advised the Board that consummation of the proposal would not likely have any significantly adverse effects on competition in any relevant market. The OTS, OCC and the FDIC also have not objected to consummation of the proposal. Based on all the facts of record, and for the reasons discussed in this order, and after carefully considering public comments on the competitive factor, the Board concludes that consummation of the

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consummation of this proposal, an executed trust agreement acceptable to the Board stating the terms of these divestitures.

^{11/} For example, the banking market's population and amount of deposits have increased by 2.1 and 1.9 percent, respectively, from 1992 to 1995 in contrast to all other Texas metropolitan statistical areas which averaged annual increases of 1.6 and 1.0 percent for population and amount of deposits, respectively.

proposal would not have a significantly adverse effect on competition or the concentration of banking resources in any relevant banking market.^{12/}

Other Factors under the BHC Act

The BHC Act also requires the Board to consider the financial and managerial resources and future prospects of the companies and banks involved in a proposal, the convenience and needs of the community to be served, and certain other supervisory factors.

^{12/} In analyzing the competitive effects of the proposal, the Board considered the Coalition's contention, based in part on public statements by NationsBank officials and banking commentators, that NationsBank's policy of imposing a surcharge on ATM transactions by non-customers would have adverse competitive effects by causing customers of small banks to terminate their relationships with the small banks and become customers of large banks with extensive ATM networks, like NationsBank, to avoid the surcharge. The Board notes that the practice of surcharging ATM transactions by non-customers is fairly recent and limited data are available on the effect of ATM surcharging on customer behavior. An analysis of deposit data in Texas, although preliminary, does not support the Coalition's contentions. Moreover, the Coalition provides no facts to show that NationsBank has sufficient market power through its network of ATMs to compete unfairly with smaller institutions in the market for banking services. The Board notes that smaller banks may be able to provide their customers with access to a large number of ATM machines, through alternative regional and national networks or numerous convenient ATMs that do not have a surcharge. Based on all the facts of record, the Board concludes that the record in this proposal does not support the conclusion that NationsBank's ATM surcharge policy would have a significantly adverse effect on competition or on the availability of ATM services to consumers.

A. Supervisory Factors

The Board has carefully considered the financial and managerial resources of the companies and banks involved in this proposal and the effect of the proposed acquisition on the future prospects of these organizations, and other supervisory factors in light of the facts of record including the views expressed by NationsBank and the commenters.^{13/} The Board notes that NationsBank, Boatmen's, and their subsidiary banks meet or exceed the "well capitalized" thresholds and are expected to continue to do so after consummation of the proposal.^{14/} The Board also has reviewed the operational and

^{13/} The Coalition cites instances of litigation and administrative regulatory actions regarding securities-related activities by NationsBank's securities brokerage subsidiary, NationsSecurities, including the sale and marketing of securities and the compensation paid to bank employees for customer information. Some of these actions are pending and no conclusions of wrongdoing have been reached. Other cases have resulted in settlements with state regulatory agencies or individuals in which NationsSecurities has taken corrective actions or paid compensatory damages. NationsSecurities is a registered broker/dealer subject to the jurisdiction of the Securities and Exchange Commission ("SEC") and, as a wholly owned subsidiary of a national bank, is subject to supervision and jurisdiction of the OCC. The Board has carefully reviewed the Coalition's comments in light of confidential supervisory information from the OCC. The Board also has provided the Coalition's allegations of improper securities trading by Boatmen's officials to the SEC for consideration.

The Coalition also makes a number of allegations regarding the business practices of Stephens, Inc., an Arkansas securities firm, and its business relationships with NationsBank and Boatmen's. The Coalition objects to a fairness opinion on the proposal by Stephens, Inc., because that company owns approximately 2.5 percent of NationsBank stock. This interest was disclosed to NationsBank's shareholders, who must vote to approve the acquisition, in accordance with applicable securities laws. Moreover, federal and state securities regulators have the authority to investigate and adjudicate any improper actions by Stephens, Inc.

^{14/} The Coalition asserts that NationsBank projects a decline in capital as a result of the proposal and intends to rely on Boatmen's excess capital. The Coalition also notes that NationsBank was forced to recognize a loss of \$40 million in the first quarter of
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management structure for NationsBank after it acquires Boatmen's. Based on all the facts of record, including all comments that have been received relating to these factors, and a review of relevant reports of examination of the companies and the banks involved in the proposal, the Board concludes that the financial and managerial resources and future prospects of the companies and banks concerned are consistent with approval, as are the other supervisory factors that the Board must consider under section 3 of the BHC Act.^{16/}

^{14/}(...continued)

1996 for losses from its participation interest in a loan with other banks involving fraudulent conduct by a borrower, and provides estimates for other potential liabilities for NationsBank.

^{15/} The Board has taken into account the Coalition's comments: (1) objecting to the replacement of Boatmen's senior management by NationsBank officials, (2) criticizing NationsBank's management for a computer failure in 1996 and for a retracted mail solicitation of home equity loans in Texas, (3) challenging the effectiveness of its board of directors, and (4) citing reviews of NationsBank's operations in Nashville, Tennessee, and Charlotte, North Carolina, by the Department of Labor ("DOL"), and NationsBank's response to proposed DOL reviews of NationsBank's operations in Tampa, Florida, and Columbia, South Carolina. The Coalition also cites pending lawsuits brought by former NationsBank employees that have not adjudicated any improper actions by NationsBank. These comments have been carefully considered in light of all the facts of record, including confidential reports of examination assessing the managerial resources of NationsBank, and confidential information provided by the DOL.

^{16/} The Board also has considered other comments relating to these factors, including comments from a developer and investors criticizing NationsBank's involvement in a multi-family housing project and from a trust beneficiary criticizing NationsBank's conduct as trustee. These comments have been provided to the OCC, the primary federal supervisor of the NationsBank subsidiaries involved, for consideration. Another commenter alleges that NationsBank's subsidiary bank in Virginia has engaged in improper conduct in connection with a community block grant program administered by the City of Lynchburg. For the reasons previously stated by the Board, the facts of record do not support the commenter's
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B. Convenience and Needs Considerations

The Board has carefully considered the effect of the proposed acquisition on the convenience and needs of the community to be served in light of all the facts of record. The Board notes that NationsBank provides a full range of financial services, including commercial and retail banking services, trust and investment management services, corporate and investment banking services, and international banking services, through its bank and nonbank subsidiaries. NationsBank has stated that the acquisition would result in an enhancement and expansion of the banking services available in the markets currently served by Boatmen's. NationsBank also would provide the communities served by Boatmen's with one of the larger retail branch networks in the country, expanded access to services at ATMs, and special products such as bank-by-mail PC home banking, and bank-by-phone.

The Board also has long held that consideration of the convenience and needs factor includes a review of the records of the relevant depository institutions under the Community Reinvestment Act (12 U.S.C. § 2901 seq.) ("CRA"). The Board has received and considered comments from a number of commenters relating to the CRA performance records of both institutions. Forty-six commenters have commended the assistance NationsBank and Boatmen's provided in community redevelopment activities and have favorably noted the records of both organizations for reinvesting in their communities.^{17/} These commenters generally asserted that the combined organization would benefit all the communities to be served.

^{16/}(...continued)

allegations, and no new facts are presented in this case. See NationsBank Corporation 82 Federal Reserve Bulletin 154 (1996).

^{17/} These commenters included the ACORN Housing Corporation, the Greater Washington Urban League, the NAACP, and the United Way of Mid South.

