FEDERAL RESERVE press release

For immediate release April 13, 1998

The Federal Reserve Board today conditionally approved the applications and notices of First Union Corporation, Charlotte, North Carolina, to merge with CoreStates Financial Corp, Philadelphia, Pennsylvania, and thereby acquire CoreStates Bank, N.A., Philadelphia, and CoreStates Bank of Delaware, N.A., Wilmington, Delaware, and the nonbanking subsidiaries and foreign branches of CoreStates.

The Board's approval is conditioned on the divestiture of 23 branches in the Philadelphia banking market and 9 branches in the Lehigh Valley banking market. First Union must also report any changes in its preliminary plans to close branches in low- and moderate-income census tracts to the Federal Reserve System for a period of two years.

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

Attachment

FEDERAL RESERVE SYSTEM

First Union Corporation
Charlotte, North Carolina

Order Approving the Merger of Bank Holding Companies

First Union Corporation ("First Union"), a bank holding company within the meaning of the Bank Holding Company Act ("BHC Act"), has requested the Board's approval under section 3 of the BHC Act (12 U.S.C. § 1842) to merge with CoreStates Financial Corp ("CoreStates") and thereby acquire CoreStates Bank, N.A., Philadelphia, Pennsylvania ("CoreStates Bank"), and CoreStates Bank of Delaware, N.A., Wilmington, Delaware ("CoreStates Delaware").[1/] First Union also has requested the Board's approval under section 4(c)(8) of the BHC Act (12 U.S.C. § 1843(c)(8)) to acquire the nonbanking subsidiaries of CoreStates and, under section 25 of the Federal Reserve Act (12 U.S.C. § 601), to acquire CoreStates Bank's foreign branches. See Appendix A.[2/]

First Union has total consolidated assets of approximately $157.3 billion, and is the sixth largest commercial banking organization in the United States, controlling approximately 3.2 percent of the total banking assets of

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[1/] First Union also has requested approval to acquire interests currently held by CoreStates in less than 25 percent of the voting shares of each of First Commercial Bank of Philadelphia and United Bank, both of Philadelphia, Pennsylvania. First Union has committed to observe certain commitments previously made by CoreStates that are designed to assure that First Union will not exercise a controlling influence over the management and policies of these institutions. See CoreStates Financial Corp, 82 Federal Reserve Bulletin 430, 431 n.1 (1996).

[2/] In addition, First Union has requested the Board's approval to hold and exercise an option to purchase up to 19.9 percent of the voting shares of CoreStates if certain events occur. The option would expire on consummation of the proposal.

insured commercial banks in the United States.[3/] First Union National Bank, Charlotte, North Carolina ("FUNB"), which is a wholly owned subsidiary of First Union, operates in North Carolina, Florida, Georgia, South Carolina, Tennessee, Virginia, Maryland, Pennsylvania, New Jersey, New York, Connecticut, and the District of Columbia. First Union also owns First Union Bank of Delaware, Wilmington, Delaware ("Delaware Bank"), which operates in Delaware. First Union also engages in a number of permissible nonbanking activities nationwide.

CoreStates has total consolidated assets of approximately $48.5 billion, and is the 23rd largest commercial banking organization in the United States, controlling approximately 1 percent of total nationwide banking assets. CoreStates operates in Pennsylvania, New Jersey, and Delaware, and engages through subsidiaries in a variety of permissible nonbanking activities. On consummation of the proposal, and accounting for the proposed divestitures, First Union would remain the sixth largest commercial banking organization in the United States, with total consolidated assets of approximately $205.8 billion, representing approximately 4.2 percent of total nationwide banking assets.

First Union is the fifth largest commercial banking organization in Pennsylvania, controlling deposits of approximately $5.6 billion, representing approximately 3.3 percent of all deposits held by depository institutions in the state.[4/] CoreStates is the second largest commercial banking organization in Pennsylvania, controlling deposits of approximately $25.1 billion, representing approximately 14.6 percent of deposits held by depository institutions in

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[3/] Asset and ranking data are as of December 31, 1997, and reflect First Union's acquisition of Signet Banking Corporation, Richmond, Virginia.

[4/] For this purpose, depository institutions include commercial banks, savings banks, and savings associations.

Pennsylvania. On consummation of the proposal, and accounting for the proposed divestitures, First Union would become the largest depository institution in Pennsylvania, controlling deposits of approximately $29.7 billion, representing approximately 17.3 percent of deposits in the state.

First Union also would control approximately 15.2 percent and 2.1 percent of state deposits in New Jersey and Delaware, respectively. State deposit and ranking data for First Union and CoreStates in these states are described in Appendix B.

Factors Governing Board Review of Transaction

The Board is charged with considering a number of specific factors when reviewing the acquisition of a bank or bank holding company under the BHC Act. These factors are the competitive effects of the proposal in the relevant geographic markets; the financial and managerial resources and future prospects of the companies and banks involved in the transaction; the convenience and needs of the community to be served, including the records of performance under the Community Reinvestment Act (12 U.S.C. § 2901 et seq.) ("CRA") of the insured depository institutions involved in the transaction; and the availability of information needed to determine and enforce compliance with the BHC Act.[5/]

In order to permit interested members of the public an opportunity to submit comments to the Board on these factors, the Board published notice of the proposal and provided a period for public comment. The Board extended the public comment period to allow the public to comment on a CRA plan proposed by First Union for the Philadelphia/New Jersey/Delaware region. In total, the public

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[5/] In cases involving a foreign bank, the Board also is charged with considering whether the foreign bank is subject to comprehensive supervision or regulation on a consolidated basis by appropriate authorities in the foreign bank's home country.

comment period provided interested persons approximately 57 days to submit written comments on the proposal.[6]

Because of the significant public interest in this proposal, particularly in the Philadelphia area, the Board also held a public meeting to allow interested persons to present direct testimony regarding the various factors that the Board is charged with reviewing under the BHC Act.

More than 80 commenters appeared and testified at the public meeting, and many of the commenters who testified also submitted written comments. Testimony was presented at the meeting by representatives of community and non-profit organizations, members of the United States Congress, small business owners, customers of First Union and CoreStates, CoreStates employees, local and state government officials, and other interested individuals. Through the public comment period and the public meeting, the Board received more than 235 comments on the proposal.

Commenters submitted information and expressed views supporting and opposing the proposed acquisition.

Commenters in support of the proposal commended First Union for its lending and other financial support of specific community development projects, including its funding of affordable mortgage and home improvement loan programs directly and through intermediaries, and its leadership in developing and funding loan pools in several states. Commenters also commended First Union's small business lending activities, including its participation in micro-lending programs. Many commenters praised First Union's five-year, $13 billion community

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[6] Notice of the proposal was published in the Federal Register (63 Federal Register 4266 (1998)) and in local newspapers in accordance with the Board's Rules of Procedure. See also Press Release dated February 25, 1998.

reinvestment plan for Pennsylvania, New Jersey, and Delaware ("CRA Plan"). Other commenters noted favorably First Union's commitment to maintain the current level of charitable contributions of CoreStates and First Union in the three-state area, and to establish a $100 million charitable foundation to support community needs within the region. Commenters in support included customers and community organizations from throughout the areas currently served by First Union as well as from the Philadelphia/New Jersey/Delaware area.

Commenters opposed to the merger expressed concerns regarding the loss of a large financial institution with headquarters in Philadelphia and the effect the merger would have on competition, branch closings, and local civic leadership, particularly in low- and moderate-income ("LMI") and inner city neighborhoods in the City of Philadelphia. A number of commenters believed that a large out-of-state banking organization like First Union would not serve their communities as well as a local organization like CoreStates. Other commenters cited weaknesses they perceived in the performance record of First Union under the CRA, particularly in the communities served by CoreStates. Commenters also discussed potential adverse effects of the proposal on individuals and on communities, including the effects of layoffs, the potential reduction in the availability and quality of banking services, and other concerns.

In evaluating the statutory factors under the BHC Act, the Board carefully considered the information and views presented by all commenters. The Board also considered all of the information presented in the application and in supplemental filings by First Union and reports filed by the relevant companies and publicly available information and other reports. In addition, the Board reviewed confidential supervisory information, including examination reports regarding the companies and depository institutions involved, and information provided by the other federal banking agencies and the Department of Justice. For the reasons discussed below, and after a careful review of all the facts of record, the Board concludes that the statutory factors it is required to consider under the BHC Act are consistent with approval of the proposal.

Competitive Factor

The BHC Act prohibits the Board from approving an application under section 3 of the BHC Act if the proposal would result in a monopoly or if the effect of the proposal may be substantially to lessen competition in any relevant market, unless the Board finds that the anticompetitive effects of the proposal are clearly outweighed in the public interest by the probable effect of the proposal in meeting the convenience and needs of the community to be served.[7]

The Board received a number of comments from individuals and organizations regarding the competitive aspects of the proposal. A substantial majority of the commenters discussing this factor believed that the acquisition would have significantly adverse anticompetitive effects such as increased fees, reduced customer convenience, and reduced availability and quality of banking and nonbanking products in the banking markets where First Union and CoreStates compete. Many commenters focused on the City of Philadelphia and argued that the level of concentration resulting from the proposal would significantly exceed the Department of Justice Merger Guidelines ("DOJ Guidelines") in Philadelphia. These commenters estimated that the post-merger concentration in Philadelphia, as measured by the Herfindahl Hirschman Index ("HHI") under the DOJ Guidelines, would increase by 628 points to 3429, and that First Union would control more than

[7] 12 U.S.C. § 1842(c)(1)(B).

50 percent of the total deposits in depository institutions in Philadelphia.[8/] Several commenters contended that the level of increases in market share and concentration in Philadelphia violated the Supreme Court's decision regarding another Philadelphia-based bank merger in United States v. Philadelphia National Bank, 374 U.S. 321, 357 (1963) ("Philadelphia National").

Product Market. In order to determine the effect of a particular transaction on competition, it is necessary to designate the area of effective competition between the parties. The courts have held that the area of effective competition is decided by reference to the "line of commerce," or product market, and a geographic market. The Board and the courts traditionally have recognized that the appropriate product market for evaluating bank mergers and acquisitions is the cluster of products (various kinds of credit) and services (such as checking accounts and trust administration) offered by banking institutions.[9/]

[8/] See 49 Federal Register 26,823 (June 29, 1984). Under the DOJ Guidelines, a market in which the post-merger HHI is more than 1800 is considered to be highly concentrated. The Department of Justice 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 Department of Justice has stated that the higher than normal threshold for an increase in HHI when screening bank mergers and acquisitions for anticompetitive effects implicitly recognizes the competitive effects of limited-purpose and other nondepository financial entities.

[9/] See Chemical Banking Corporation, 82 Federal Reserve Bulletin 239 (1996) ("Chemical Order") and studies cited therein. The Supreme Court has emphasized that it is the cluster of products and services that, as a matter of trade reality, makes banking a distinct line of commerce. See Philadelphia National, 374 U.S. at 357. Accord United States v. Connecticut National Bank, 418 U.S. 656 (1974); United States v. Phillipsburg National Bank, 399 U.S. 350 (1969).

