FEDERAL RESERVE press release

For immediate release September 14, 1998

The Federal Reserve Board today announced its approval of the proposal of Banc One Corporation, Columbus, Ohio, to merge with First Chicago NBD Corporation, Chicago, Illinois ("First Chicago"). The resulting bank holding company would be named Bank One Corporation ("New Bank One") and would acquire control of all of First Chicago's bank, nonbank, and foreign subsidiaries.

The Board's approval is conditioned on the divestiture of 39 branches in six local banking markets in Indiana. New Bank One also must report to the Federal Reserve System semi-annually during the two-year period after consummation of the merger all branch closings that occur as a result of the proposal.

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

Attachment

FEDERAL RESERVE SYSTEM

Banc One Corporation
Columbus, Ohio

First Chicago NBD Corporation
Chicago, Illinois

Order Approving Merger of Bank Holding Companies

Banc One Corporation ("Banc One"), 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 First Chicago NBD Corporation ("First Chicago"). The resulting bank holding company would be named Bank One Corporation ("New Bank One") and have its headquarters in Chicago, Illinois. New Bank One would acquire control of First Chicago's subsidiary banks, including its lead bank subsidiary, First National Bank of Chicago, Chicago, Illinois ("First Chicago Bank"),[1/] and retain control of Banc One's subsidiary banks. Banc One also has requested the Board's approval under section 4(c)(8) of the BHC Act (12 U.S.C. § 1843(c)(8)) and section 225.24 of the Board's Regulation Y (12 C.F.R. 225.24) for New Bank One to acquire the domestic nonbanking subsidiaries of First Chicago.[2/] In addition, Banc One has filed

[1/] Banc One also seeks approval to acquire NBD Bank, Detroit, Michigan; American National Bank and Trust Company of Chicago, Chicago, Illinois; NBD Bank, N.A., Indianapolis, Indiana; NBD Bank, Elkhart, Indiana; and NBD Bank, Venice, Florida.

[2/] The nonbanking activities of First Chicago, for which Banc One has sought
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notices under section 4(c)(13) of the BHC Act (12 U.S.C. § 1843(c)(13)), sections 25 and 25A of the Federal Reserve Act (12 U.S.C. § 601 et seq., § 611 et seq.), and the Board's Regulation K (12 C.F.R. 211) for New Bank One to acquire the Edge Act corporations and foreign operations of First Chicago.[3/]

Banc One, with total consolidated assets of approximately $116.9 billion, is the eighth largest commercial banking organization in the United States, controlling approximately 2.5 percent of total banking assets of insured commercial banks in the United States ("total banking assets").[4/] Banc One operates subsidiary banks in Arizona, Colorado, Illinois, Indiana, Kentucky, Louisiana, Ohio, Oklahoma, Texas, Utah, West Virginia, and Wisconsin. Banc One also engages in a broad range of permissible nonbanking activities nationwide.

First Chicago, with total consolidated assets of approximately $114.8 billion, is the ninth largest commercial banking organization in the United States, controlling approximately 2.3 percent of total banking assets. First Chicago operates subsidiary banks in Indiana, Illinois, Michigan, and Florida.[5/] First Chicago also engages nationwide in numerous permissible nonbanking activities.

The proposal would create a combined organization that, after accounting for proposed divestitures, would be the fifth largest commercial banking

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[2/](...continued)
Board approval under section 4 of the BHC Act, and the subsidiaries engaged in such activities are listed in Appendix A.

[3/] Banc One and First Chicago also have requested the Board's approval to hold and to exercise options to acquire up to 19.9 percent of each other's voting shares, if certain events occur. The options would expire on consummation of the proposal.

[4/] All banking data, including rankings, are as of March 31, 1998.

[5/] First Chicago also operates FCC National Bank, Wilmington, Delaware, which is a credit card bank.

organization in the United States. New Bank One would have total consolidated assets of approximately $231.7 billion, representing approximately 4.8 percent of total banking assets, and would have a significant presence in the Midwest.