Fifteen commenters, including the Coalition ("Protestants"), criticized the CRA performance records of NationsBank and Boatmen's.^{18/} Protestants maintain that the 1995 Home Mortgage Disclosure Act (12 U.S.C. § 2801 et seq.) ("HMDA") data and the record of branch closings for both organizations support denial of the proposal. Protestants also contend that NationsBank's record of CRA performance is deficient in a number of areas, including activities involving housing-related and small business lending, ascertainment and marketing, and community development.^{19/}

The Board has carefully considered the CRA performance records of both institutions in light of all the facts of record and the comments received on the proposal. NationsBank indicated that it intends to enhance Boatmen's community investment program by integrating it with the NationsBank program. In this light, the Board has given substantial consideration to the existing record of NationsBank as reflected in CRA and supervisory examinations, and the current programs and policies of NationsBank, of helping to serve the convenience and needs of all its communities.

CRA Performance Examinations

As provided in the CRA, the Board has evaluated the convenience and needs factor in light of examinations by the primary federal supervisors of the CRA performance records of the relevant institutions. An institution's most recent CRA performance evaluation is a particularly important consideration in the applications process because

^{18/} These commenters included Vickers & Associates, representing several community-based groups, Texas Community Reinvestment Coalition and Corporation for Affordable Housing, and several individual commenters.

^{19/} Several commenters questioned NationsBank's commitment to community development based on their experiences in a redevelopment project in Texas.

it represents a detailed on-site evaluation of the institutions's overall record of performance under the CRA by its primary federal supervisor.^{20/}

All the NationsBank subsidiary banks in Virginia, North Carolina, Georgia, Florida, Tennessee, and Texas, comprising approximately 96 percent of the organization's banking assets, received "outstanding" ratings at the most recent examinations of their CRA performance by their primary federal supervisor, the OCC, as of July 1995.^{21/} In addition, all of Boatmen's subsidiary banks received "outstanding" or "satisfactory" ratings for CRA performance at their most recent examinations by their primary federal supervisors.^{22/}

Lending Performance Record of NationsBank

^{20/} The Statement of the Federal Financial Supervisory Agencies Regarding the Community Reinvestment Act provides that a CRA examination is an important and often controlling factor in the consideration of an institution's CRA record and that reports of these examinations will be given great weight in the applications process. Federal Register 13,742 and 13,745 (1989).

^{21/} The following mergers occurred after the examinations were conducted: (1) NationsBank, N.A (Carolinas), Charlotte, North Carolina and NationsBank, N.A., Richmond, Virginia, merged to form NationsBank, N.A., Charlotte, North Carolina ("Lea Bank"); and (2) NationsBank of Florida, N.A, Tampa, Florida, and NationsBank of Georgia, N.A., Atlanta, Georgia, merged to form NationsBank, N.A. (South Atlanta), Georgia. NationsBank of Texas, N.A., Dallas, Texas, and NationsBank of Tennessee, N.A., Nashville, Tennessee, also received "outstanding" ratings for CRA performance by the OCC in July 1995. NationsBank of Delaware, N.A., Dover, Delaware, a limited purpose credit card bank, and NationsBank of Kentucky, N.A., Hopkinsville, Kentucky, received "satisfactory" CRA performance ratings in their most recent CRA performance examination by the OCC as of July 1995. NationsBank also recently acquired Sun World, N.A., El Paso, Texas ("Sun World"), which has not been examined for CRA performance by the OCC. Sun World's predecessor, Sun World Savings Bank, F received a CRA rating of "outstanding" from its primary supervisor, the OTS at its most recent CRA performance examination.

^{22/} The CRA performance ratings for Boatmen's subsidiary banks are set forth in Appendix D.

In general and Lead Bank The Board has reviewed the 1993, 1994, and 1995 HMDA data reported by NationsBank's bank subsidiaries and NationsBanc Mortgage Corporation ("NBMC") in light of Protestants' comments. These data generally indicate that NationsBank has improved its record of home mortgage lending in low- to moderate-income ("LMI") census tracts and census tracts with predominately minority residents ("minority census tracts").^{23/} NationsBank reports that its nationwide HMDA data from 1992 and 1995 show an increase of approximately 36 percent in loans to individuals in LMI census tracts and an increase of approximately 61 percent in loans to individuals in minority census tracts.^{24/} In addition, 1995 HMDA data for communities served by Lead Bank indicate an increase in the number of loan applications received from, and loans extended to, minorities and individuals in LMI census tracts.^{25/}

The data for NationsBank, including NBMC, and Boatmen's also reflect some disparities in the rate of loan originations, denials, and applications by racial group or income level. The Board is concerned when the record of an institution indicates such disparities, and believes that all banks are obligated to ensure that their lending practices are based on criteria that assure not only safe and sound lending, but also assure equal access to credit by creditworthy applicants regardless of race. The Board recognizes, however, that HMDA data alone provide an incomplete measure of an

^{23/} NationsBank conducts most of its housing-related lending through NBMC, a wholly owned subsidiary of NationsBank's subsidiary bank in Texas and the Board has considered HMDA data reported by NBMC for areas served by NationsBank's bank subsidiaries.

^{24/} During the same period, applications received from LMI census tracts increased by approximately 67 percent and applications received from minority census tracts increased by approximately 98 percent.

^{25/} Boatmen's HMDA data for 1994 and 1995 HMDA also generally indicate increases housing-related lending in LMI and minority census tracts, and Boatmen's origination rate for loans in LMI and minority areas exceeded the average origination rates for all lending institutions in the St. Louis, Missouri MSA.

institution's lending in its community because these data cover only a few categories of housing-related lending and provide limited information about the covered loans.^{26/} HMDA data, therefore, have limitations that make the data an inadequate basis, absent other information, for concluding that an institution has engaged in illegal discrimination in lending.

In light of the limitations of HMDA data, the Board has carefully reviewed other information, particularly examination reports that provide an on-site evaluation of compliance by NationsBank and Boatmen's with the fair lending laws. The examination of NationsBank's subsidiary banks, which included a fair lending review of NBMC, and Boatmen's subsidiary banks found no evidence of prohibited discrimination or other illegal credit practices at the institutions. Examiners also found no evidence of practices intended to discourage applications for the types of credit listed in the banks' CRA statements.^{27/}

NationsBank also has taken a number of steps to increase lending by its subsidiary banks to LMI and minority borrowers. NationsBank has implemented second and third level reviews of declined loan applications from minorities and LMI individuals to ensure that consistent loan decisions are made. Other corporate fair lending programs include periodic reviews of underwriting guidelines and procedures, regression modeling to test variances in credit decisions, and on-going sensitivity and cultural diversity

^{26/} These data, for example, do not provide a basis for an independent assessment of whether an applicant who was denied credit was, in fact, creditworthy. Credit history problems and excessive debt levels relative to income -- reasons most frequently cited by a credit denial -- are not available from the HMDA data.

^{27/} As part of its examination for compliance with fair lending laws of the NationsBank's subsidiary banks and NBMC, the OCC selected samples from a wide range of housing-related loan applications by minority and non-minority borrowers for comparative analysis. The review found no evidence of illegal credit discrimination.

training for all bank personnel. In addition, NationsBank's corporate fair lending group provides a comprehensive on-going review of bank performance in providing all applicants fair access to credit.

NationsBank's senior management has developed extensive written policies, procedures and training programs to help ensure that its bank and operating subsidiaries do not illegally discourage or pre-screen applicants. According to examiners, NationsBank regularly assesses the adequacy of nondiscriminatory policies, procedures and training programs through internal reviews and management reporting mechanisms. As part of its continuing evaluation of fair lending practices and procedures, in 1994, NationsBank contracted with an outside vendor to evaluate the treatment of prospective applicants throughout its bank branch and mortgage company offices.