Geographic Market. Once the relevant product market has been defined, it is necessary to identify the appropriate geographic market in which competition for the supply of, and demand for, this line of commerce occurs. In defining the relevant geographic market in the case of bank acquisitions, the Board and the courts consistently have held that the geographic market for the cluster of banking services is local in nature.[10] The geographic scope of the local market is defined by the area in which competition between depository institutions can reasonably be expected to have a direct effect on the price and supply of the cluster of banking products and services.[11]

In determining the relevant geographic market, the Board reviews a number of factors that identify the geographic area over which competitive forces act to affect the pricing and availability of banking products and services. These include data regarding worker commuting patterns, as indicated by census data; population density; degree of economic integration; the availability and geographic reach of various modes of advertising; the presence of shopping, employment, health care, and other necessities; the availability of transportation systems and routes; branch banking patterns; deposit and loan activity; and other similar factors that indicate the geographic scope of competition.[12]

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[10] See Chemical Order at 241; see also Sunwest Financial Services, Inc., 73 Federal Reserve Bulletin 463 (1987); Pikeville National Corporation, 71 Federal Reserve Bulletin 240 (1985); Wyoming Bancorporation, 68 Federal Reserve Bulletin 313 (1982), aff'd. 729 F.2d 687 (10th Cir. 1984).
See also Connecticut National, 418 U.S. at 667-68.

[11] Philadelphia National, 374 U.S. at 359, quoting Tampa Electric Co. v. Nashville Coal Co., 365 U.S. 320, 327 (1961).

[12] See Crestar Bank, 81 Federal Reserve Bulletin 200, 201 n.5 (1995); Pennbancorp, 69 Federal Reserve Bulletin 548 (1983); St. Joseph Valley Bank, 68

(continued...)

First Union and CoreStates operate and compete in several areas in Pennsylvania, New Jersey, and Delaware. As noted above, several commenters questioned the appropriate definition of the banking market for the Philadelphia area. The definition of the appropriate market was not contested in the other markets in which First Union and CoreStates compete. The Board has, therefore, paid special attention to defining the relevant geographic banking market in the Philadelphia area.

[12/](...continued)
Federal Reserve Bulletin 673 (1982); U.S. Bancorp, 67 Federal Reserve Bulletin 60, 61 n.2 (1981).

A. Relevant Geographic Banking Market for the Philadelphia Area

Philadelphia is the fifth largest city in the United States, with a population of approximately 1.5 million people.[13] Philadelphia serves as a hub for financial, commercial, health, recreational, and other services throughout the metropolitan area that surrounds the city. There is substantial and continuous economic development and integration between the City of Philadelphia and the surrounding nine counties, in particular Bucks, Chester, Delaware, and Montgomery Counties in Pennsylvania; and Burlington, Camden, Gloucester, and Salem Counties and the southwestern portion of Mercer County, in New Jersey. Commuting data for 1990 from the U.S. Bureau of the Census indicate that the City of Philadelphia is one of the largest net importers of labor in eastern Pennsylvania and southern and central New Jersey.[14] Approximately 33 percent of Philadelphia's work force resides outside the city. More than 10 percent of the residents in the Pennsylvania counties of Bucks, Delaware, and Montgomery commute to jobs in the City of Philadelphia.[15] In addition, approximately 16 percent of the residents in Camden County, New Jersey, commute to Philadelphia, and 14 percent and 20 percent of the

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[13] Population data are from the 1990 decennial census by the U.S. Bureau of the Census.

[14] A county is a net importer of labor when its payroll employment (the number of workers employed in the county regardless of where they live) exceeds its resident employment (the number of workers who live in the county regardless of where they work) by at least 10 percent.

[15] Approximately 11 percent of Bucks County's residents, approximately 23 percent of Delaware County's residents, and approximately 16 percent of Montgomery County's residents commute to Philadelphia. In addition, approximately 13 percent of Chester County's residents commute to Montgomery County, which is contiguous to Philadelphia.

residents in the New Jersey counties of Burlington and Gloucester, respectively, commute to Camden County.[16]

The four counties closest to Philadelphia -- Camden County in New Jersey and Bucks, Delaware, and Montgomery Counties in Pennsylvania -- have direct and substantial links to the city. The Southeastern Pennsylvania Transportation Authority ("SEPTA") operates nine regional rail lines to central Philadelphia and three light rail lines to its terminal at 69th Street, where they connect with the subway-elevated line to the rest of the city. These lines operate in Bucks, Delaware, Chester, and Montgomery Counties in Pennsylvania, and Mercer County in New Jersey.[17] Eight major highways, including three interstate highways, and ten secondary roads provide access from Burlington, Camden, and Gloucester Counties in New Jersey to the Pennsylvania counties in the Philadelphia banking

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[16] Commuting data for Salem County, New Jersey, show that it is also part of a multi-county market. Overall, 40 percent of Salem County's residents work outside the county and commute to other counties in the following percentages: Gloucester County, New Jersey (10.4 percent); Philadelphia Primary Metropolitan Statistical Area (an area smaller than the Philadelphia MSA) (7.3 percent); New Castle County, Delaware (10.6 percent); Cumberland County, New Jersey (8.8 percent); and other areas (approximately 3 percent). Since 17.7 percent of Salem County's residents commute to jobs within the Philadelphia banking market, Salem County has been included within its delineation.

[17] The New Jersey Transit agency operates trains between Philadelphia and Atlantic City, New Jersey, that have a number of stations in Camden and Burlington Counties, New Jersey, and operates at least 20 bus lines between central Philadelphia and locations in Burlington, Camden, and Gloucester Counties. These bus lines also connect directly with nine stations in Camden County that serve the Delaware River Port Authority's high-speed rail system between central Philadelphia and Lindenwold in Camden County, New Jersey ("PATCO"). PATCO runs every 5-8 minutes during rush hour and every 10-15 minutes at other times and averages approximately 39,000 riders daily.

market. Ten bridges cross the Delaware River, which separates Philadelphia from New Jersey, and more than 350,000 vehicles use these bridges daily.

Newspapers and other media serve an area that includes these Pennsylvania and New Jersey counties. Philadelphia's principal newspaper, The Philadelphia Inquirer, is the largest newspaper in the area and has a significant circulation in the New Jersey counties of Burlington, Camden, and Gloucester.[18/] Philadelphia television and radio stations also are predominant in the Pennsylvania counties and these New Jersey counties. In addition, Philadelphia provides area residents with a number of financial, transportation, cultural, educational, medical, retail, and recreational services that are not available in the outlying counties.

A number of commercial banks and thrift institutions in Philadelphia also have substantial presences in New Jersey. For example, a number of depository institutions in the Philadelphia banking market, including the six largest depository institutions in the market, maintain branches in New Jersey and Pennsylvania. First Union and CoreStates, moreover, each use a single system for pricing products and services in Pennsylvania and New Jersey, and office hours for each organization's subsidiary banks are almost identical throughout this region.

Lending data filed under the Home Mortgage Disclosure Act (12 U.S.C. § 2801 et seq.) ("HMDA") and small business lending data submitted under the CRA regulations of the federal supervisory agencies indicate that depository institutions compete throughout Philadelphia and the surrounding nine counties. In particular, these data show that banks originate loans throughout the area.

[18/] Circulation data for The Philadelphia Inquirer indicate that the penetration level in these New Jersey counties is approximately 75 percent of the penetration level for the newspaper in Philadelphia County.

The area that includes the City of Philadelphia and the surrounding nine counties closely approximates the area designated as a Ranally Metropolitan Area ("RMA"). An RMA is a privately defined compact geographic area with relatively high population density that is linked by commuting, retail, and wholesale trade patterns.[19] The banking market also closely approximates the area designated as the Philadelphia Metropolitan Statistical Area ("MSA") by the Office of Management and Budget.[20] MSA designations are made on the basis of an area's population and include surrounding counties with strong economic and social ties to a central county.

Several commenters argued that the Philadelphia metropolitan area consists of smaller banking markets that are relevant in considering the competitive effects of the transaction, such as the City of Philadelphia or certain neighborhoods within the city. Commenters supported these market definitions by arguing that these smaller areas are where the vast majority of local residents can practicably and conveniently turn for banking alternatives.

The Board believes that the suggested market definitions are too narrow and do not adequately reflect the degree to which competition among banking institutions is transmitted throughout the broader Philadelphia area.[21] As

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[19] The RMA differs from the Philadelphia banking market adopted by the Board in that the RMA excludes some outlying areas in Gloucester, Burlington, and Salem Counties, New Jersey, and some outlying areas in Bucks, Montgomery, and Chester Counties, Pennsylvania, and includes part of Monmouth County and more of Mercer County, New Jersey, and part of New Castle County, Delaware.

[20] The Philadelphia MSA differs from the Philadelphia banking market adopted by the Board in that the Philadelphia MSA excludes all of Mercer County, New Jersey.

[21] Other commenters argued that the Board is bound in this case by the

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explained above, there are significant commuting, advertising, overlap of banking activities and offices, economic integration, and other factors that transmit competition within the multi-county Philadelphia area. These data indicate that, although an individual customer may not have easy access to all bank competitors in the market, the flow of a significant number of customers, of economic activity, and of information regarding the price and availability of banking products and services in the banking market is an effective check on the price and supply of the cluster of banking products and services throughout the broader Philadelphia banking market. Accordingly, based on all the facts of record, and for the reasons discussed above, the Board believes that the relevant banking market for considering the competitive effects of the proposal in the Philadelphia area is comprised of Philadelphia, Bucks,

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[21/](...continued)
definition of the Philadelphia banking market set out by the Supreme Court in 1963 in its opinion analyzing the merger of Philadelphia National Bank and Girard Trust Corn Exchange Bank. See Philadelphia National, 374 U.S. at 357-62. In Philadelphia National, the Supreme Court determined that the appropriate market for analyzing the competitive effects of that merger was the area defined by the City of Philadelphia (which comprises Philadelphia County) and Bucks, Montgomery, and Delaware Counties in Pennsylvania.

The Court has consistently recognized that competitive analysis must reflect the competitive and economic realities of the marketplace. See United States v. Marine Bancorporation, 418 U.S. 602, 630-31 (1974); Brown Shoe Co. v. United States, 370 U.S. 294, 322 n.38 (1962). The Board believes that current data, which reflect significant developments in population density, commuting patterns, transportation systems, advertising and media coverage, and other commercial and economic activity, in addition to significant broadening of the branching and other powers of banks and thrifts in the 35 years since the Court considered Philadelphia National, support a broader geographic market today, and are consistent with the legal framework established by the Court for defining the relevant geographic market.

Chester, Delaware, and Montgomery Counties in Pennsylvania; and Burlington, Camden, Gloucester, and Salem Counties and the southwestern portion of Mercer County, in New Jersey.