Factors Governing Board Review of the Transaction

Under the BHC Act, the Board must consider a number of specific factors when reviewing the merger of bank holding companies or the acquisition of banks. 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.[6/] In cases involving interstate bank acquisitions, the Board also must consider the concentration of deposits in the nation and certain individual states, as well as compliance with other provisions of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 ("Riegle-Neal Act").[7/]

Public Comment on the Proposal

To give interested members of the public an opportunity to submit comments to the Board on the statutory factors that it is charged with reviewing, the Board published notice of the proposal and provided a period of time for public

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[6/] In cases involving a foreign bank, the Board also must consider 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.

[7/] Pub. L. No. 103-328, 108 Stat. 2338 (1994).

comment.[8/] The Board extended the initial period for public comment by 30 days to accommodate public interest. The extended public comment period provided interested persons more than 70 days to submit written comments on the proposal.

Because of public interest in the proposal--particularly in the Midwest, where the combined organization would be a significant competitor--the Board also held a public meeting in Chicago, Illinois, on August 13, 1998. The public meeting gave interested persons an opportunity to present oral testimony on the various factors the Board is charged with reviewing under the BHC Act. More than 85 people appeared and testified at the public meeting, and many of the commenters who testified also submitted written comments.

In total, approximately 330 organizations and individuals submitted comments on the proposal, through oral testimony, written comments, or both. Commenters included federal, state, and local government officials; community groups and nonprofit organizations; small business owners; union representatives; customers of Banc One and First Chicago; and other interested organizations and individuals from Colorado, Delaware, Illinois, Indiana, Louisiana, Michigan, Ohio, Texas, and other states.

Commenters filed information and expressed views supporting and opposing the proposed merger. Commenters supporting the proposal commended Banc One and First Chicago for their commitment to the communities in which they do business and their leadership role in various community activities and civic organizations. These commenters praised the records of the two banking organizations in providing affordable home mortgage loans, particularly in low- and

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[8/] Notice of the proposal was published in the Federal Register (63 Federal Register 32,661 and 40,527 (1998)) and in local newspapers in accordance with the Board’s Rules of Procedure. See 12 C.F.R. 262.3(b). Notice of the proposal also was listed on the Board's Internet Home Page.

moderate-income ("LMI") communities and in communities with predominantly minority populations ("minority communities"); making investments, grants, and loans supporting neighborhood housing and community development projects; and making charitable contributions. These commenters also noted favorably the small business lending activities of Banc One and First Chicago and complimented the banking organizations for providing financial, educational, and technical assistance to small businesses and to nonprofit groups that support small businesses. Many commenters also praised First Chicago's community reinvestment record and pledges in Detroit and Chicago, noting that First Chicago had increased the availability of loans and investments to support community development and affordable housing activities and had fostered a good partnership with the community groups in those two cities. In general, the commenters supporting the proposal expected that the merger of Banc One and First Chicago would create a company with greater financial, operational, and managerial resources that would benefit the communities that New Bank One would serve.

Commenters opposed to the merger proposal expressed concerns about the performance records of Banc One and First Chicago under the CRA, particularly with respect to their records of lending to small businesses and minorities, to LMI communities, and in rural areas. The commenters questioned the fair lending record of the two banking organizations and expressed concerns about disparities in the denial rates of credit applications at both institutions. Commenters also criticized Banc One's decision not to make community reinvestment pledges nationwide or in specific communities.

Several commenters opposed to the proposal believed that the merger would reduce competition for banking services substantially, particularly in Indianapolis and other communities in Indiana, or would result in the loss of local control of lending and investment decisions. Commenters also expressed concern about branch closings, the level of lending to small businesses and first-time home buyers, job losses, fees for banking services, and the potential for dislocations or other adverse effects from the integration of the two bank holding companies.