NationsBank engages in a number of housing-related and small business and small farm lending activities that are designed to assist in meeting the credit needs of its entire community.^{28/} Examiners noted, for example, that NationsBank has taken additional steps to assist in meeting the housing-related credit needs of the LMI communities within its banks' delineations. NBMC committed in mid-1995 to provide incentive financing for qualified borrowers with incomes of less than 80 percent of median household incomes. Approximately 600 families took advantage of the program in 1995, resulting in an aggregate loan volume of \$39.1 million. NBMC renewed and increased its commitment of below-market funds available in 1996 to \$240 million. Through September 7, 1996, more than 3,400 families have gained access to the below-market

^{28/} Some Protestants contend that services provided by Boatmen's subsidiary banks -- particularly small business loans and other types of business credit -- will be diminished by the proposal because NationsBank provides less autonomy in lending decisions to management of its subsidiary banks. The Board believes an institution's performance should be assessed on the institution's actual record of assisting to meet the credit needs of its entire community, and accordingly, in reviewing the proposal has focused on NationsBank's record as discussed above.

interest rates to purchase a home. In December 1995, NationsBank also established a partnership with the Neighborhood Assistance Corporation of America to provide \$500 million for home mortgages in LMI communities. The program provides 100-percent financing, as well as intensive individualized credit and homebuyer counseling, and is being tested in Washington, D.C.; Baltimore, Maryland; Charlotte, North Carolina; and Atlanta, Georgia.

NationsBank also participates in programs designed to meet the small business credit needs of its delineated communities. NationsBank actively participates in government-sponsored programs, such as those of the Small Business Administration ("SBA") and various city governments. In 1995, NationsBank made 743 SBA loans totaling \$102 million.^{29/} NationsBank also helped establish Small Business Resource Centers in four cities in partnership with the SBA and the Department of Commerce Minority Business Development Agency.^{30/} In 1995, NationsBank originated^{31/} 5,473 loans for \$2.5 billion to small and minority-owned businesses located in LMI communities.

NationsBank engages in a number of community development activities to help meet the credit needs of its communities through its community development

^{29/} NationsBank has been designated by the SBA as a "Preferred Lender" or "Certified Lender" in every state in which its subsidiary banks operate.

^{30/} These centers provide loans, technical assistance, counseling and access to innovative business technology for start-up and existing businesses.

^{31/} One commenter alleges that NationsBank illegally discriminates against minority-owned businesses. The comments provided no facts and are based on studies of NationsBank's HMDA data that have been previously considered by the Board and found to substantiate allegations of illegal discrimination in NationsBank's mortgage lending. See NationsBank Corporation(Bank South) 82 Federal Reserve Bulletin 172 (1996); NationsBank Corporation(CSF Holdings) 81 Federal Reserve Bulletin 1121 (1995) The Board also has considered the commenter's objection to the discontinuance of Boatmen's plan to increase lending to minority-owned small businesses in light of NationsBank's record of small business lending.

corporation, NationsBank Community Development Corporation ("NCDC"). Examiners commended NationsBank's high level of participation in local development and redevelopment projects in the 1995 CRA examinations and noted that NationsBank continues to pursue lending relationships that promote the development and redevelopment of its communities. The NCDC has invested \$200 million for the purpose of making housing available to LMI individuals and families through partnerships with local community organizations.

NationsBank also has implemented a Community Development Financial Institutions ("CDFI") initiative to provide capital to financial institutions that specialize in revitalizing neighborhoods. The program has two components: (1) the CDFI will invest \$15 million in development banks and bank holding companies located in NationsBank communities, and (2) NationsBank will invest \$10 million directly into non-bank CDFI institutions such as community development credit unions, multi-bank community development corporations, and loan funds.

The Board also has considered NationsBank's progress under its Community Investment Program ("CIP"), a 10-year program to make a minimum of \$10 billion of community investment loans^{32/}. Since the program began in 1991, NationsBank has made CIP loans totalling \$13 billion.

^{32/} Protestants criticize the program for improperly including automobile and debt consolidation loans. The types of loans under the CIP included consumer loans as well as mortgages for single-family and multi-family housing, purchase and rehabilitation mortgage loans, home improvement loans, commercial real estate financing, and small business loans to minority-owned businesses. The CRA requires the federal banking agencies to encourage depository institutions to help meet the credit needs of the community, and does not establish a statutory preference for any specific type of credit. Protestants provide no substantiation for their allegation that a significant portion of the loans reported by NationsBank under the CIP charged usurious rates of interest and relevant examinations of NationsBank do not substantiate this allegation.

Lead Bank The Lead Bank, which serves North Carolina, South Carolina, Maryland, Virginia, and the District of Columbia, received credit applications from all segments of its communities, including LMI areas, and had a reasonable geographic distribution of loans throughout its communities, including LMI areas, according to the 1995 CRA performance examination ("Lead Bank Examination"). Examiners noted, in particular, that Lead Bank effectively identifies potentially underserved areas and targets these areas for additional resources.

Examiners also noted that the bank offered a wide variety of credit and financial products and services to help meet community needs. The Lead Bank Examination found that the bank assisted in meeting housing-related credit needs in its communities by originating loans with flexible terms and underwriting standards through NBMC. In particular, Lead Bank originated 303 affordable mortgage loans totalling \$19 million in North Carolina, 451 affordable mortgage loans totalling \$27 million in South Carolina, and 951 affordable mortgage loans totalling \$90 million in Virginia, Maryland and Washington, D.C in 1994. Lead Bank also continued its efforts to help meet the needs of small businesses in its communities, including LMI areas. In 1994 business loans in LMI areas totalled \$73 million in North Carolina, \$38 million in South Carolina, and \$287 million in Virginia, Maryland and Washington, D.C.

In other states. The Board also has considered Protestants' criticisms of NationsBank's lending record in Florida, Georgia, Kentucky, Tennessee and Texas in light of all the facts of record. As noted above, except NationsBank's subsidiary bank in Kentucky which received a "satisfactory" rating, all of NationsBank's subsidiary banks received an "outstanding" rating from the OCC in their 1995 examinations for CRA performance.

The 1995 CRA performance examinations for the NationsBank subsidiary banks in these states found that the community delineations for the banks were generally

reasonable and did not arbitrarily exclude any LMI neighborhoods. None of the banks was found to have engaged in illegal credit practices or practices that discouraged applications for credit. Examiners also determined that the banks' ascertainment efforts were generally effective, and in some cases commendable, and that marketing activities were adequate. The banks engaged in various lending activities and community development programs to help meet the credit needs of their communities, including LMI neighborhoods. Examiners found that all these banks offered some type of program to support affordable housing and small business lending in their communities, and that all banks participated to some extent in federal and local government-sponsored loan programs. The OCC's examinations, moreover, noted that these banks were actively involved in community development lending programs.

Florida The 1995 CRA performance examination for NationsBank's subsidiary bank in Florida ("Florida Examination") found that the bank's lending activities reflected a reasonable geographic distribution of applications received and loans made throughout its service communities. Examiners concluded, for example, that the Florida bank effectively provided residential and business real estate loans to LMI individuals and in LMI geographies within its communities after analyzing its total lending activity. In addition, the bank actively participated in government-sponsored loan programs for housing and small businesses offered through the Federal Housing Authority ("FHA"), Veterans Administration ("VA") and the SBA. Examiners noted that lending increased from 21 loans, totalling approximately \$3.3 million in 1993 to 42 loans, totalling approximately \$8.5 million in 1994.