B. Competitive Analysis in the Philadelphia Banking Market

First Union is the fourth largest of 118 depository institutions in the Philadelphia banking market, and controls deposits of approximately $5.5 billion, representing approximately 7.9 percent of market deposits. CoreStates is the largest depository institution in the market, and controls deposits of approximately $22 billion, representing approximately 31.5 percent of market deposits. On a combined basis, First Union and CoreStates would control approximately 39.4 percent of market deposits,[22/] and the HHI would increase approximately 496 points to 1958, an amount that would exceed the DOJ Guidelines in a highly concentrated market.

In order to address the potential anticompetitive effects of the proposal in the Philadelphia banking market, First Union has committed to divest 23 branches. Fourteen of the divested branches would be located in the City of Philadelphia, and the nine remaining branches would be located in the adjoining

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[22/] Market share deposit data are as of June 30, 1997. Market share data before consummation are based on calculations in which the deposits of thrift institutions are included at 50 percent, except as discussed in the order. The Board previously has 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 share on a 50-percent weighted basis. See, e.g., First Hawaiian, Inc., 77 Federal Reserve Bulletin 52 (1991).

Pennsylvania counties of Delaware and Montgomery.[23/] The branches proposed to be divested account for approximately $866.9 million in deposits, and would either bring a new competitor into the market or enhance the competitive presence of a current competitor.[24/] In addition, three savings associations that operate in the market are significant commercial lenders and provide a range of consumer, mortgage, and other banking products and services. Competition from these savings associations more closely approximates competition from commercial banks, and the Board concludes that deposits controlled by these organizations should be weighted at 100 percent.[25/] In this light, and accounting for the proposed

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[23/] With respect to each market in which First Union has committed to divest offices to mitigate the anticompetitive effects of the proposal, First Union has committed to execute sales agreements for the proposed divestitures with a purchaser determined by the Board to be competitively suitable prior to consummation of the proposal, and to complete the divestitures within 180 days of consummation. First Union also has committed that, in the event it is unsuccessful in completing any divestiture within 180 days of consummation, it will transfer the unsold branch(es) to an independent trustee that is acceptable to the Board and that will be instructed to sell the branches promptly. BankAmerica Corporation, 78 Federal Reserve Bulletin 338 (1992); United New Mexico Financial Corporation, 77 Federal Reserve Bulletin 484 (1991).

[24/] Deposit amounts for all divestitures by First Union are based on summary of deposit data reported to the Federal Deposit Insurance Corporation by all market competitors, as of June 30, 1997. Based on data reported by First Union as of April 7, 1998, the offices proposed to be divested would control approximately $936 million of deposits.

[25/] The Board previously has indicated that, when analyzing the competitive effects of a proposal, it may consider the competitiveness of savings associations at a level greater than 50 percent of the savings association's deposits if appropriate. See Banknorth Group, Inc., 75 Federal Reserve Bulletin 703 (1989). In the Philadelphia banking market, Firstrust Savings Bank, Peoples Bancorp MHC, and Progress Financial Corp. each maintain a significantly greater percentage of their

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divestitures, the HHI would increase by not more than 410 points to 1872, and First Union would have a post-merger market share of approximately 38.1 percent.[26]

As the Board has indicated in previous cases, in a market in which the competitive effects of a proposal as measured by market indexes and market share exceed the DOJ Guidelines, the Board will consider whether other factors tend to mitigate the competitive effects of the proposal. The number and strength of factors necessary to mitigate the competitive effects of a proposal depend on the level of market concentration and size of the increase in market concentration.[27]

In this case, the Board believes that a number of factors help mitigate the competitive effects of the proposal in the Philadelphia banking market.[28] For

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[25](...continued)
assets in commercial loans than the national average for thrifts of 1.7 percent. The record also indicates that these thrifts have
separate commercial lending departments with commercial lending officers, and that the thrifts plan to continue to increase their commercial lending in the Philadelphia banking market.

[26] Another savings association in the market, Sovereign Bancorp Inc., has recently increased its commercial loan portfolio and commercial lending activities in the Philadelphia banking market. Although the level of commercial lending activity of this institution does not yet approximate the level of commercial lending activities of banks or the savings associations noted above, it does exceed the national average for savings associations. If deposits controlled by Sovereign were weighted at 75 percent, the HHI would increase 404 points to 1847 and First Union would control 37.8 percent of market deposits.

[27] See NationsBank Corporation, 84 Federal Reserve Bulletin 129 (1998); First of Waverly Corporation, 84 Federal Reserve Bulletin 111 (1998).

[28] Several commenters argued that the Philadelphia National case precludes the approval of a merger where the resulting bank has a post-merger market
share greater than 30 percent. The Board notes that the Court in Philadelphia National and other cases found that "[no] particular percentage share was deemed
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example, the Board has taken account of the significant number of competitors that would remain in the market following this transaction and the structure and size of other competitors. The Philadelphia banking market would have more than 50 commercial banks and 65 thrifts remaining as competitors of First Union. Five competing bank holding companies each have more than $25 billion of total assets, and at least an additional seven bank holding companies and at least four thrifts or thrift holding companies each have more than $1 billion of total assets. Numerous branches of depository institutions would remain in the banking market after consummation.[29/]

[28/](...continued)
critical." 374 U.S. at 365. Instead, the proposed merger in Philadelphia National was enjoined because "[t]here is nothing in the record of this case to rebut the inherently anticompetitive tendency manifested by these percentages." 374 U.S. at 366. Accordingly, Philadelphia National and modern antitrust analysis confirm that market share must be considered in light of all the facts of record, including factors that tend to mitigate the potential anticompetitive effects of market concentration. See United States v. Marine Bancorporation, 418 U.S. 602, 631 (1974); United States v. Citizens & Southern Nat'l Bank, 422 U.S. 86, 120 (1975); United States v. Baker Hughes, Inc., 908 F.2d 981 (D.C. Cir. 1990); Hospital Corp. of America v. Federal Trade Commission, 807 F.2d 1381 (7th Cir. 1986), cert. denied, 481 U.S. 1038 (1987). This methodology has been adopted in the DOJ Guidelines and repeatedly confirmed by the courts. See, e.g., United States v. International Harvester Co., 564 F.2d 769 (7th Cir. 1977) (court considered the number and power of competitors in the market, the background of growth and resources of the companies involved, the relationship of their lines of commerce, and the physical, economic, and legal barriers to entry); FTC v. National Tea Co., 603 F.2d 694 (8th Cir. 1979) (court considered the weakness of the acquiring firm as a competitor, the status of the market as "relatively competitive," and the likelihood that the acquiring firm would fail without the merger); and Kennecott Copper Corp. v. Curtiss-Wright Corp., 584 F.2d 1195 (2d Cir. 1978) (court considered ease of entry and concentration trends).

[29/] If market indexes were measured in terms of the number of branch

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Two large Pennsylvania-based commercial banking organizations also would remain as competitors. PNC Bank Corporation, the second largest competitor in the Philadelphia banking market, is the 13th largest commercial banking organization in the nation by total assets,[30] and would continue to control approximately 15 percent of market deposits and operate 171 branches in the market. Mellon Bank Corporation, the third largest competitor in the market, is the 25th largest commercial banking organization in the nation by total assets,[31] and would continue to control approximately 12 percent of market deposits and operate 132 branches in the banking market.

The Philadelphia banking market is attractive for entry to out-of-market competitors and has experienced significant entry recently.[32] Philadelphia is the fourth largest metropolitan area in the country.[33] The Philadelphia banking market exceeds the national average for total deposits per banking office and median

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[29](...continued)
offices of depository institutions, the Philadelphia banking market would be moderately concentrated after consummation of the proposal, and the HHI would increase 310 points to 1068. First Union would control approximately 26.7 percent of the total number of branches in the banking market.

[30] PNC Bank Corporation has total assets of approximately $75.1 billion, as of December 31, 1997.

[31] Mellon Bank Corporation has total assets of approximately $44.9 billion, as of December 31, 1997.

[32] A commenter asserted that job losses and branch closings resulting from the proposal could adversely affect the attractiveness of the market to out-of-market competitors. These matters are discussed later in the order.

[33] Research suggests that substantially more entry takes place in large banking markets than in small banking markets. See Amel, Dean and Liang, J. Nellie, "Determinants of Entry and Profits in Local Banking Markets," Review of Industrial Organization, February 12, 1997, at 59-78.

household income.[34/] Data show that median household income, deposits per banking office, population per banking office, and increases in total deposits in the Philadelphia banking market are greater than the averages for other Pennsylvania MSAs. Entry into the Philadelphia banking market, moreover, is not subject to substantial legal restrictions.[35/]

The attractiveness of this market for entry has been demonstrated by recent entry by new competitors. Since June 1995, five depository institutions have entered the Philadelphia banking market de novo, and five other depository institutions have entered the banking market by acquisition.

Based on all the facts of record, the Board concludes that the considerations discussed above, including the proposed divestitures, the number and strength of competitors in the market, the attractiveness of the market for entry by out-of-market competitors, the number of recent entries into the market, and other factors mitigate the potentially adverse competitive effects of the proposal in the Philadelphia banking market.[36/]

[34/] The national average for total deposits per banking office in an MSA is $46.4 million, and the national median family income is $35,056. In the Philadelphia banking market, total deposits per banking office average $48.9 million, and the median family income is $35,684.

[35/] New Jersey and Pennsylvania expressly permit banks from the other state to acquire all, or any portion of the branch network of, an in-state bank. See N.J. Stat. Ann. § 9A-133.1 (1997); Pa. Stat. Ann. tit. 7, § 1602 (1997). New Jersey and Pennsylvania also permit unrestricted in-state branching. Section 3(d) of the BHC Act allows the Board to approve an application by a bank holding company to acquire a bank located in a state other than the home state of such bank holding company. 12 U.S.C. § 1842(d).

[36/] A commenter proposed that the Board establish absolute limits on bank mergers and acquisitions. This methodology was reviewed by the Board in

(continued...)

C. Competitive Analysis of Other Relevant Banking Markets

First Union and CoreStates also compete in six other banking markets: Metropolitan New York-New Jersey; Atlantic City, New Jersey; Vineland, New Jersey; Lehigh Valley, Pennsylvania; Scranton/Wilkes Barre, Pennsylvania; and Wilmington, Delaware.[37/] First Union proposes to divest nine branches in the Lehigh Valley, Pennsylvania, banking market that control approximately $223 million in deposits. Consummation of the proposal would be consistent with the DOJ Guidelines.[38/] In this light, the Board concludes that the proposed divestiture, the number of competitors that would remain in each market, the characteristics of each market, the projected increase in concentration in market deposits as measured by the HHI under the DOJ Guidelines, and the resulting market shares would mitigate the competitive effects of the proposal in these six banking markets.