In evaluating the statutory factors under the BHC Act, the Board carefully considered the information and views presented by all commenters, including the testimony presented at the public meeting and the information submitted in writing. The Board also considered all the information presented in the application, notices, and supplemental filings by Banc One and First Chicago, as well as various reports filed by the relevant companies, publicly available information, and other reports. In addition, the Board reviewed confidential supervisory information, including examination reports regarding the bank holding companies and the depository institutions involved, and information provided by the other federal banking agencies and the Department of Justice ("DOJ"). After a careful review of all the facts of record, and for the reasons discussed in this order, the Board has concluded that the statutory factors it is required to consider under the BHC Act and other relevant banking statutes are consistent with approval of the proposal, subject to the conditions noted in this order.

Interstate Analysis

Section 3(d) of the BHC Act, as amended by section 101 of the Riegle-Neal Act, allows the Board to approve an application by a bank holding company to acquire control of a bank located in a state other than the home state of such bank holding company if certain conditions are met. For purposes of the BHC Act, the home state of Banc One is Ohio,[9/] and Banc One proposes to acquire banks in Florida,

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

Indiana, Illinois, and Michigan.[10/] Section 3(d) of the BHC Act provides that the Board may not approve a proposal if, after consummation, the applicant would control more than 10 percent of the total deposits of insured depository institutions in the United States.[11/] In addition, the Board may not approve a proposal if, on consummation, the applicant would control 30 percent or more of the total deposits of insured depository institutions in any state in which both the applicant and the organization to be acquired operate an insured depository institution, or such higher or lower percentage established by state law.[12/]

On consummation of the proposal, New Bank One would control approximately 3.9 percent of total deposits of insured depository institutions in the United States. New Bank One would control less than 30 percent, or the appropriate percentage established by applicable state law, of total deposits held by insured depository institutions in the states in which Banc One and First Chicago both operate an insured depository institution, including in Indiana and Illinois.[13/] All other

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[9/](...continued)
bank holding company's banking subsidiaries were principally conducted on July 1, 1996, or the date on which the company became a bank holding company, whichever is later. 12 U.S.C. § 1841(o)(4)(C).

[10/] For purposes of the Riegle-Neal Act, the Board considers a bank to be located in the states in which the bank is chartered, headquartered, or operates a branch.

[11/] 12 U.S.C. § 1842(d)(2)(A). For this purpose, insured depository institutions include all insured banks, savings banks, and savings associations.

[12/] 12 U.S.C. § 1842(d)(2)(B)-(D).

[13/] Indiana and Illinois both impose a 30-percent deposit cap. See 205 Ill. Comp. Stat. Ann. § 103/3.09(a); Ind. Code Ann. § 28-2-17-29(a). On consummation of the proposal, New Bank One would control approximately 21.3 percent of total deposits in insured depository institutions in Indiana and 14 percent of
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conditions for an interstate acquisition enumerated in section 3(d) of the BHC Act are met in this case.[14/] In view of the facts of record, the Board is permitted to approve the proposal under section 3(d) of the BHC Act.

[13/](...continued)
total deposits in insured depository institutions in Illinois.

[14/] Banc One is adequately capitalized and adequately managed, as defined by applicable law. 12 U.S.C. § 1842(d)(1)(A). In addition, First Chicago's subsidiary banks have been in existence and have continuously operated for at least the period of time required by applicable state laws. See 12 U.S.C. § 1842(d)(1)(B). The Board also contacted the relevant state banking commissioners about, and considered Banc One's compliance with, applicable state community reinvestment laws. See 12 U.S.C. § 1842(d)(3).

Competitive Factors

Section 3 of the BHC Act prohibits the Board from approving an application if the proposal would result in a monopoly, or would substantially lessen competition in any relevant banking 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.[15/]

The proposed merger of Banc One and First Chicago would combine two banking organizations that are among the largest providers of banking services in a number of banking markets in Illinois, Indiana, Michigan, Ohio, and Wisconsin. Accordingly, the Board has analyzed carefully the effect of the transaction on competition in the relevant banking markets and, in so doing, has carefully considered the public comments submitted on the competitive effects of the proposed transaction.