The Florida Examination also considered the bank's participation in state and local housing loan programs, including the Broward County Housing Finance Authority and the Florida Housing Finance Agency Single Family Bond Program. The Florida bank participation in local development and redevelopment projects, particularly within

metropolitan markets, was characterized by examiners as very active. Examiners also noted that the bank's participation through various national corporate and local initiatives and partnerships often reflected a leadership role. Community development projects cited in the examination included the Tampa Challenge Fund II, a lending partnership with local organizations and the City of Tampa for the construction and rehabilitation of single- and multiple-family affordable housing in which the Florida bank financed 24 projects totalling \$1.1 million in 1994, and the Keystone Challenge Fund, a program providing purchase mortgages to LMI homeowners in which the Florida made 18 loans totalling \$1.3 million in 1994.

Georgia In the 1995 CRA performance examination of NationsBank's subsidiary bank in Georgia ("Georgia Examination"), examiners noted that the lending activities of the bank in Georgia effectively reached LMI individuals and geographies. For example, the Georgia bank participated in various community-based partnerships that resulted in the origination of 88 loans totalling \$6.5 million in 1994. The bank also increased the number of business loans made in LMI areas of Georgia from \$131 million in 1993 to \$200 million in 1994. According to examiners, the bank effectively identified potentially underserved areas and targeted them for priority attention and additional resources.

The Georgia Examination also found that the bank had undertaken significant efforts to meet the credit needs of its delineated community through the origination of loans for residential mortgages, home improvement, small businesses, and small farms. The bank participated in governmentally insured, guaranteed, or subsidized loan programs for housing and small business. Examiners noted that the number of SBA-guaranteed loans originated by the Georgia bank almost doubled in number and dollar volume from 1993 to 1994.

Kentucky. NationsBank's subsidiary bank in Kentucky is its smallest bank representing less than 1 percent of NationsBank's total assets. The 1995 CRA performance examination ("Kentucky Examination") found that the number of mortgages made in LMI areas had increased each year since 1992.^{33/} Examiners also noted that the bank's management identified potentially underserved areas and focused efforts in these areas to assist in meeting credit needs. The Kentucky Examination concluded that the bank offered a wide variety of credit and financial products and services to meet the needs of its delineated community, including housing-related loans with flexible terms and underwriting standards. In addition, the Kentucky bank assisted in meeting credit needs for affordable housing through its participation in projects with the Kentucky Housing Corporation and the Affordable Home Ownership Program.

The Kentucky Examination also found that the bank provided small business loans, including small businesses in LMI areas. In 1994, the Kentucky bank originated 88 loans totalling \$7.8 million to small businesses in its delineated community, and offered loans guaranteed by the SBA. The bank also actively engaged in agricultural lending, originating loans totalling \$957 thousand in 1994.

Tennessee. NationsBank's subsidiary bank in Tennessee received credit applications from all segments of its communities, including LMI areas and had a reasonable geographic distribution of its loans and applications throughout its delineated community, according to its 1995 CRA performance examination ("Tennessee Examination"). Examiners also noted that the Tennessee bank had been successful in its efforts to lend to LMI individuals.

The Tennessee Examination found that the bank assisted in meeting housing-related credit needs in its community by originating 477 loans with flexible terms and

^{33/} For example, 15.3 percent of bank's and mortgage company's HMDA originations were in LMI areas in 1994, in comparison to 11.1 percent in 1993.

underwriting standards totalling \$28 million through NBM^{34/}. Examiners also noted that the bank originated loans totalling \$70 million to small businesses located in LMI areas in 1994. Agricultural lending for the Tennessee bank in 1994 totalled \$12 million. In addition, the Tennessee bank actively participated in loans guaranteed by the SBA and originated 40 SBA loans totalling \$5.6 million in 1994. Examiners also favorably noted the bank's participation with the Tennessee Housing Development Agency in origination loans to LMI borrowers and a number of other community development projects designed serve the credit needs of its community through housing-related and small business loans.

Texas. The geographic distribution of loan and applications for NationsBank's subsidiary bank in Texas was found to be reasonable in the 1995 CRA performance examination of the bank ("Texas Examination") and indicated that the bank affirmatively solicited credit applications from all segments of its communities, particularly in LMI neighborhoods. Overall, the bank made 87 percent of its loans within its delineated communities in 1994 in response to ascertained credit needs of the community. The Texas bank participated in loans and loan pools with other financial institutions, non-profit community development organizations, public housing authorities, private developers, and other organizations that promote affordable rental and owner-occupied housing for LMI consumers. The bank, in conjunction with a commu group providing homebuyer education seminars, made 539 loans totalling \$31 million in 1994.^{35/}

^{34/} Eleven of the loans, totalling \$605,000, were extended through a partnership with a local community-based organization.

^{35/} Homebuyers completing the seminar received a 1 percent discount on the loan's rate of interest.

The Texas Examination also noted that the bank made a total of \$375 million in small businesses within its delineated communities in 1994, and a total of \$18 million in agricultural-related loans in 1994, with \$7 million of the total originated in rural communities. In addition, the Texas bank actively participated in community development and redevelopment activities, particularly in the large urban markets. Examiners noted that during 1993 and 1994, the bank participated in 73 credit programs that focused on helping to meet the credit needs of LMI consumers in the areas of affordable mortgages, affordable multi-family housing, and small business operations, including multi-family housing projects with NCDC. During 1994 and 1995, NationsBank provided more than \$4 million in financing to the Parks at Wynnewood Partnership, a partnership formed to acquire and rehabilitate a 484-unit multi-family project in the Oak Cliff area of South Dallas.^{36/} NationsBank and the Texas bank also provided more than \$6 million in financing to the Carlton Court Limited Partnership, a project designed to assist LMI individuals to buy their first homes.

Branch Locations and Closings

Protestants have expressed concerns that branch closings resulting from the proposal would have a materially adverse effect on the community, particularly in LMI neighborhoods. Protestants also contend that NationsBank's branch closings to date have

^{36/} One commenter from Texas contends that NationsBank does not assist LMI communities in Austin, Texas. The record indicates that NationsBank has been involved in several affordable housing projects in Austin, that include assisting a developer to purchase and renovate properties in East Austin and assisting a community-based organization in the Dove Spring area to construct new properties. NationsBank is also involved with the Austin Housing Authority and a local community group in providing home buyer and ownership education to the residents in LMI housing. In 1995, moreover, NationsBank's percentage of total originations in Texas made to Hispanics (16.7 percent) and in LMI areas (22.2 percent) exceeded the aggregate's percentage of originations to Hispanics (15.9 percent) and in LMI areas (14.8 percent).

adversely affected LMI neighborhoods. The Board has carefully considered these comments in light of all the facts of record.

NationsBank states that it does not have a final branch closing plan for branches of Boatmen's banks because of the number and the diversity of the markets in which the NationsBank and Boatmen's banks operate. NationsBank does not expect to have identified potential branch closures before March 31, 1997. NationsBank indicates that it does not intend to vacate any area currently served by Boatmen's, and notes that in past branch closures, it has consistently avoided any closings or consolidations that might have an adverse effect on LMI areas. NationsBank also projects, as a general matter, that any branch closings or consolidations that might result from the proposed merger would likely result from NationsBank and Boatmen's each having branches in close proximity.

All NationsBank subsidiary banks are required to use the corporate Banking Center Opening and Closing Policy in closing a branch, and the Board expects that this policy will be used for the branch closings resulting from the proposal. Before a branch can be considered for closure, the policy requires that the Community Investment Program manager for the appropriate state consider whether the closing would have an adverse impact on the community served and what actions will be taken to minimize that impact. This consideration would include the other financial institutions serving the area and the banking alternatives available to customers affected by the closure. The Community Investment Program manager may also hold at least one meeting with neighborhood leaders to assess the impact of the closure, and implement appropriate suggestions from the meeting to minimize the impact of the closure. All closings of branches serving LMI areas must be approved by the Community Investment Program manager.