D. Views of Other Agencies and Conclusion

[36/](...continued)
NationsBank Corporation, 84 Federal Reserve Bulletin 129, 131 n.13 (1998). For the reasons discussed more fully in the NationsBank order, the Board concluded that its current approach, which takes into account the principles suggested by the commenter while at the same time permitting consideration of a variety of other factors that may affect competition in a particular banking market, provides a more complete economic analysis of the competitive effects in a local banking market.

[37/] These banking markets are delineated in Appendix B. Market data for the markets after consummation of the proposal, except for the Lehigh Valley banking market, are set forth in Appendix C.

[38/] Accounting for the proposed divestitures, First Union would control 31.6 percent of market deposits and would become the largest of 37 depository institutions in the Lehigh Valley banking market. The HHI would increase 389 points to 1383. See also the banking markets discussed in Appendix C.

The Department of Justice reviewed the proposal and advised the Board that, in light of the proposed divestitures in the Philadelphia and Lehigh Valley banking markets, consummation of the proposal would not likely have a significantly adverse effect on competition in any relevant banking market. The Office of the Comptroller of the Currency ("OCC") and the Federal Deposit Insurance Corporation ("FDIC") also have not objected to consummation of the proposal.

Based on all the facts of record, and for the reasons discussed above, the Board has determined that consummation of the proposal would not be likely to result in a significantly adverse effect on competition or on the concentration of banking resources in the Philadelphia banking market, the six remaining banking markets, or in any other relevant banking market.[39/] Accordingly, subject to completion of the proposed divestitures, the Board has determined that competitive factors are consistent with approval of the proposal.

Convenience and Needs Factor

The BHC Act requires the Board to consider the convenience and needs of the communities, in connection with its review of the acquisition of a bank. The CRA requires that the Board take into account, as part of its review of a

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[39/] A number of commenters urged the Board to consider the competitive effect of First Union's proposed acquisition of The Money Store in the Philadelphia banking market. The Board notes that the effect on competition of First Union's acquisition of The Money Store will be subject to review either by the Board under the BHC Act or the OCC under its regulations, and that First Union has not sought approval of this transaction from the Board at this time. In the event approval of the acquisition of The Money Store is sought from the Board, the Board will analyze that transaction in light of the combination of First Union and CoreStates in the relevant markets.

proposal to acquire a depository institution, the record of performance of each relevant depository institution in helping to meet the credit needs of the institution's entire community, including LMI neighborhoods, consistent with the safe and sound operation of the institution.[40]

A. Public Comments Regarding Convenience and Needs Factor

In order to aid the Board in collecting information regarding the effect of the proposal on the convenience and needs of affected communities and regarding the performance records of the relevant depository institutions under the CRA, the Board provided an extended period for public comment on the proposal and convened a public meeting regarding the proposal in Philadelphia. As noted above, more than 235 interested members of the public either submitted written remarks or provided testimony at the public meeting.

Summary of Comments. More than 130 commenters supported the proposal or commented favorably about First Union's CRA-related activities.[41] Many of these commenters commended First Union for providing small business credit and support, sponsoring community development activities directly and

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[40] 12 U.S.C. § 2903.

[41] These commenters included: (1) the mayors of Philadelphia, Pennsylvania, Charleston, South Carolina, and Atlanta, Georgia; (2) Eastern Philadelphia Organizing Project, Philadelphia, Pennsylvania; (3) Philadelphia Association of Community Development Corporations, Philadelphia, Pennsylvania; (4) Pennsylvania Low Income Housing Coalition, Glenside, Pennsylvania; (5) Community Action Committee of the Lehigh Valley, Inc., Bethlehem, Pennsylvania; (6) Delaware County Legal Assistance Association, Inc., Chester, Pennsylvania; (7) Mayor's Commission on Puerto Rican/Latin Affairs, Philadelphia, Pennsylvania; (8) Save Our Waterfront, Camden, New Jersey; (9) members of the U.S. House of Representatives and the U.S. Senate; and (10) representatives of community and non-profit organizations in North Carolina, Florida, Georgia, Virginia, Maryland, and Tennessee.

through intermediaries, participating in programs that provided affordable housing and mortgage financing for LMI individuals, and providing support for non-profit organizations. Other commenters related their favorable experiences with specific programs or services offered by First Union. A number of commenters commended First Union's CRA plan for Pennsylvania, New Jersey, and Delaware.

More than 100 commenters either opposed the proposal, requested that the Board approve the merger subject to conditions suggested by the commenter, or expressed concerns about the CRA performance record of First Union.[42/] A number of these commenters contended that First Union has an inadequate record of lending to LMI and minority borrowers and in census tracts with predominately LMI and minority residents, particularly in the Philadelphia MSA, the Bronx, and Delaware. Other commenters maintained that CoreStates's record in Pennsylvania of making housing-related loans to LMI and minority borrowers and small business loans in LMI and minority census tracts was significantly better than First Union's record. A number of commenters expressed concern about the effects of proposals by First Union to close branches in Pennsylvania, New Jersey, and Delaware. Particular concern was expressed that branch closings would reduce the availability of banking services generally, and would have a disproportionate adverse effect on

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[42/] These commenters included: (1) members of the U.S. House of Representatives and the U.S. Senate; (2) Community Legal Services, Inc.; (3) Philadelphia branch of the NAACP; (4) Philadelphia Welfare Rights Organization; (5) Philadelphia Legal Assistance; (6) Inner City Press/Community on the Move, Bronx, New York; (7) Philadelphia Unemployment Project; (8) Action Alliance of Senior Citizens of Greater Philadelphia; (9) Consumer Education & Protection Association; (10) Delaware Community Reinvestment Action Council, Inc., Wilmington, Delaware; and (11) state and local government officials, including two Philadelphia councilmen, three Pennsylvania representatives, and the Treasurer of Pennsylvania. All organizations are located in Philadelphia, Pennsylvania, unless otherwise indicated.

LMI customers, LMI neighborhoods, and elderly individuals, particularly in the greater Philadelphia area. Other commenters noted that First Union's representations regarding branch closures in LMI census tracts expired after two years.[43/]

Commenters also maintained that First Union's banking products and services did not meet the needs of low-income, elderly, or other customers with special needs in Philadelphia. Other commenters considered the basic banking accounts offered by First Union to be inadequate, particularly for customers who receive benefit payments from Pennsylvania by electronic benefits transfer ("EBT") because these customers cannot qualify for First Union's direct-deposit, no-fee banking account.[44/] Some commenters claimed that First Union does not have enough safe and accessible automated teller machines ("ATMs") in LMI and minority census tracts. Commenters also asserted that First Union should increase its hours of operation, improve its customer service, cash checks for non-customers without requiring a thumbprint, and offer more banking products in LMI and minority census tracts.

Several commenters criticized First Union's level of participation in particular affordable housing programs and its level of charitable contributions. Many of these commenters compared First Union's performance in community redevelopment and charitable activities in Pennsylvania unfavorably to CoreStates's efforts, which were characterized as exemplary. Other commenters expressed concern that First Union would reduce or terminate financial support for specific

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[43/] One commenter criticized First Union as unresponsive to concerns expressed by community groups when it closed a branch in Baltimore, Maryland.

[44/] Pennsylvania makes all EBTs through direct deposit in one depository institution that is under contract with the state.

programs currently provided by CoreStates.

Commenters also expressed concern about the economic effects that job reductions by First Union would have on individuals and on the Philadelphia area. Several commenters argued that First Union's job assistance programs for most employees who would be displaced as a result of the acquisition would not address adequately the effects of job losses and criticized the bonus packages awarded to senior employees leaving CoreStates.

B. CRA Performance Evaluations

As provided in the CRA, the Board has evaluated the convenience and needs factor in light of examinations of the CRA performance records of the relevant institutions conducted by the primary federal supervisor. An institution’s most recent CRA performance evaluation is a particularly important consideration in the applications process because it represents a detailed on-site evaluation of the institution's overall record of performance under the CRA by its primary federal supervisor.[45/]

First Union has consolidated its subsidiary banks, except Delaware Bank, into its lead bank, FUNB. Before the consolidation, banks representing more than 88 percent of the total banking assets of First Union received "outstanding" ratings from their primary federal supervisors at their most recent CRA performance

[45/] 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. 54 Federal Register 13,742 and 13,745 (1989).

examinations.[46] First Union National Bank of North Carolina, Charlotte, North Carolina ("FUNB-NC"), which primarily served communities in North Carolina before the consolidation, received an "outstanding" CRA performance rating from the OCC, as of May 1997. First Union National Bank, Summit, New Jersey ("FUNB-Summit"), which served communities in Pennsylvania, New Jersey, and New York before the consolidation, also received an "outstanding" CRA performance rating from the OCC, as of May 1997.[47] In addition, Delaware Bank received a "satisfactory" rating for CRA performance from its primary federal supervisor, the FDIC, at its most recent CRA performance examination, as of October 1995.

CoreStates Bank received an “outstanding” CRA performance rating from the OCC, as of September 1997. CoreStates Delaware received a “satisfactory” CRA performance rating from the OCC, as of August 1997.

Examiners found no evidence of prohibited discrimination or other illegal credit practices at the subsidiary banks of First Union or CoreStates. The examinations also concluded that the banks’ delineations of the local communities they served were reasonable and did not arbitrarily exclude LMI communities. In addition, the banks solicited and accepted credit applications from all segments of their delineated communities. Examiners also determined that loans made by the banks were reasonably distributed throughout the local communities they served,

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[46] First Union's other banks were all rated "satisfactory" for CRA performance by their primary federal supervisors. Appendix D contains the most recent CRA performance ratings for First Union's banks.

[47] Some commenters questioned the thoroughness of the examinations and ratings conferred on certain national bank subsidiaries of First Union. The Board has provided these comments to the OCC for consideration.

including LMI communities, and served all members of the communities, including LMI individuals.

First Union's presence in the Pennsylvania/New Jersey/Delaware region is smaller than CoreStates's presence, and, after consummation of the proposal, First Union would have a significantly expanded service community in Pennsylvania. To meet its increased responsibilities under the CRA, First Union indicates that it will implement the CRA-related policies and programs developed in its home state operations and in other states it serves, and may retain some aspects of the CRA policies and programs of CoreStates, including community development policies that have been successful for CoreStates. Consequently, the Board has taken into account First Union's CRA performance record in its home state and in other states it serves as well as its performance in the region currently served by CoreStates.

C. First Union's Lending Record Generally and in the Region

First Union offers a variety of programs through its subsidiaries that assist LMI borrowers to obtain affordable housing. The First Union Affordable Home Mortgage Program features reduced down payment requirements, flexible funding of closing costs, increased debt-to-income ratios, a waiver of mortgage insurance, and flexible underwriting criteria. The Neighborhood Development Mortgage Program, offered to LMI borrowers purchasing homes in LMI census tracts, features reduced down payment requirements, increased debt-to-income ratios, and below-market interest rates. The Community Partnership Mortgage Program, which involves home ownership counseling provided by a participating non-profit community organization, features funding for up to 100 percent of the purchase price, reduced closing costs, increased debt-to-income ratios, and a waiver of mortgage insurance. The Agency Mortgage Program is available for home buyers with limited funds for a down payment, and features financing for up to 97 percent of the value of the property, flexible funding for closing costs, a higher permissible debt-to-income ratio, and financial counseling. Home mortgage loans also are offered through programs sponsored by the Federal Housing Administration ("FHA") and other government-sponsored mortgage programs.