A number of commenters maintained that the proposed merger of Banc One and First Chicago would have significantly adverse effects on competition, especially in Illinois and Indiana, where subsidiary banks of Banc One and First Chicago compete. These commenters expressed concern that New Bank One would dominate banking markets in Illinois and Indiana and, therefore, would be able to engage in tying and other anticompetitive practices.[16/]

[15/] 12 U.S.C. § 1842(c)(1).

[16/] Many of these commenters expressed concerns about large bank mergers in general, which the commenters believed reduce competition for banking services and, thereby, result in higher fees for banking services; decreased consumer convenience and choice, particularly in urban and LMI communities; higher interest rates on loans and reduced rates on deposits; and reduced levels of small business and home mortgage lending.

Banc One and First Chicago each control a subsidiary bank in the following 16 local banking markets: Aurora, Chicago, Elgin and Rockford, in Illinois; Louisville, Kentucky; Milwaukee and Madison, in Wisconsin; and Gary-Hammond, Marion, Elkhart-Niles-South Bend, Bloomington, Corydon, Indianapolis, Lafayette, Lawrence County, and Rensselaer, in Indiana.[17/] The Board has reviewed carefully the competitive effects of the proposal in each of these banking markets in light of all the facts of record, including the characteristics of the markets and the projected increase in the concentration of total deposits in depository institutions in these

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[17/] The geographic scope of each of these local banking markets is set forth in Appendix B. One commenter questioned whether the Chicago, Illinois, banking market should be more broadly defined to include the Aurora and Elgin, Illinois, banking markets and the Gary-Hammond, Indiana, banking market or, alternatively, more narrowly defined to reflect distinctions in Chicago's local neighborhoods and suburban communities. The commenter, however, did not present any facts to support its alternative suggestions for the definition of the Chicago banking market. Another commenter expressed concern about the geographic scope of the Indianapolis banking market, again without presenting any facts to support an alternative definition. In determining the geographic scope of local banking markets, the Board considers a number of factors, including population density, worker commuting patterns (as indicated by census data), shopping patterns, 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 indicia of economic integration and the transmission of competitive forces among depository institutions that affect the pricing and availability of banking products and services. <u>See</u> <u>Crestar Bank</u>, 81 Federal Reserve Bulletin 200, 201 n.5 (1995); <u>Pennbancorp</u>, 69 Federal Reserve Bulletin 548 (1983); <u>St. Joseph Valley Bank</u>, 68 Federal Reserve Bulletin 673 (1982). The Board has considered the comments in light of all the facts of record and concludes that the Chicago and Indianapolis banking markets as defined in Appendix B are the appropriate banking markets in which to analyze the competitive effects of the proposal.

markets ("market deposits"),[18] as measured by the Herfindahl-Hirschman Index ("HHI") under the Department of Justice Merger Guidelines ("DOJ Guidelines").[19]

A. Banking Markets Without Divestitures

Consummation of the proposal, without divestitures, would be consistent with the DOJ Guidelines and prior Board precedent in ten banking markets: Chicago, Aurora, Elgin, and Rockford, in Illinois; Elkhart-Niles-South Bend, Gary-Hammond, and Marion, in Indiana; Louisville, Kentucky; and Milwaukee and Madison, in Wisconsin. After consummation of the proposal, all of these banking markets would remain unconcentrated or moderately concentrated, as measured by the HHI. Moreover, in eight of these ten markets, consummation of the proposal would increase market concentration, as measured by the HHI, by less than half of the 200-

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[18] Market share data are based on calculations that, except as noted below, include the deposits of thrift institutions at 50 percent. The Board previously has indicated that thrift institutions have become, or have the potential to become, significant competitors of commercial banks. See, e.g., Midwest Financial Group, 75 Federal Reserve Bulletin 386 (1989); National City Corporation, 70 Federal Reserve Bulletin 743 (1984). Thus, the Board 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).