The OCC has reviewed this policy and found it to be effective in enabling the NationsBank banks to provide reasonable access to banking services in their

communities. As part of the 1995 CRA performance examinations, OCC examiners reviewed branches closed pursuant to the policy. The OCC concluded that all of the NationsBank subsidiary banks generally had good records of opening, closing and relocating their offices while providing all segments of the communities with reasonable access to bank services.^{37/} None of the 1995 CRA performance examinations noted any materially adverse effects on LMI neighborhoods from branch closings.

The Board notes that branch closings resulting from the proposal will be assessed by the primary federal supervisor for CRA performance of the bank closing the branch in future CRA performance examinations. NationsBank also is required to give at least 90 days written notice of all branch closing subject to the Joint Agency Policy Statement on Branch Closings ("Joint Policy Statement"^{38/}).

In weighing the convenience and needs factor in this application, the Board has taken into account the branch closing policy of NationsBank and its record of closing branches as reviewed by its primary supervisor in the examination process. The Board also has considered that this proposal involves an acquisition with little institutional overlap. To permit the Board to monitor the potential effect of branch closings that may result from this transaction, NationsBank must provide a copy of its

^{37/} At the time of the examination, the Kentucky bank had not opened or closed a branch office since the previous examination and no other weaknesses were noted regarding branch closings. Examiners considered the Kentucky bank's record in this regard to be adequate.

^{38/} See 58 Federal Register 49,083 (1993) (interpreting section 42 of the Federal Deposit Insurance Act (12 U.S.C. § 1831r-1)). Under these provisions, all insured depository institutions are required to submit a notice of any proposed branch closing to the appropriate federal banking agency no later than 90 days before the date of closure that contains: (1) the identity of the branch to be closed and the proposed closing date; (2) a detailed statement of the reasons for the decision to close the branch; and (3) statistical or other information supporting closure consistent with the institution's written policy for branch closings.

proposed branch closures as soon as available to the Federal Reserve Bank of Richmond ("Reserve Bank"), and notify the Reserve Bank of any changes in the preliminary plan for closing branches for a period of two years or until the depository institution where the branch closings are proposed is examined by the its primary federal supervisor for CRA performance, whichever period is shorter. For branches to be closed in LMI census tracts, NationsBank's preliminary plan should indicate the proximity to the closest NationsBank branch and any steps NationsBank would take to mitigate the impact of the branch closure. The Board will also review branch closures resulting from the proposal in future applications to expand the operations of NationsBank's depository institutions.^{39/}

^{39/} The Board has considered Protestants' objection to certain lease arrangements for Boatmen's branches that prohibit the leasing of the property to another bank for a period of up to one year after the lease is terminated. The Board does not believe such provisions warrant an adverse finding under the convenience and needs or competitive factors.

Other Aspects of NationsBank's CRA Performance

Fair lending law compliance Protestants allege that NationsBank's subsidiary banks, including NBMC^{40/}, and NationsBank's nonbank lending subsidiaries have engaged in lending practices that violate the fair lending laws.^{41/} NationsBank denies Protestants' allegations and maintains that it complies with fair lending laws and HMDA reporting requirements.

The Board has carefully considered the comments of Protestants and NationsBank in light of all the facts of record, including the OCC's fair lending examination findings and the NationsBank fair lending policies and procedures. As noted, these examinations found no evidence of illegal discrimination by the banks or NBMC, and favorably commented on NationsBank's fair lending policies and procedures to prevent illegal practices like pre-screening. The Board also notes that NationsCredit

^{40/} The Coalition maintains that NationsBank's subsidiary banks illegally "steer" minority applicants to NationsBank's nonbank lending subsidiary, NationsCredit Corp. ("NationsCredit"), and cites NationsBank's HMDA data, NationsBank's policy of compensating bank employees for referrals that result in loans by NationsCredit, and experiences of individual borrowers with the referral process. The Coalition also contends that NationsBank's subsidiary banks and NBMC illegally discriminate against African-Americans, citing allegations in a recent law suit regarding NationsBank's lending in the Washington, D.C. metropolitan area. The Board has provided a copy of the Coalition's comments to the banks' primary federal supervisor, the OCC, for consideration.

^{41/} The Coalition contends that NationsBank's nonbank subsidiaries, NationsCredit and SunStar Acceptance Corp., have engaged in deceptive trade practices and other improper lending activities, including an allegation that NationsCredit targets minority borrowers for loans that have high rates of interest. The Coalition cites pending lawsuits, a survey of housing-related loans in Fulton and DeKalb Counties in Georgia that shows a high percentage of loans by NationsCredit to minority borrowers, and the complaints of individual borrowers. The Coalition also alleges that NationsCredit improperly classifies loans secured by real property as home equity loans to avoid HMDA reporting requirements.

has a consumer compliance program in place. Staff of the program perform compliance reviews for NationsCredit and work closely with the compliance group responsible for overseeing the compliance program for the NationsBank subsidiary banks. In addition, NationsBank's internal audit department performs consumer compliance reviews of NationsCredit. Moreover, the pending civil actions cited by Protestants to support their allegations are in their preliminary stages and no conclusions of wrongdoing have been made.^{42/} The Board notes that the OCC and the Board retain sufficient supervisory authority to take appropriate action against NationsBank if a court determines, or an examination finds, that NationsBank has engaged in illegal activities. The Board also can take such findings into account in considering future applications by NationsBank to expand its operations.^{43/}

Outreach and Marketing Activities Protestants maintain that NationsBank's outreach and marketing efforts, particularly in Florida, Kentucky, Tennessee and Texas, are inadequate. The 1995 CRA performance examinations of the NationsBank subsidiary banks, including the banks serving the states identified by the Protestants, found multi-faceted outreach and marketing programs for the development an

^{42/} The Board has reviewed pending and past litigation against NationsBank. The pending proceedings will provide injured parties with an adequate remedy if the allegations of improper practices by NationsBank can be sustained. Other law suits have been concluded with injured parties receiving a settlement or an award of compensatory damages in some cases.

^{43/} Protestants have requested that, prior to acting on this proposal, the Board conduct an on-site examination of NationsBank's nonbank lending subsidiaries for the purpose of examining their compliance with fair lending laws. In light of all the facts of record, the Board concludes that such an examination is not warranted. The complaint by an individual identified in the Coalition's comments has been forwarded to the OCC, the primary supervisor of NationsBank N.A. (South), Atlanta, Georgia, and also will be reviewed by the Reserve Ba as a consumer complaint.

promotion of the banks' credit and special deposit-related products. Examiners noted, for example, that NationsBank's ascertainment process was comprehensive and effectively used contacts with government officials and community organizations. The 1995 CRA performance examinations also found that these outreach efforts supported the development of innovative products and services. According to the examinations, management officials regularly monitored ascertainment efforts to determine if unmet credit needs existed and to what extent new credit products should be considered.

Members of the communities served by NationsBank's subsidiary banks are informed of the banks' credit and other banking products through a variety of local media, including newspapers, radio and television stations, and publications that have a predominately minority readership. For example, NationsBank's subsidiary bank in Florida and Texas use Spanish-language marketing materials in larger cities with large Hispanic populations. NationsBank also works with approximately 300 community-based organizations to provide education seminars to customers on such topics as operating a small business, purchasing a home, and money management skills for high school students. In addition, NationsBank's subsidiary banks, including its banks in Tennessee and Kentucky, hosted community "loan day" programs primarily in LMI areas^{44/}. The banks also used direct mail advertising to promote credit products in LMI communities.