First Union originates approximately $400 million of affordable home purchase mortgage loans annually. Its portfolio of these loans increased from 13,839 loans in 1995, totalling $685 million, to 23,926 loans in 1996, totalling $1.5 billion. First Union also offers special home improvement loans to LMI borrowers, which feature repayment periods of up to 15 years and an annual 2 percent interest rebate for timely payments. As of November 1997, more than 4,600 loans, totalling $33.2 million, were outstanding under this program.

First Union has sponsored grant applications under the Federal Home Loan Bank of Atlanta's Affordable Housing Program for 49 projects that have resulted in $17.6 million of subsidies for affordable housing for LMI individuals and households, making First Union the second largest program participant in the nation. Through its Capital Markets Affordable Housing Unit, First Union has invested more than $500 million in housing projects providing low income housing tax credits, and has been senior manager for more than $100 million of bonds issued to finance multi-family housing developments. During 1996 and 1997, First Union provided more than $800 million in financing to approximately 700 for-profit and non-profit affordable housing developments.

First Union has established a Small Business Banking Division ("SBBD") to respond to loan requests by small business owners within 24 hours of the request. First Union's SBBD originated $643 million in small business loans in

1995 and $1.1 billion in small business loans in 1996. Overall, First Union originated a total of approximately $4.7 billion in small business loans during 1996. First Union has committed more than $4.5 million to fund more than 21 micro-loan pools for business loans up to $25,000 that are administered by local community development corporations. First Union invested approximately $5.8 million during 1995 and 1996 in minority-owned banks, credit unions, community development financial institutions, and community development corporations.

As discussed below, First Union has developed and implemented a number of specific programs at individual First Union banks. Although First Union has recently merged these banks into a single bank, it has retained the programs discussed below in addition to others tailored to the needs of specific communities.

CRA Performance in Home State. As noted, First Union's lead subsidiary bank in North Carolina, FUNB-NC, received an "outstanding" rating for its CRA performance record. Examiners commended the bank for effectively determining credit needs in North Carolina and for responding to those needs in a constructive manner. The 1997 examination found that the CRA was an integral part of the planning and philosophy of the bank's board of directors and that the board and senior management, at the bank and the holding company level, were actively involved in the bank's CRA program. The bank's lending patterns showed a reasonable distribution of loans throughout all its communities, including LMI neighborhoods.

FUNB-NC offered a wide range of products and services to meet the identified credit needs of its communities. The bank determined that affordable housing loans were the primary credit need in its delineated community, and originated affordable home mortgage purchase loans through several programs, including the First Union Affordable Home Mortgage Program, the Neighborhood

Development Mortgage Program, and the Community Partnership Mortgage Program, to meet this need. From October 1995 to October 1996, the bank originated 16 percent of all its mortgage loans, totalling $102 million, to borrowers in LMI census tracts. FUNB-NC also participated in government-sponsored affordable housing programs. From January 1995 through October 1996, the bank made loans totalling $52.6 million through programs sponsored by the FHA, the Veterans Administration ("VA"), and the Federal National Mortgage Administration.

In addition, FUNB-NC engaged in small business lending, including loans to businesses in LMI census tracts. As of October 1996, FUNB-NC had originated 18 percent of its small business loans, totalling $42 million, in LMI census tracts. From January 1995 through October 1996, the bank also made approximately $7 million in loans through programs sponsored by the Small Business Administration ("SBA").

Community development activities during the period covered by the 1997 examination totalled 78 projects, supporting affordable housing efforts, small business loan pools, and economic rehabilitation programs for depressed urban areas, that generated approximately $31 million in loans. These activities included a $2.6 million loan to the East Carolina Community Development Corporation to construct a 44-unit apartment complex for the elderly in Morehead, North Carolina; and a $5 million commitment to the Charlotte-Mecklenburg Housing Partnership for development of affordable housing for LMI households in the City of Charlotte and throughout Mecklenburg County.

CRA Record of FUNB-Summit. Examiners found that FUNB-Summit showed a high level of responsiveness to the credit needs of communities in Pennsylvania, New Jersey, and New York, and had introduced several new credit products since the prior CRA performance examination to help address the credit needs of LMI individuals and neighborhoods. For example, FUNB-Summit introduced First Union's affordable home purchase mortgage loan programs and originated 263 loans under these programs in 1996, totalling $20 million. First Union also retained the bank's Coalition Mortgage Program, which featured a below-market interest rate, reduced fees, no points, increased debt-to-income ratios, and flexible underwriting terms. FUNB-Summit made 748 loans under the program in 1996, totalling approximately $77 million.[48/] Examiners favorably commented that a majority of the loans in Pennsylvania were originated in concentrated LMI areas, notably in the Philadelphia MSA.[49/] FUNB-Summit also increased its emphasis on lending under FHA and VA affordable housing programs. FHA loan originations increased 39 percent from 1995 to 1996, and VA loan originations increased from 20 loans to 90 loans during this period.[50/]

The 1997 CRA performance examination indicated that HMDA data for 1995 showed that, in the Philadelphia MSA, FUNB-Summit was the fifth largest originator of residential mortgage loans made in LMI census tracts and the fourth

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48/ The bank made 204 loans under this program in Pennsylvania, totalling approximately $9.5 million, and 400 loans under this program in New Jersey, totalling approximately $44.8 million.

49/ The bank also was a participating lender in other programs designed to assist LMI borrowers in obtaining home purchase and home improvement financing, including the New Jersey Citizens Action Home Improvement Loan Plan, Trenton Mortgage Plan, Lehigh Valley Mortgage Loan Pool, and Philadelphia Home Improvement Loan program.

50/ FHA loans in Pennsylvania increased from 18 loans, totalling $1.5 million in 1995, to 35 loans, totalling $3.1 million in 1996. In New Jersey, FHA loans increased from 28 loans, totalling $3 million in 1995, to 38 loans, totalling $4.2 million in 1996.

largest originator to LMI borrowers. These data also showed that the bank was the largest originator of residential mortgage loans made in LMI census tracts and to LMI borrowers in New Jersey. The 1997 examination noted that FUNB-Summit significantly reduced its overall housing-related lending from 1995 to 1996, but HMDA data indicate that it did not reduce the percentage of housing-related loans it made to LMI and minority borrowers and to borrowers in LMI and minority census tracts. Instead, such loans increased or remained constant as a percentage of all housing-related loans the bank made in a large majority of the areas served by the bank.[51/] Overall, the percentage of the bank's total loan originations in LMI census tracts nearly doubled, from 9 percent to 17 percent.

The 1997 examination also commended the bank's substantial increase in small business lending from $3 million in 1995 to $85 million in 1996. In addition, loans made by FUNB-Summit under programs sponsored by the SBA doubled from $4 million in 1995 to $8 million in 1996.[52/]

The Board also has reviewed FUNB-Summit's lending record in New York, particularly in the Bronx.[53/] In 1996, the bank made 144 Coalition Mortgage

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[51/] The percentage of loan originations to African Americans increased from 3.9 percent to 7.2 percent in the Pennsylvania assessment area, from 5.3 percent to 11.1 percent in the Philadelphia MSA, and from 3.3 percent to 8.4 percent in New Jersey. The percentage of loan originations to Hispanics in these areas also increased.

[52/] In 1996, SBA loans by FUNB-Summit totalled $1.6 million in Pennsylvania and $5.3 million in New Jersey.

[53/] The bank's delineated community in New York includes the entire counties of Westchester, Rockland, Putnam, Orange, Dutchess, and Ulster and 155 census tracts in Bronx County, New York.

Program loans in New York, totalling approximately $22.3 million.[54/] Examiners considered FUNB-Summit's lending penetration to be strong in all census tract income levels, and commented that a majority of the loans were originated in concentrated LMI areas, notably the Bronx. FUNB-Summit also participated as a limited partner in three projects designed to provide affordable housing in the Bronx during the period covered by the 1997 examination.[55/]

The 1997 CRA performance examination of FUNB-Summit noted that FUNB-Summit was responsive to community economic development needs, and that its participation in community development projects was significant. During 1996, FUNB-Summit, through its subsidiary community development corporation ("CDC"), funded 22 projects and an additional 20 loans from loan pools within its delineated communities, for a total of $13.6 million in loan commitments. The bank and the CDC together made more than $50 million in qualifying community development loans.[56/] These loans were made to projects to provide affordable housing and to support small business development, redevelopment of LMI areas, community non-profit organizations, and businesses owned by minorities or women.

CRA Record of Delaware Bank. Delaware Bank has total assets of $114 million, representing less than 1 percent of First Union's total banking assets,

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[54/] HMDA data for 1995 reviewed in the 1997 examination showed that, in New York, FUNB-Summit was the tenth largest originator of residential mortgage loans in LMI census tracts and the fifth largest originator to LMI borrowers.

[55/] These projects were designed to provide housing for LMI or elderly residents in the Bronx. First Union committed construction financing and equity investments qualifying for tax credits totalling approximately $20.5 million for the three projects.

[56/] First Union's community development lending from January 1995 to February 1997 was allocated approximately as follows: New Jersey --$25.8 million, Philadelphia MSA -- $13 million, Northeastern Pennsylvania --$8.9 million, and New York -- $3.2 million.

and operates primarily as a small commercial lender. The most recent publicly available CRA performance examination found that the bank participated in a local community investment corporation and made several loans to private developers to acquire and rehabilitate government-subsidized rental housing for low-income households, and that the bank's housing-related loans demonstrated a reasonable distribution throughout the community it serves. The Board also has reviewed information regarding the bank's CRA-related activities since this examination, including its community development activities, and supervisory information from the FDIC.