[19] Under the DOJ Guidelines, 49 Federal Register 26,823 (1984), a market is considered unconcentrated if the post-merger HHI is less than 1000, moderately concentrated if the post-merger HHI is between 1000 and 1800, and highly concentrated if the post-merger HHI is more than 1800. The DOJ has informed the Board that a bank merger or acquisition generally will not be challenged (in the absence of other facts indicating anti-competitive effects) unless the post-merger HHI is at least 1800 and the merger increases the HHI by more than 200 points. The DOJ has stated that the higher than normal HHI thresholds for screening bank mergers for anti-competitive effects implicitly recognize the competitive effect of limited-purpose lenders and other non-depository financial institutions.

point threshold in the DOJ Guidelines.[20] Numerous competitors would remain in each of the ten markets after consummation of the proposal.

B. Banking Markets With Proposed Divestitures

Consummation of the proposal would exceed DOJ Guidelines in the remaining six banking markets in which Banc One and First Chicago compete, all in Indiana. To mitigate the anticompetitive effects of the proposal in these six Indiana banking markets, Banc One has committed to divest 39 branches, which account for approximately $1.47 billion in deposits and represent approximately 18.1 percent of the total deposits controlled in Indiana by First Chicago.[21] After accounting for the proposed divestitures, consummation of the proposal would be consistent with the DOJ Guidelines and prior Board precedents in four of the Indiana banking markets: Bloomington, Corydon, Lawrence County, and Rensselaer. These markets are

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[20] In the two banking markets in this category in which the increase in the HHI resulting from the proposal would exceed 200 points, which are the Gary-Hammond, and the Marion, Indiana banking markets, both markets would remain moderately concentrated following consummation of the proposal, with post-merger HHIs of less than 1800. See Appendix C.

[21] With respect to each market in which Banc One has committed to divest offices to mitigate the anticompetitive effects of the proposal, Banc One 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. Banc One 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 will instruct the trustee to sell the branches promptly to one or more alternative purchasers acceptable to the Board. See BankAmerica Corporation, 78 Federal Reserve Bulletin 338 (1992); United New Mexico Financial Corporation, 77 Federal Reserve Bulletin 484 (1991).

discussed in Appendix D. Numerous competitors would remain in each market after consummation of the proposal.[22/]

Indianapolis. Consummation of the proposal in the Indianapolis banking market would exceed the DOJ Guidelines after accounting for the proposed divestitures. Banc One is the largest depository institution in the Indianapolis banking market, controlling \$3.5 billion in deposits, representing approximately 21.4 percent of market deposits. First Chicago is the third largest depository institution in the market, controlling \$3 billion in deposits, representing 19.9 percent of market deposits.

Banc One proposes to divest 25 branches with deposits of approximately \$890 million in the Indianapolis banking market to a banking organization that does not currently have a presence in the market. On consummation of the proposal and after divestitures, New Bank One would remain the largest depository institution in the market, controlling \$5.8 billion in deposits, representing approximately 35.6 percent of market deposits.

In considering the competitive effects of the proposal, the Board has evaluated the competition provided by savings associations in the Indianapolis banking market and has concluded that the deposits controlled by three of the eleven

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[22/] Commenters expressed concerns about the number of branches that would be divested by Banc One and expressed the view that the amount of divestitures initially proposed by Banc One was too small and did not include all affected markets.

savings associations that compete in the market should be weighted at 100 percent.[23/] In this light, the post-merger HHI would increase by 441 points to 1881.[24/]

The Board believes that several factors mitigate the potential adverse effects that may result from the proposal in the Indianapolis banking market.[25/] The market has characteristics that make it attractive for entry. Indianapolis is the largest banking market in Indiana and the 35th largest Metropolitan Statistical Area ("MSA") in the United States.[26/] The population of the Indianapolis MSA increased by approximately 9 percent from 1990 to 1997, more than almost all other MSAs in Indiana and more than the national average. Other measures indicate economic

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23/ 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, e.g., Banknorth Groups, Inc., 73 Federal Reserve Bulletin 703 (1989). In the Indianapolis banking market, each of the three savings associations maintain over 7 percent of their assets in commercial loans, compared to the national average for thrifts of 1.7 percent. The Board included two of these thrifts at a 100-percent weight in another recent case. See National City Corporation, 84 Federal Reserve Bulletin 281 (1998).