Conclusion on Convenience and Needs Considerations

The Board has carefully considered all the facts of record, including the comments received from all commenters and responses to those comments and the CRA performance records of the subsidiary banks of NationsBank and Boatmen's, including

^{44/} These events offered credit education sessions, information on credit and deposit products, and free access to credit reports.

relevant reports of examination from their primary federal supervisors.^{45/}Based on a review of the entire record, the Board concludes that convenience and needs considerations, including the CRA records of performance of both organizations' subsidiary banks, are consistent with approval of this proposal.^{46/}

Nonbanking Activities

NationsBank also has given notice under section 4(c)(8) of the BHC Act to acquire the nonbanking subsidiaries of Boatmen's listed in Appendix B and thereby engage in the described nonbanking activities. Section 4(c)(8) of the BHC Act provides that a bank holding company may, with the Board's approval, engage in any activity that the Board determines to be "so closely related to banking or managing or controlling banks, as to be a proper incident thereto." The Board previously has determined by regulation or order, subject to certain prudential limitations, that each of the activities described

^{45/} Protestants allege that consummation of this proposal could result in significant job losses, particularly in Memphis, Tennessee. The convenience and needs factor has been consistently interpreted by the federal banking agencies, the courts, and Congress to relate to the effect of a proposal on the availability and quality of banking services in the community. In this light, the Board previously has concluded that the effect of a proposed acquisition on employment in a community is not among the factors included in the BHC Act. See Wells Fargo & Company⁸² Federal Reserve Bulletin 445, 457 (1996).

^{46/} The Board has carefully reviewed Protestants' comments contending that NationsBank's checking and ATM fees adversely affect LMI individuals. As discussed above, NationsBank provides a full range of credit products and banking services that assist in meeting the credit and banking needs of LMI individuals and these products include a low-fee checking account for LMI customers that allow a certain number of free withdrawals per month. In addition, there is no evidence in the record that the fees charged by NationsBank are based on any factor that would be prohibited under law. NationsBank has indicated that after consummation of this proposal it will continue to offer Boatmen's low-fee checking account as well as a low-fee checking product currently offered by NationsBank. Although the Board has recognized that banks help serve the banking needs of their communities by making basic services available at nominal or no charge, the CRA does not impose any limitation on the fees or surcharges for services.

in Appendix B is closely related to banking within the meaning of section 4(c)(8) of the BHC Act.^{47/} NationsBank has provided the Board with all the commitments the Board obtained in other cases in which it has approved an application by a bank holding company to engage in these activities in accordance with the Board's regulations and prior orders.

In order to approve this proposal, the Board also must determine that the performance of the proposed activities are a proper incident to banking, that is that the proposed transaction "can reasonably be expected to produce benefits to the public . . . that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."^{48/} As part of the Board's evaluation of these factors, the Board considers the financial and managerial resources of the notificant and its subsidiaries and the effect the transaction would have on such resources.^{49/} As noted above, based on all the facts of record, the Board has concluded that financial and managerial considerations are consistent with approval of these notices.

The Board also has carefully considered the competitive effects of the proposed acquisition of the nonbanking companies and, in so doing, has considered the comments submitted by the Coalition regarding the competitive effects of the proposed acquisition. The Board believes that the markets for these nonbanking services, in each case, are unconcentrated, and notes that there are numerous providers of these services. As a result, consummation of this proposal would have de minimis effect on competition

^{47/} See e.g. Boatmen's Corporation 74 Federal Reserve Bulletin 706 (1988); 80 Federal Reserve Bulletin 448 (1994).

^{48/} See 12 U.S.C. § 1843(c)(8).

^{49/} See 12 C.F.R. 225.24; see also The Fuji Bank, Limited 75 Federal Reserve Bulletin 94 (1989); Bayerische Vereinsbank AG 73 Federal Reserve Bulletin 155 (1987).

for these services. Based on all the facts of record, the Board concludes that the proposal is not likely to result in decreased or unfair competition, conflicts of interests, unsound banking practices, undue concentration of resources, or other adverse effects.

The Board expects, moreover, that the acquisition of Boatmen's by NationsBank would provide added convenience to Boatmen's customers and the public. As noted, NationsBank will provide enhanced products and services to the communities served by Boatmen's. NationsBank also indicates that the proposal would result in efficiencies through integration of certain of NationsBank's and Boatmen's back office operations and the sharing and pooling of expertise and other resources resulting in benefits to the customers of both organizations. Accordingly, based on all the facts of record, the Board has determined that the proposal can reasonably be expected to produce public benefits that outweigh any adverse effects under the proper incident to banking standard of section 4(c)(8) of the BHC Act. The Board also concludes that all the factors required to be considered under the Federal Reserve Act and the Board's Regulation K are consistent with the acquisition of Boatmen's Foreign Investment Company.

Conclusion

The Board has considered all the issues raised in public comments filed in connection with this proposal in light of the factors that the Board is required to consider under the BHC Act. Based on the foregoing and all the facts of record, the Board has determined that this transaction should be, and hereby is, approved.^{50/}The Board's

^{50/} Several Protestants have requested that the Board hold a public hearing or meeting on the proposal. Protestants contend that a hearing is necessary to provide community groups and consumers in various states an opportunity to comment on the applications and notices and to provide additional information for the record. Section 3(b) 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 timely written

(continued...)

approval of this proposal is specifically conditioned on compliance by NationsBank with all the commitments made in connection with this proposal and the conditions in this order.^{51/} The Board's determination on the proposed nonbanking activities also is subject

^{50/}(...continued)

recommendation of denial of the application. In this case, the Board has not received such a recommendation from any state or federal supervisory authority. The Board's rules also provide for a hearing on notices under section 4 of the BHC Act if there are disputed issues of material fact that cannot be resolved in some other manner. See 12 C.F.R. 225.23(g). Protestants have not identified any disputes of material fact relating to the section 4 notice by NationsBank to acquire Boatmen's savings association.

Under the Board's rules, the Board may also, in its discretion, hold a public hearing or meeting on an application or notice to clarify factual issues related to the notice and to provide an opportunity for testimony, if appropriate. 12 C.F.R. 262.3(e) and 262.25(d). The Board has carefully considered these requests in light of all the facts of record. In the Board's view, Protestants have had ample opportunity to submit their views, and have, in fact, provided numerous submissions that have been considered by the Board in acting on this proposal. Protestants' requests fail to demonstrate why their substantial written submissions do not adequately present their allegations. After a careful review of all the facts of record, the Board concludes that Protestants' requests dispute the weight that should be accorded to, and the conclusions that may be drawn from, the existing facts of record, but do not identify any genuine dispute about facts that are material to the Board's decision. Based on all the facts of record, the Board has determined that a public hearing or meeting is not necessary to clarify the factual record in the proposal, and is not otherwise warranted in this case. Accordingly, the requests for a public hearing or meeting on the proposal are denied.

^{51/} Several Protestants have requested that the Board delay action on, or extend the public comment period for, the proposal in order that more information could be considered. Protestants contend that NationsBank has not sufficiently responded to requests for additional information or the issues raised by the Protestants. Protestants also maintain that they have not had sufficient time to review and comment on all the information submitted in connection with these applications and notices. The Board is required under the BHC Act to act on applications and notices within specified time periods. The Board notes, moreover, that the Protestants and NationsBank have had reasonable opportunity to comment as provided under the Board's application processing (continued...)

to all the conditions set forth in Regulation Y, including those in sections 225.7 and 225.23(b)(3) of Regulation Y, and to the Board's authority to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to ensure compliance with, and to prevent evasion of, the provisions of the BHC Act and the Board's regulations and orders issued thereunder. For purposes of this action, these commitments and conditions shall be deemed to be conditions imposed in writing by the Board in connection with its findings and decision, and, as such, may be enforced in proceedings under applicable law.