HMDA Data. The Board also has considered First Union's lending record in light of comments regarding the HMDA data of its subsidiaries. The data generally show that First Union provided a significant volume of housing-related credit to minority borrowers and to borrowers in LMI areas. For example, FUNB-Summit originated nearly 23,000 residential housing-related loans in 1996, totalling approximately $1.1 billion, and was the largest originator of home mortgage refinance loans and home improvement loans in its delineated community.[57/]

The data also reflect certain disparities in the rates of loan originations and denials among members of different racial groups and persons at different

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[57/] One commenter contended that First Union's HMDA data are questionable and must be closely scrutinized because of alleged HMDA reporting violations by First Union Home Equity Bank, N.A., Charlotte, North Carolina ("FUHEB"). FUHEB accounts for less than 1 percent of the banking assets of First Union. First Union has begun a systematic evaluation of FUHEB's HMDA reporting and committed to the OCC, the bank's primary federal supervisor, to take prompt action to address any deficiencies. The OCC will monitor FUHEB's compliance through its supervisory process. See Decision of the OCC approving First Union's merger with Signet Bank, Richmond, Virginia (Corporate Decision No. 97-96, at 14 n.21, dated November 9, 1997).

income levels.[58] The Board is concerned when the record of an institution indicates such disparities in lending, and believes that all banks are obligated to ensure that their lending practices are based on criteria that ensure not only safe and sound lending but also equal access to credit by creditworthy applicants regardless of their race or income level. The Board recognizes, however, that HMDA data alone provide an incomplete measure of an institution's lending in its community because these data cover only a few categories of housing-related lending. HMDA data, moreover, provide only limited information about the covered loans.[59] HMDA data, therefore, have limitations that make them an inadequate basis, absent other information, for concluding that an institution has not adequately assisted in meeting its communities' credit needs or has engaged in illegal lending discrimination. Because of the limitations of HMDA data, the Board has considered those data carefully in light of other information.

As noted, OCC examiners found no evidence of prohibited discrimination or other illegal credit practices at First Union's banks. Examiners reviewed the banks' policies and procedures for complying with fair lending laws and regulations, conducted comparative file analyses for racial and gender discrimination, and did not find any violations. The Board also has considered the

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[58] Commenters alleged that the dollar amount of First Union's HMDA-related lending in eastern Philadelphia is inadequate when compared to its share of market deposits in the area.

[59] The data, for example, do not account for the possibility that an institution's outreach efforts may attract a larger proportion of marginally qualified applicants than other institutions attract and do not provide a basis for an independent assessment of whether an applicant who was denied credit was, in fact, creditworthy. Credit history problems and excessive debt levels relative to income (reasons most frequently cited for a credit denial) are not available from HMDA data.

HMDA data in light of First Union's lending record, which shows that First Union's banks assist significantly in helping to meet the credit needs of their local communities, including LMI neighborhoods.[60/]

CRA Plan. In connection with the proposal, First Union has announced a five-year, $13 billion CRA Plan for Pennsylvania, New Jersey and Delaware.[61/] This program reflects an increase of 5 to 10 percent above the lending currently done by First Union and CoreStates on a combined basis in these same

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[60/] Several commenters contended that the lending activities of First Union's nonbanking subsidiaries and First Union's proposed purchase of The Money Store raise fair lending law issues. They alleged that The Money Store has a history of abusive lending practices and maintained that First Union would "steer" customers illegally to The Money Store, where they would be charged higher interest rates on loans. The Board notes that primary authority for enforcement of the fair lending laws for nonbanking companies is conferred by statute on the Federal Trade Commission and the Department of Housing and Urban Development. First Union's subsidiary banks -- which account for a substantial majority of First Union's total assets and total revenues -- have satisfactory records of compliance with fair lending laws. In addition, commenters' contentions against First Union's nonbanking subsidiaries rely in large measure on HMDA data that, as noted above, are inadequate to show illegal discrimination. Commenters also presented no facts to show that customers would be illegally "steered" by First Union to The Money Store. The acquisition of The Money Store, moreover, is subject to review by a federal banking agency under a proceeding that is separate from this application, and issues related to the acquisition of The Money Store will be reviewed at that time.

[61/] The major elements of the CRA Plan include: (1) $875 million in mortgage loans for LMI communities; (2) $10 billion in small business/small farm loans; and (3) $750 million in community development loans. First Union also pledges to continue CoreStates's corporate contributions, which total approximately $17 million annually, for five years. In addition, First Union intends to fund a $100 million charitable foundation to serve Pennsylvania, New Jersey, and Delaware that would focus on community revitalization. First Union estimates that the foundation would begin operations by mid-year 1998.

communities. Implementation of the CRA plan would have significant public benefits in the Pennsylvania/New Jersey/Delaware region, including in particular in LMI areas.

Private CRA Agreements.

First Union has entered into a number of agreements with various community organizations, including organizations representing specific Pennsylvania and New Jersey communities served by the CoreStates and First Union banks. The Board recognizes that communications by depository institutions with community groups provide a valuable method of assessing and determining how an institution can best address the credit needs of the community. Neither the CRA nor the agencies' CRA regulations, however, require depository institutions to enter into agreements with any organization. The Board, therefore, has viewed such agreements and their enforceability as private contractual matters between the parties and has focused on the existing record of performance by the applicant and the programs that the applicant has in place to serve the credit needs of its communities.

Several commenters have criticized provisions in these agreements that they believe severely restrict the ability of community organizations and their members to protest applications by First Union. The Board believes it is important that the federal and state banking agencies have access to complete information regarding the performance records of depository institutions and the credit needs of the community. Although some community organizations have argued that no restriction should be allowed on their ability to comment to the agencies, other community organizations believe that an organization has a valuable right to negotiate with a depository institution regarding the organization's support of a depository institution that provides funding to the community.

First Union has responded that it does not view its agreements as limiting the ability of any party to comment in any way to the federal banking agencies, in the application process or otherwise, regarding a proposal involving the acquisition of a bank or branch in the party's home state.[62] First Union also represents that, even outside the party's home state, the agreements do not limit a party's ability to comment to a federal banking agency in the examination process, as part of a CRA evaluation, or in any other context outside the application process. In addition, the agreements do not restrict the ability of an organization to include comments at any time and in any manner in First Union's public CRA file, or to comment at any time on the credit or banking needs of any community, or to protest any application by First Union if First Union is not in substantial compliance with the agreement. Moreover, First Union represents that no agreement restricts the ability of any party at any time, including in any application, to criticize First Union's failure to abide by its agreement.

In light of the above, the Board does not believe that it should interfere with these agreements. The Board is not a party to agreements between a depository institution and any organization and believes these agreements are private matters between the parties.[63] The Board also notes that First Union

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[62] First Union has submitted portions of an agreement with a Pennsylvania community organization as representative of the provision governing protests by organizations with an agreement with First Union. First Union has stated that any agreement it has made is governed by the representations discussed above.

[63] One commenter alleged that First Union attempted to intimidate a community organization into refraining from providing adverse information to the Board by threatening to reduce the bank's support of the group's fund-raising efforts and, more generally, the bank's lending in the community. First Union denies that it did or would threaten retaliation against a community, and the community organization in

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continues to have a responsibility to help serve the credit needs of its entire community, including LMI neighborhoods, with or without private CRA agreements.

Comments Regarding Job Losses. A number of commenters expressed substantial concern about the effect of the proposal on CoreStates employees and on employment in the areas currently served by CoreStates.[64/] First Union has indicated that it will take a number of steps to minimize any adverse effects of the proposal on employment or the economy.[65/] First Union proposes to minimize the

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[63/](...continued)
question has indicated that it has reached an agreement with First Union that would result in an increase in First Union's lending in the area. The Board notes that First Union's record of assisting in serving the credit needs of the community is subject to regular examination under the CRA and that diminished or discontinued CRA-related activities in a community will be carefully scrutinized in evaluating an institution's record of CRA performance without regard to the status of privately-negotiated CRA agreements.

[64/] Several commenters expressed concern that First Union would conduct its layoffs in a discriminatory manner. These commenters noted First Union's recent settlement of a lawsuit in the District of Columbia that alleged employment discrimination in layoffs after an acquisition by First Union. The settlement does not support this allegation. There was no finding or admission of wrongdoing on the part of First Union in connection with the settlement. In addition, the Equal Employment Opportunity Commission has jurisdiction to determine whether companies are in compliance with equal employment opportunity statutes under the regulations of the Department of Labor. See 41 C.F.R. 60-1.7(a) and 60-1.40.

[65/] The effect of a proposed acquisition on employment in a community is not among the factors included in the BHC Act, and the convenience and needs factor has been interpreted consistently 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. See Wells Fargo & Company, 82 Federal Reserve Bulletin 445, 457 (1996).

number of jobs lost in the greater Philadelphia area by adding approximately 3000 new jobs in the area and by reducing jobs through attrition. First Union projects that, after accounting for new jobs and attrition, approximately 1330 employees will be displaced as a result of the proposal. First Union also intends to provide at least $39 million for a job training and assistance program in order to reduce the impact of the proposal on affected employees, including providing outplacement services for unemployed CoreStates employees for a period of one year and making First Union's $16 million fund for job retraining available to CoreStates employees for up to two and one-half years after their notice of termination.

D. Branch Closings

First Union and CoreStates together operate 378 branches in the Philadelphia banking market, including 64 branches in LMI census tracts. First Union has preliminarily identified 74 branches that may be consolidated into a nearby branch or closed, and approximately 23 branches, including five branches in LMI areas, that would be divested to address the competitive effects of the proposal in the Philadelphia banking market. First Union has committed that it will not, for at least two years and with two exceptions, close any branch in an LMI census tract or a census tract with a 40 percent or higher minority population in Pennsylvania, New Jersey, or Delaware unless another First Union or CoreStates branch that would remain open is within one-third of a mile from the closed branch.[66/] On this basis, First Union projects that it will close no more than eight branches in LMI census tracts in the Philadelphia banking market. After consummation of the proposal, taking into account the divestiture of branches to mitigate competitive effects and

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[66/] The two exceptions are not in Philadelphia County. The Board has considered additional confidential information provided by First Union regarding these exceptions.

branches that are under consideration for consolidation or closure, First Union would continue to operate a total of approximately 281 branches in the market, including 51 branches in LMI areas. This network of branches would be the most extensive in the Philadelphia banking market, including LMI areas in that market.

Before First Union closes a branch, it requires its CRA coordinator for the state in which the branch is located to arrange for meetings with community organizations to discuss the proposed closing and provides these organizations a period of not less than 30 days in which to respond. All responses are documented by the CRA coordinator and, along with reports reviewing the other factors considered, are presented to the state branch closing coordinator for a recommendation. If the recommendation is closure, it must be approved by the bank's senior management, including the board of directors. After a final decision is made, contacts with community organizations are continued to assist in addressing concerns about the closing. The branch closing policies of all First Union's banks have been reviewed by the OCC and the FDIC in connection with their most recent CRA performance examinations and found to be satisfactory.

Several commenters complained that FU-Summit had a poor record of closing branches, particularly in LMI areas in New Jersey and Philadelphia. In the 1997 CRA performance examination, OCC examiners reviewed FU-Summit's record of closing branches, including a review of sample branch closing files, and concluded that the branch closings were reasonable. Examiners also concluded that the bank's branch network following the closings provided reasonable access to the services of the bank to all segments of the delineated community. The examiners noted that, after the branch closings, a majority of the bank's branches served LMI census tracts. Many branches offered extended weekday operating hours and were open on Saturdays. OCC examiners also found the bank's branch closing policy to be comprehensive and consistent with regulatory guidelines.