24/ Banc One's nationwide mortgage escrow deposits were not included in the calculations of concentration; $290 million of escrow deposits are being transferred to Homeside Lending, Jacksonville, Florida, as part of Banc One's agreement to sell its mortgage servicing operations to Homeside Lending. Deposit data also have been adjusted to account for three recent unrelated branch sales by Banc One in the Indianapolis banking market.

25/ 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. First Union Corporation, 84 Federal Reserve Bulletin 489 (1998); NationsBank Corporation, 84 Federal Reserve Bulletin 129 (1998).

26/ The Indianapolis MSA is a slightly larger geographic area than the Indianapolis banking market.

growth in the banking market. Since 1990, the number of jobs in the MSA has increased by 106,000, or approximately 15 percent. Per capita income in Indianapolis, which is greater than any other MSA in Indiana, has increased on average 6.7 percent over the last ten years, which is more than the national average.

Recent entries by depository institutions appear to confirm that the Indianapolis banking market is attractive for entry by depository institutions. Since 1996, five depository institutions have entered the Indianapolis banking market de novo. In addition, since June 1997, depository institutions that currently compete in the Indianapolis banking market with Banc One and First Chicago have opened or announced plans to open 29 new branches in the banking market.

The proposed divestiture of approximately 5.8 percent of market deposits to an out-of-market commercial banking organization would create another market entrant, and the number of depository institutions competing in the market would remain unchanged. The purchaser of the divested branches also would immediately become the fourth largest competitor in the market and would have sufficient assets and offices immediately to be an effective competitor to New Bank One.

In addition, after consummation of the proposal, 42 bank and savings association competitors would remain in the market, including at least four large multistate banking organizations, other than New Bank One. These large multistate bank holding companies would control at least 31.3 percent of market deposits and operate 163 branches in the Indianapolis banking market.[27/]

[27/] One commenter expressed concerns about the method by which the Board determines the appropriate levels of divestitures and the Board's use of mitigating factors. The commenter presented an alternative approach to assessing the competitive effects of the merger proposal, which the commenter has presented to

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Lafayette. Consummation of the proposal in the Lafayette banking market also would exceed the DOJ Guidelines after accounting for the proposed divestitures. In the Lafayette banking market, Banc One is the largest depository institution in the market, controlling deposits of $510.8 million, representing 32 percent of market deposits. First Chicago is the second largest depository institution in the market, controlling deposits of $408.8 million, representing 25.6 percent of market deposits. Banc One will divest seven branches with deposits of approximately $286 million in the Lafayette banking market to an out-of-market competitor. On consummation of the proposal, and after accounting for the proposed divestitures, Banc One would remain the largest depository institution in the market, controlling deposits of $633.6 million, representing 39.7 percent of market deposits. The HHI would increase by 217 points to 2306.

Several factors mitigate the potential adverse effects that may result from the proposal. After the proposed sale of the branches to an out-of-market competitor, eleven competitors would remain in the market. The acquiror of the divested branches would become the second largest depository institution in the market, controlling 17.9 percent of market deposits and, therefore, an effective competitor to New Bank One. In addition, another competitor in the market would control more than 16 percent of market deposits. Since 1996, one banking organization has entered the market de novo, indicating that the Lafayette banking market is attractive for entry.

[27/](...continued)
the Board in other merger proposals. For the reasons previously stated by the Board, the Board concludes that its current approach provides a more complete economic analysis of the competitive effects in a local banking market than the approach suggested by the commenter. See NationsBank Corporation, 84 Federal Reserve Bulletin 129 (1998).

C. View of Other Agencies and Conclusion

The DOJ has conducted a detailed review of the proposal and advised the Board that, in light of the proposed divestitures, 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 been afforded an opportunity to comment and have not objected to consummation of the proposal.