The acquisition of Boatmen's subsidiary banks may not be consummated before the fifteenth calendar day after the effective date of this order, and this proposal may not be consummated later than three months after the effective date of this order, unless such period is extended by the Board or by the Reserve Bank, acting pursuant to delegated authority.

By order of the Board of Governors^{52/}, effective December 16, 1996.

(signed)

Jennifer J. Johnson
Deputy Secretary of the Board

^{51/}(...continued)

procedures and have, in fact, submitted voluminous comments that have been carefully considered by the Board. Based on all the facts of record, and for the reasons discussed above, the Board concludes that the record is sufficient to act on the proposal at this time, and that delay or denial of the proposal on the grounds of informational insufficiency is not warranted.

^{52/} Voting for this action: Chairman Greenspan, Vice Chair Rivlin, and Governors Kelley, Lindsey, Phillips, Yellen, and Meyer.

APPENDIX A

Bank Subsidiaries of Boatmen's to be Acquired by NationsBank

Banks in Arkansas

- (1) Boatmen's Bank of Northeast Arkansas, Jonesboro
- (2) Boatmen's National Bank of Arkansas, Little Rock
- (3) Boatmen's National Bank of Batesville, Batesville
- (4) Boatmen's National Bank of Conway, Conway
- (5) Boatmen's National Bank of Hot Springs, Hot Springs
- (6) Boatmen's National Bank of Newark, Newark
- (7) Boatmen's National Bank of North Central Arkansas, Bull Shoals
- (8) Boatmen's National Bank of Northwest Arkansas, Fayetteville
- (9) Boatmen's National Bank of Pine Bluff, Pine Bluff
- (10) Boatmen's National Bank of Russellville, Russellville
- (11) Boatmen's National Bank of South Arkansas, Camden

Banks in Illinois

- (1) Boatmen's Bank of Quincy, Quincy
- (2) Boatmen's Bank of South Central Illinois, Mount Vernon
- (3) Boatmen's National Bank of Central Illinois, Hillsboro
- (4) Boatmen's National Bank of Coles County, Charleston
- (5) Boatmen's Bank of Franklin County, Benton

Banks in Iowa

- (1) Boatmen's Bank of Fort Dodge, Fort Dodge
- (2) Boatmen's Bank of North Iowa, Mason City
- (3) Boatmen's National Bank of Northwest Iowa, Spencer
- (4) Boatmen's Bank Iowa, National Association, Des Moines

Bank in Kansas

- (1) Bank IV, National Association, Wichita

Banks in Missouri

- (1) Boatmen's Bank of Marshall, Marshall
- (2) Boatmen's Bank of Mid Missouri, Columbia
- (3) Boatmen's Bank of Pulaski County, Richland
- (4) Boatmen's Bank of Southern Missouri, Springfield
- (5) Boatmen's Bank of Southwest Missouri, Carthage

- (6) Boatmen's Bank of Troy, Troy
- (7) Boatmen's Bank of Vandalia, Vandalia
- (8) Boatmen's First National Bank of Kansas City, Kansas City
- (9) Boatmen's First National Bank of West Plains, West Plains
- (10) Boatmen's National Bank of Boonville, Boonville
- (11) Boatmen's National Bank of Cape Girardeau, Cape Girardeau
- (12) Boatmen's National Bank of Lebanon, Lebanon
- (13) The Boatmen's National Bank of St. Louis, St. Louis
- (14) Boatmen's Osage Bank, Butler
- (15) Boatmen's River Valley Bank, Lexington
- (16) Boatmen's Bank of Kennett, Kennett
- (17) Boatmen's Bank Rolla, Rolla

Banks in New Mexico

- (1) Boatmen's Credit Card Bank, Albuquerque
- (2) Sunwest Bank of Albuquerque, National Association, Albuquerque
- (3) Sunwest Bank of Clovis, National Association, Clovis
- (4) Sunwest Bank of Farmington, Farmington
- (5) Sunwest Bank of Gallup, Gallup
- (6) Sunwest Bank of Grant County, Silver City
- (7) Sunwest Bank of Hobbs, National Association, Hobbs
- (8) Sunwest Bank of Las Cruces, National Association, Las Cruces
- (9) Sunwest Bank of Raton, National Association, Raton
- (10) Sunwest Bank of Rio Arriba, National Association, Espanola
- (11) Sunwest Bank of Roswell, National Association, Roswell
- (12) Sunwest Bank of Santa Fe, Santa Fe

Bank in Oklahoma

- (1) Boatmen's National Bank of Oklahoma, Tulsa

Bank in Tennessee

- (1) Boatmen's Bank of Tennessee, Memphis

Banks in Texas

- (1) Boatmen's National Bank of Austin, Austin
- (2) Sunwest Bank of El Paso, El Paso
- (3) Boatmen's First National Bank of Amarillo, Amarillo

APPENDIX B

Nonbank Subsidiaries of Boatmen's and Their Activities:

- (1) Boatmen's Trust Company, St. Louis, Missouri, Boatmen's Trust Company of Arkansas, Little Rock, Arkansas, Boatmen's Trust Company of Illinois, Belleville, Illinois, Boatmen's Trust Company of Oklahoma, Oklahoma City, Oklahoma, Boatmen's Trust Company of Texas, Amarillo, Texas: corporate trust, pension, and personal trust administration pursuant to section 225.25(b)(3) of Regulation Y;
- (2) Boatmen's Trust Company of Kansas, Overland Park, Kansas: pension administration activities pursuant to section 225.25(b)(3) of Regulation Y;
- (3) Union Realty and Securities Company, St. Louis, Missouri: holding certain real estate in a fiduciary capacity for the customers of its parent, Boatmen's Trust Company, in connection with the parent's trust activities pursuant to section 225.25(b)(3) of Regulation Y;
- (4) Superior Federal Bank, F.S.B., Fort Smith, Arkansas: traditional thrift activities pursuant to section 225.25(b)(9) of Regulation Y;
- (5) Fourth Investment Advisors, Inc., Tulsa, Oklahoma: providing portfolio investment advice to third parties pursuant to section 225.25(b)(4) of Regulation Y;
- (6) Boatmen's Community Development Corporation, St. Louis, Missouri: providing community development lending and equity investments in all states in which Boatmen's has subsidiary banks, pursuant to section 225.25(b)(6) of Regulation Y;
- (7) Bank IV Community Development Corporation, Wichita, Kansas: providing loans to making equity investments in corporations or projects designed primarily to promote community welfare pursuant to section 225.25(b)(6) of Regulation Y;
- (8) Bank IV Affordable Housing Corporation, Wichita, Kansas: acting as a special limited partner in an investment designed primarily to promote community welfare pursuant to section 225.25(b)(6) of Regulation Y;
- (9) Boatmen's Life Insurance Company, St. Louis, Missouri: underwriting credit insurance sold in connection with loans made by certain affiliated banks and reinsuring

credit life and credit accident and health insurance underwritten by third party insurance companies in connection with loans made by certain affiliated banks pursuant to section 225.25(b)(8)(i) of Regulation Y;

(10) Fourth Financial Insurance Company, Wichita, Kansas: reinsuring credit life and credit accident and health insurance underwritten by third party insurers in connection with loans made by certain affiliated banks pursuant to section 225.25(b)(8)(i) of Regulation Y;

(11) Arch Reinsurance Company, LTD, Georgetown, Grand Cayman: reinsuring various operating insurance policies underwritten by third party insurers for the benefit of the applicant and its affiliates; and reinsuring credit insurance products underwritten by third party insurers and sold by affiliates pursuant to section 225.25(b)(8)(i) of Regulation Y;