In addition to these factors, the Board has considered that federal banking law provides a specific mechanism for addressing branch closings. Federal law requires an insured depository institution to provide notice to the public and to the appropriate regulatory agency at least 30 days before closing any branch. The requirement applies any time a branch is closed, whether in connection with an acquisition or at any time after completion of an acquisition. This requirement for public notice cannot be limited by any commitment to the Board or to any community organization. The law does not authorize federal regulators to prevent the closing of any branch.[67/]

The Board expects that First Union will apply its branch closing policies in determining whether to close branches in connection with the proposal. First Union's record of closing branches as a result of this proposal will be subject to review by the OCC in connection with its next CRA performance evaluation, and to review by the Board in connection with future applications to establish a deposit facility. First Union must submit in writing to the Federal Reserve Bank of Richmond any changes to its preliminary plans for closing branches in LMI census tracts prior to modifying these plans during the two years after consummation of the proposal.

[67/] Section 42 of the Federal Deposit Insurance Act (12 U.S.C. § 1831r-1), as implemented by the Joint Policy Statement Regarding Branch Closings (58 Federal Register 49,083 (1993)), requires that a bank provide the public with at least 30 days notice and the primary federal supervisor with at least 90 days notice before the date of the proposed branch closing. The bank also is required to provide reasons and other supporting data for the closure, consistent with the institution’s written branch closing policy. First Union’s branch closing policy follows these procedures.

E. Conclusion on Convenience and Needs Considerations

The Board recognizes that this proposal represents a major transaction that will particularly affect communities in the Philadelphia area. Consideration of the effects of the proposal on the convenience and needs of these communities and other communities served by CoreStates is an important component of the Board's review of the proposal.

Some commenters have expressed concern about specific aspects of First Union's record in certain geographical areas and about whether First Union, with its base in North Carolina, will be responsive to the needs of communities in the Pennsylvania/New Jersey/Delaware area. As explained above, the information in this case demonstrates that First Union has a strong overall record of helping to meet the convenience and needs of communities that it serves. This record has been demonstrated over time and through the course of several CRA performance examinations. The record also reflects that First Union has shown a commitment to address the credit needs of new communities into which it expands.

The Board also has considered carefully the concerns expressed by commenters about First Union's lending record, its branch closing plans, the availability of various banking products and services to LMI customers and customers with special needs, and other comments.[68/] The Board has weighed these

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[68/] As discussed above, several commenters criticized the basic banking accounts offered by First Union and, in particular, questioned their availability to customers who receive benefits electronically. The Board has considered the full range of credit products and banking services provided by First Union, which include products and services that assist in meeting the credit and banking needs of LMI individuals, such as its two basic banking accounts. The Board also has considered revisions proposed by First Union to make its basic banking products more accessible to customers who receive benefits electronically from Pennsylvania. There is no evidence in the record that the fees charged by First Union are based on (continued...)

concerns in light of all the facts of record, including the overall CRA record of First Union, reports of examinations for CRA performance, information provided by First Union, and information from other commenters regarding the record of First Union in meeting the credit and banking needs of its communities. The Board also has considered the location of branches that First Union proposes to maintain and its efforts to assure that its products and services are widely available throughout the entire community it serves. In addition, the Board has taken account of the plans announced by First Union to strengthen its record of CRA performance in the communities served by CoreStates after consummation of the proposal. The Board concludes, after considering all of these facts of record, that the convenience and needs factor, including the CRA performance records of the subsidiary banks of First Union and CoreStates, is consistent with approval.

Financial, Managerial, Supervisory, and Interstate Factors

The Board has carefully considered the financial and managerial resources and future prospects of First Union, CoreStates, and their respective subsidiary banks, and other supervisory factors in light of all the facts of record, including the public comments.[69/] The Board notes that the bank holding companies

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[68/](...continued)
a factor that would be prohibited under law. Although the Board has recognized that banks help serve the banking needs of their communities by making banking services available at nominal or no charge, neither the CRA nor the primary regulators of the banks involved in this transaction require an institution to limit the fees charged for its services.

[69/] These comments included allegations of improper conduct by officials at a bank acquired by CoreStates, which are the subject of a pending lawsuit, and comments regarding First Union's recent settlement of an administrative proceeding with the State of Florida involving allegations of inadequate disclosures in the sale of nondepository investment products and of unlicensed securities brokerage

(continued...)

and their subsidiary banks are currently well capitalized and are expected to remain so after consummation of the proposal.

The Board also has considered other aspects of the financial condition and resources of the two organizations, the structure of the proposal, and the managerial resources of each of the entities and the combined organization. In connection with the Board's assessment of the financial and managerial resources of First Union and CoreStates, the Board has considered its supervisory experience with the two companies and that of other federal supervisory authorities, including assessments of the organizations' efforts to ensure Year 2000 readiness. The Board also has considered the financial and other terms in the proposed merger agreement between First Union and CoreStates. Based on these and other facts of record, the Board concludes that considerations relating to the financial and managerial resources and future prospects of First Union, CoreStates, and their respective subsidiaries are consistent with approval of the proposal, as are the other supervisory factors that the Board must consider under section 3 of the BHC Act.

Section 3(d) of the BHC Act allows the Board to approve an application by a bank holding company to acquire 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, the home state of First Union is North Carolina, and CoreStates operates in Pennsylvania, New Jersey, and Delaware.[70/] All of the

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[69/](...continued)
activities. The Board has considered the comments in light of supervisory reports of examination assessing the managerial resources of the institutions involved and the financial resources of First Union in the event that damages are awarded to the commenter in the individual lawsuit.

[70/] A bank holding company's home state is the state in which the operations of (continued...)

conditions for an interstate acquisition enumerated in section 3(d) of the BHC Act are met in this case.[71] In view of all the facts of record, the Board is legally permitted under section 3(d) of the BHC Act to approve the acquisition.

Nonbanking Activities

First Union also has filed notice, pursuant to section 4(c)(8) of the BHC Act, to acquire the nonbanking subsidiaries of CoreStates and thereby engage in commercial lending, trust company functions, financial and investment advisory services, agency transactional services (other than acting as a futures commission merchant), investing and trading activities as a principal, underwriting and dealing in, to a limited extent, certain bank-ineligible securities, credit-related insurance underwriting, community development activities, and data processing activities through an ATM and point-of-sale network. The Board previously has determined by regulation or order that each of these activities is closely related to banking

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[70](...continued)
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. 12 U.S.C. § 1841(o)(4)(C).

[71] 12 U.S.C. §§ 1842(d)(1)(A) and (B) and 1842(d)(2)(A) and (B). First Union is adequately capitalized and adequately managed, as defined by applicable law. Neither New Jersey nor Pennsylvania state law imposes age requirements on interstate bank acquisitions, and CoreStates's subsidiary bank in Delaware has been in existence for the minimum period of time necessary to satisfy age requirements established by applicable Delaware state law. See Del. Code Ann. tit. 5, § 795 (1997) (5 years). On consummation of the proposal, First Union 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 each of Pennsylvania, New Jersey, and Delaware.

within the meaning of section 4(c)(8) of the BHC Act.[72] First Union proposes to conduct these activities in accordance with Regulation Y and all relevant Board interpretations and orders.

In order to approve the proposal, the Board also must determine that the performance of the proposed activities is 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."[73] As part of its evaluation of these factors, the Board considers the financial and managerial resources of the notificant, its subsidiaries, and any company to be acquired; the effect the transaction would have on such resources; and the management expertise, internal control and risk management systems, and capital of the entity conducting the activity.[74] For the reasons discussed above, and 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 considered carefully the competitive effects of the proposed acquisition of CoreStates's nonbanking subsidiaries. The Board notes that the market for each of the nonbanking services is unconcentrated, and that there are numerous providers of the services. Consummation of the proposal, therefore, would have a de minimis effect on competition, and the Board has determined that the proposal would not have a significantly adverse effect on competition in any relevant market.

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[72] See 12 C.F.R. 225.28(b)(1), (5), (6), (7), (8)(ii), (11)(i), (12), and (14); CoreStates Financial Corporation, 83 Federal Reserve Bulletin 838 (1997).

[73] See 12 U.S.C. § 1843(c)(8).

[74] See 12 C.F.R. 225.26.

First Union has indicated that the proposal would provide added convenience to CoreStates's customers, to First Union's customers, and to the public by improving convenience and expanding services available to customers of both institutions.[75] Additionally, there are public benefits to be derived from permitting capital markets to operate so that bank holding companies can make potentially profitable investments in nonbanking companies when those investments are consistent, as in this case, with the relevant considerations under the BHC Act, and from permitting banking organizations to allocate their resources in the manner they consider to be most efficient. The Board also believes that the conduct of the proposed activities within the framework established in this order, prior orders, and Regulation Y is not likely to result in adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices, that would not be outweighed by the public benefits of the proposal, such as increased consumer convenience and gains in efficiency. Accordingly, based on all the facts of record, the Board has determined that the balance of public benefits that the Board must consider under the proper incident to banking standard of section 4(c)(8) of the BHC Act is favorable and consistent with approval of the proposal. The Board also concludes that all the factors required to be considered under section 25 of the Federal Reserve Act and the Board's Regulation K are consistent with approval of the acquisition by First Union of the foreign branches of CoreStates Bank.

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[75] Several commenters questioned whether any public benefits would result from the proposal on account of the anticipated loss of banking alternatives and increase in fees and maintained that any public benefits would accrue only to shareholders and senior officers of CoreStates.

Conclusion

Based on the foregoing and all the facts of record, the Board has determined that the proposal should be, and hereby is, approved.[76] In reaching its conclusion, the Board has considered all the issues raised in public comments filed in connection with the proposal in light of the factors that the Board is required to consider under the BHC Act and concludes that the comments do not warrant a delay or denial of the proposal.[77]

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[76] Some commenters requested that formal hearing procedures be followed in this case in order to allow commenters to question witnesses and to compel disclosure of information. 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 recommendation of denial. The Board did not receive such a recommendation in this case. Under its rules, the Board may, in its discretion, hold a public hearing or meeting on an application to acquire a bank if a hearing is necessary or appropriate to clarify factual issues related to the application and to provide an opportunity for testimony, if appropriate. 12 C.F.R. 225.16(e). The Board used its discretion in this case to hold a public meeting and, as discussed in detail throughout this order, the public meeting provided information to clarify factual issues and appropriately provided individuals the opportunity to testify. Based on all the facts of record, the Board has concluded that a formal public hearing as advocated by some commenters is not required or warranted in this case.

[77] Commenters requested that the Board delay action on the proposal until the Board could conduct on-site surveys to determine the proposal's effects on competition and the convenience and needs of local communities. Some commenters believed that the Board should not act until the specific locations of the branches to be closed were disclosed to the public and subjected to public comment. Other commenters requested additional time to respond to information provided to them in the applications process or to negotiate agreements with First Union.

The requests for delay do not warrant postponement of the Board's consideration of the case. Although the BHC Act does not require it, the Board

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The Board's approval of the proposal is specifically conditioned on compliance by First Union with all the commitments made in connection with the proposal and the conditions in this order, including First Union's divestiture commitments. The Board's determination on the proposed nonbanking activities also is subject to all the conditions set forth in Regulation Y, including those in sections 225.7 and 225.25(c) (12 C.F.R. 225.7 and 225.25(c)), and to the Board's authority to require modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to assure compliance with, or to prevent evasion of, the provisions and purposes of the BHC Act and the Board's regulations and orders issued thereunder. For purposes of this

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[77](...continued)
provides a public comment period of at least 30 days in every case involving a bank acquisition in order to allow interested persons an opportunity to provide information, analyses, and arguments regarding all aspects of the proposal, including the CRA performance record of an applicant and other relevant companies. In this case, the Board extended the public comment period to permit commenters approximately 57 days in which to comment. The Board also held a public meeting at which more than 80 commenters presented their views through direct testimony. These commenters were granted an additional seven days after the public meeting to submit supplemental information. In the Board's view, commenters have had ample opportunity to submit their views, and, in fact, have provided substantial written submissions and oral testimony that has been considered carefully by the Board in acting on the application. The Board's Rules of Procedure do not guarantee commenters an opportunity to continue the process of submitting additional comments in rebuttal to an applicant's response after the close of the period for submitting public comments. These rules permit a meaningful opportunity for the public to comment on a proposal within the time constraints of the BHC Act, and comments and responses in this case were submitted in accordance with the Board's rules. For these reasons, and based on a review of all the facts of record, the Board concludes that the record in this case is sufficient to warrant Board consideration and action on the proposal at this time, and that further delay of consideration of the proposal or denial of the proposal on the grounds discussed above or on the basis of informational insufficiency is not warranted.

action, the commitments and conditions relied on in reaching this decision 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 CoreStates's banks may not be consummated before the fifteenth calendar day after the effective date of this order, and the proposal may not be consummated later than three months after the effective date of this order, unless such period is extended for good cause by the Board or the Federal Reserve Bank of Richmond, acting pursuant to delegated authority.

By order of the Board of Governors,[78/] effective April 13, 1998.

(signed)

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Jennifer J. Johnson
Deputy Secretary of the Board

78/ Voting for this action: Chairman Greenspan, Vice Chair Rivlin, and Governors Kelley, Phillips, Meyer, Ferguson, and Gramlich.

Appendix A

A. Nonbanking Subsidiaries of CoreStates Financial Corp[79]

(1) Congress Financial Corporation, New York, New York, and thereby engage in factoring services, asset based lending, and commercial finance, pursuant to section 225.28(b)(1) of Regulation Y (12 C.F.R. 225.28(b)(1)).

(2) Meridian Asset Management, Inc., Valley Forge, and thereby engage in non-fiduciary custodian and agency services and trust services, pursuant to section 225.28(b)(5) of Regulation Y (12 C.F.R. 225.28(b)(5)), and, through subsidiaries of Meridian Asset Management, Inc., investment advisory services, pursuant to section 225.28(b)(6) of Regulation Y (12 C.F.R. 225.28(b)(6)).

(3) McGlinn Capital Management, Inc., Reading, and thereby engage in investment advisory services, pursuant to section 225.28(b)(6) of Regulation Y (12 C.F.R. 225.28(b)(6)).

(4) CoreStates Securities Corporation, Philadelphia, and thereby engage in financial and investment advisory activities, securities brokerage activities, riskless-principal transactions, providing private placement services and other transactional services, and investing and trading activities as a principal, pursuant to sections 225.28(b)(6), (7)(i)-(iii), (7)(v), and (8)(ii) of Regulation Y (12 C.F.R. 225.28(b)(6), (7)(i)-(iii), (7)(v), and (8)(ii)), and underwriting and dealing in, to a limited extent, certain municipal revenue bonds, 1-4 family mortgage-related securities, consumer receivable-related securities, and commercial paper, as previously approved by the Board in CoreStates Financial Corporation, 83 Federal Reserve Bulletin 838 (1997).

(5) Meridian Securities, Inc., Reading, and thereby engage in securities brokerage activities, pursuant to section 225.28(b)(7) of Regulation Y (12 C.F.R. 225.28(b)(7)).

(6) Pennco Life Insurance Company, Phoenix, Arizona, and thereby engage in underwriting credit-related insurance for loans made by affiliates, pursuant to section 225.28(b)(11) of Regulation Y (12 C.F.R. 225.28(b)(11)).

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[79] All subsidiaries are in Pennsylvania unless otherwise indicated. Subsidiaries also include their majority owned companies.

(7) Meridian Life Insurance Company, Reading, and thereby engage in underwriting credit-related insurance for loans made by affiliates, pursuant to section 225.28(b)(11) of Regulation Y (12 C.F.R. 225.28(b)(11)).

(8) Princeton Life Insurance Company, Lancaster, and thereby engage in underwriting credit-related insurance for loans made by affiliates, pursuant to section 225.28(b)(11) of Regulation Y (12 C.F.R. 225.28(b)(11)).

(9) CoreStates Community Development Corporation, Inc., Philadelphia, and thereby engage in investments to promote community welfare, including acquiring, rehabilitating, and selling real estate to provide affordable housing, pursuant to section 225.28(b)(12) of Regulation Y (12 C.F.R. 225.28(b)(12)).

(10) Electronic Payment Services, Inc., Wilmington, Delaware, and thereby engage in processing and transmitting banking, financial, or economic data through the operation of a point-of-sale network and automated teller machine network, pursuant to section 225.28(b)(14) of Regulation Y (12 C.F.R. 225.28(b)(14)).

B. <u>Foreign Branches of CoreStates Bank, N.A</u>.

(1) Hong Kong:	12/F Asia Pacific, Finance Tower, 3 Garden Road, Hong Kong, Peoples Republic of China.
(2) London:	Centurion House, 24 Monument Street, London, England.
(3) Nassau:	P.O. Box 6313, Nassau, Bahamas.
(4) Taipei:	17th Floor, 44 Ching Shan, North Road, Sec. 2, Taipei, Taiwan.
(5) Tokyo:	Yamato International Building, 8F, Nihonbashi, ChuoKu, Tokyo, Japan.

Appendix B

A. State Deposit and Ranking Data for New Jersey and Delaware

New Jersey

First Union is the second largest commercial banking organization in New Jersey, controlling deposits of approximately $13.2 billion, representing 10.3 percent of all deposits held by depository institutions in the state ("state deposits"). CoreStates is the sixth largest commercial banking organization in New Jersey, controlling deposits of approximately $6.2 billion, representing 4.9 percent of state deposits. On consummation of the proposal, First Union would remain the second largest commercial banking organization in the state, controlling deposits of approximately $19.4 billion, representing 15.2 percent of state deposits in New Jersey.

Delaware

First Union is the 29th largest commercial banking organization in Delaware, controlling deposits of approximately $57.9 million, representing less than 1 percent of all state deposits. CoreStates is the tenth largest commercial banking organization in Delaware, controlling deposits of approximately $828.8 million, representing approximately 2 percent of state deposits. On consummation of the proposal, First Union would become the tenth largest depository institution in the state, controlling deposits of approximately $886.7 million, representing 2.1 percent of state deposits in Delaware.

B. Banking Markets Where First Union and CoreStates Compete

(1) *Atlantic City*: Atlantic and Cape May Counties in New Jersey.

(2) *Lehigh Valley*: Carbon, Lehigh, and Northhampton Counties in Pennsylvania.

(3) *Metropolitan New York-New Jersey*: New York City, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, and Westchester Counties in New York; Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union, Warren, and a portion of Mercer Counties in New Jersey; Pike

County in Pennsylvania; and portions of Fairfield and Litchfield Counties in Connecticut.

(4) *Philadelphia*: Philadelphia, Bucks, Chester, Delaware, and Montgomery Counties in Pennsylvania; Burlington, Camden, Gloucester, and Salem Counties in New Jersey; and the City of Trenton and the townships of Ewing, Hamilton, and Lawrence in Mercer County in New Jersey.

(5) *Scranton/Wilkes-Barre*: Columbia, Lackawanna, Luzerne, Wayne, and Wyoming Counties and the townships of Ararat, Auburn, Brooklyn, Clifford, Dimock, Gibson, Harford, Herrick, Lathrop, Lenox, and Springville in Susquehanna County in Pennsylvania.

(6) *Vineland*: Cumberland County in New Jersey.

(7) *Wilmington*: New Castle County in Delaware and Cecil County in Maryland.

Appendix C

Market data for banking markets, except Philadelphia and Lehigh Valley.

(1) *Atlantic City*: First Union would control 15.1 percent of market deposits and would become the second largest of 15 depository institutions in the market. The HHI would increase 43 points to 1667.

(2) *Metropolitan New York-New Jersey*: First Union would control 4.8 percent of market deposits and would become the fifth largest of 303 depository institutions in the market. The HHI would increase 7 points to 758.

(3) *Scranton/Wilkes-Barre*: First Union would control 8.2 percent of market deposits and would become the third largest of 35 depository institutions in the market. The HHI would increase 34 points to 996.

(4) *Vineland*: First Union would control 10.8 percent of market deposits and would become the fourth largest of 13 depository institutions in the market. The HHI would increase 42 points to 1471.

(5) *Wilmington*: First Union would control 10.6 percent of market deposits and would become the third largest of 20 depository institutions in the market. The HHI would increase 15 points to 2338.

Appendix D

Most Recent CRA Performance Ratings of Banks Before
The Consolidation of First Union National Bank

Bank	Agency	Rating	Date
First Union National Bank, Charlotte, North Carolina	OCC	Outstanding	5/31/97
First Union National Bank, Jacksonville, Florida	OCC	Outstanding	5/31/97
First Union National Bank, Atlanta, Georgia	OCC	Outstanding	5/31/97
First Union National Bank, Rockville, Maryland	OCC	Outstanding	5/31/97
First Union National Bank, Greenville, South Carolina	OCC	Outstanding	5/31/97
First Union National Bank, Nashville, Tennessee	OCC	Outstanding	5/31/97
First Union National Bank, Roanoke, Virginia	OCC	Outstanding	5/31/97
First Union National Bank, Washington, D.C.	OCC	Outstanding	5/31/97

First Union National Bank, North Summit, New Jersey	OCC	Outstanding	5/31/97
First Union Bank of Connecticut, Stamford, Connecticut	FDIC	Satisfactory	1/21/97
First Union Bank of Delaware, Wilmington, Delaware	FDIC	Satisfactory	10/31/95
Signet Bank, Richmond, Virginia	FRB	Satisfactory	1/15/96
Signet Bank, N.A. Washington, D.C.	OCC	Satisfactory	12/21/92
First Union Home Equity Bank, N.A., Charlotte, North Carolina	OCC	Satisfactory	5/31/97
Boca Raton First National Bank, Boca Raton, Florida	OCC	Satisfactory	10/26/95