(12) Consumers Protective Life Insurance Company, Little Rock, Arkansas: underwriting credit insurance sold in connection with loans made by its Arkansas banking affiliates pursuant to section 225.25(b)(8)(i) of Regulation Y;

(13) Southwest Protective Life Insurance Company, Fort Smith, Arkansas: reinsuring credit life insurance underwritten by third party insurers in connection with loans made by its affiliated thrift pursuant to section 225.25(b)(8)(i) of Regulation Y;

(14) Boatmen's Insurance Agency, Inc., St. Louis, Missouri: sale of credit insurance directly related to extensions of credit by its affiliated banks, and direct mail solicitation of accidental death and dismemberment insurance to the applicant's deposit and loan customers pursuant to section 225.25(b)(8)(i) of Regulation Y; and

(15) River City Capital Management, Inc., St. Louis, Missouri: acting as a general partner for certain limited partnerships that would be exempt from registration as investment companies under the Investment Company Act of 1940 (15 U.S.C. §80a-~~100~~ Meridian Bancorp, Inc., 80 Federal Reserve Bulletin 736 (1994).

APPENDIX C

Local banking markets where the bank subsidiaries of NationsBank and Boatmen's compete

- (1) **Lawrence County, Tennessee banking market** approximated by Lawrence County, Tennessee.
- (2) **Memphis, Tennessee banking market** approximated by Shelby, Tipton and Fayette Counties in Tennessee; Crittendon County, Arkansas; and De Soto and Tate Counties in Mississippi.
- (3) **Nashville, Tennessee banking market** approximated by Cheatham, Davidson, Robertson, Rutherford, Sumner, Williamson and Wilson Counties, plus the town of Spring Hill in Maury County, all in Tennessee.
- (4) **El Paso, Texas banking market**- approximated by El Paso County, Texas, and a portion of Dona Ana County, New Mexico.
- (5) **Austin, Texas banking market**- approximated by Williamson, Travis, Hayes, Caldwell and Bastrop Counties, all in Texas.

APPENDIX D

Boatmen's CRA Performance Examination Rating

Boatmen's Subsidiary Banks	CRA rating	Date
Boatmen's National Bank of Batesville Batesville, Arkansas	Outstanding	4/29/96
Boatmen's National Bank of North Central Arkansas, Bull Shoals, Arkansas	Outstanding	4/1/96
Boatmen's National Bank of South Arkansas Camden, Arkansas	Outstanding	4/29/96
Boatmen's National Bank of Conway Conway, Arkansas	Outstanding	4/29/96
Boatmen's National Bank of North West Arkansas Fayetteville, Arkansas	Outstanding	5/6/96
Superior Federal Bank, FSB Fort Smith, Arkansas	Outstanding	8/8/94
Boatmen's National Bank of Hot Springs Hot Springs, Arkansas	Outstanding	4/15/96
Boatmen's Bank of Northeast Arkansas Jonesboro, Arkansas	Satisfactory	2/13/95
Boatmen's National Bank of Arkansas Little Rock, Arkansas	Outstanding	4/8/96
Boatmen's National Bank of Newark Newark, Arkansas	Outstanding	5/6/96
Boatmen's National Bank of Pine Bluff Pine Bluff, Arkansas	Outstanding	4/29/96
Boatmen's National Bank of Russellville Russellville, Arkansas	Outstanding	4/22/96
Boatmen's Bank of Franklin County Benton, Illinois	Satisfactory	11/28/94
Boatmen's National Bank of Coles County Charleston, Illinois	Satisfactory	9/27/94

Boatmen's National Bank of Central Illinois Hillsboro, Illinois	Satisfactory	9/12/94
Boatmen's Bank of S. Central Illinois Mount Vernon, Illinois	Outstanding	1/3/94
Boatmen's Bank of Quincy Quincy, Illinois	Outstanding	2/4/94
Boatmen's Bank Iowa, N.A., Des Moines, Iowa	Outstanding	9/6/94
Boatmen's Bank of Fort Dodge Fort Dodge, Iowa	Outstanding	4/24/95
Boatmen's Bank of North Iowa Mason City, Iowa	Outstanding	7/15/96
Boatmen's National Bank of Northwest Iowa Spencer, Iowa	Satisfactory	7/25/94
Bank IV N.A. Wichita, Kansas	Outstanding	3/13/95
Boatmen's National Bank of Boonville Boonville, Missouri	Satisfactory	10/3/94
Boatmen's Osage Bank Butler, Missouri	Outstanding	12/30/94
Boatmen's National Bank of Cape Girardeau Cape Girardeau, Missouri	Satisfactory	4/4/94
Boatmen's Bank of Southwest Missouri Carthage, Missouri	Outstanding	9/5/95
Boatmen's Bank of Mid Missouri Columbia, Missouri	Outstanding	12/12/94
Boatmen's First National Bank of Kansas Kansas City, Missouri	Outstanding	1/18/94
Boatmen's Bank of Kennett Kennett, Missouri	Satisfactory	4/1/96
Boatmen's National Bank of Lebanon Lebanon, Missouri	Satisfactory	8/15/94
Boatmen's River Valley Bank Lexington, Missouri	Outstanding	1/19/96

Boatmen's Bank of Marshall Marshall, Missouri	Outstanding	8/16/94
Boatmen's Bank of Pulaski County Richland, Missouri	Outstanding	9/5/95
Boatmen's Bank Rolla Rolla, Missouri	Outstanding	8/8/94
The Boatmen's National Bank of St. Louis St. Louis, Missouri	Outstanding	2/26/96
Boatmen's Bank of Southern Missouri Springfield, Missouri	Outstanding	10/18/95
Boatmen's Bank of Troy Troy, Missouri	Satisfactory	4/3/95
Boatmen's Bank of Vandalia Vandalia, Missouri	Satisfactory	1/10/95
Boatmen's First National Bank of West Plains, Plains, Missouri	Satisfactory	9/12/94
Boatmen's Credit Card Bank Albuquerque, New Mexico	Satisfactory	8/19/94
Sunwest Bank of Albuquerque, N.A. Albuquerque, New Mexico	Outstanding	4/4/94
Sunwest Bank of Clovis, N.A. Clovis, New Mexico	Outstanding	3/31/94
Sunwest Bank of Rio Arriba, N.A. Española, New Mexico	Satisfactory	3/31/94
Sunwest Bank of Farmington Farmington, New Mexico	Satisfactory	3/8/96
Sunwest Bank of Gallup Gallup, New Mexico	Satisfactory	1/12/96
Sunwest Bank of Hobbs, N.A. Hobbs, New Mexico	Satisfactory	4/11/94
Sunwest Bank of Las Cruces, N.A. Las Cruces, New Mexico	Satisfactory	4/18/94
Sunwest Bank of Raton, N.A. Raton, New Mexico	Outstanding	3/31/94

Sunwest Bank of Roswell, N.A. Roswell, New Mexico	Satisfactory	3/31/94
Sunwest Bank of Santa Fe Santa Fe, New Mexico	Outstanding	11/25/94
Sunwest Bank Silver City, New Mexico	Outstanding	4/24/95
Boatmen's National Bank of Oklahoma Tulsa, Oklahoma	Satisfactory	9/12/95
Boatmen's Bank of Tennessee Memphis, Tennessee	Outstanding	12/12/94
Boatmen's First National Bank of Amarillo Amarillo, Texas	Satisfactory	5/16/94
Boatmen's National Bank of Austin Austin, Texas	Satisfactory	10/14/94
Sunwest Bank of El Paso El Paso, Texas	Outstanding	7/8/96