After carefully reviewing all the facts of record, including public comments on the competitive effects of the proposal, and for the reasons discussed in this order and appendices, the Board concludes 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 any of the 16 banking markets in which Banc One and First Chicago both compete, or in any other relevant banking market. Accordingly, based on all the facts of record and subject to completion of the proposed divestitures, the Board has determined that competitive factors are consistent with approval of the proposal.

Financial, Managerial, and Other Supervisory Factors

The Board has carefully considered the financial and managerial resources and future prospects of Banc One, First Chicago, and their respective subsidiary banks, and other supervisory factors in light of all the facts of record. In considering the financial and managerial factors, the Board has reviewed relevant reports of examination and other information prepared by the supervising Reserve Banks and other federal financial supervisory agencies. The Board also has reviewed information on the programs that Banc One and First Chicago have implemented to prepare their systems for the Year 2000, including confidential examination and supervisory information assessing the efforts of the two banking organizations to ensure Year 2000 readiness, both before and after the proposed transaction. As part of this review, the Board has considered concerns expressed by commenters about the financial and managerial resources of the bank holding companies and banks involved in the proposal.[28] Commenters also expressed concerns about the process by which the two organizations would integrate their operations.[29]

In evaluating financial factors in expansion proposals by bank holding companies, the Board consistently has considered capital adequacy to be an especially important factor.[30] The Board notes that Banc One and First Chicago and their subsidiary banks are well capitalized and would remain so on consummation of the proposal. Both institutions have reported strong earnings. The Board has considered that the proposed merger is structured as a stock-for-stock transaction and would not increase the debt service requirements of the combined company.

The Board also has considered the managerial resources of the entities involved and the proposed combined organization. Banc One, First Chicago, and their subsidiary depository institutions currently are well managed, with appropriate risk management processes in place. Senior management of New Bank One would draw from the senior executives of Banc One and First Chicago, based on the

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[28] Commenters questioned whether New Bank One, in light of its asset size and geographic scope of operations, would present special risks to the federal deposit insurance funds or the financial system in general. Commenters also expressed concerns about merger-related costs and its effects on the new bank holding company and about the Year 2000 readiness of New Bank One.

[29] Several commenters alleged that Banc One has had difficulty implementing smaller acquisitions and questioned whether the organization had adequate managerial and financial resources to undertake a transaction of this size.

[30] See, e.g., NationsBank Corporation, 84 Federal Reserve Bulletin ___ (Order dated August 17, 1998); Chemical Banking Corporation, 82 Federal Reserve Bulletin 230 (1996).

individual management strengths of each company.[31] Senior executives of the two companies also would form a transition team to manage and plan the integration of the bank holding companies and their subsidiaries. Banc One and First Chicago have past experience with merger transactions and have indicated that they are devoting significant resources to address all aspects of the merger process.

In addition, the Board has considered other aspects of the financial condition and managerial resources of the two organizations, including the Board's extensive supervisory experience with Banc One and First Chicago, plans for integration of the two companies, plans for achieving Year 2000 readiness, and records of compliance with relevant banking laws. Based on all the facts of record, including a careful review of the comments received, the Board concludes that

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[31] A number of commenters expressed concerns about hiring and employment practices at Banc One and alleged that there is a lack of ethnic diversity on the boards of directors and among the executives and lending officers of the two banking organizations. Several of these commenters also noted that Banc One settled a claim with the Department of Labor concerning alleged discriminatory employment practices, and the commenters expressed concern that New Bank One could face similar employment problems. Other commenters expressed concerns about certain employment discrimination claims pending against Banc One. The Board notes that the racial and gender composition of the management of a banking organization are not factors that the Board is permitted to consider under the BHC Act. The Board also notes that the Equal Employment Opportunity Commission has jurisdiction to determine whether banking organizations such as Banc One and First Chicago are in compliance with federal equal employment opportunity statutes. See 41 C.F.R. 60-1.7(a) and 60-1.40.

Two commenters alleged that senior executives of Banc One engaged in fraudulent activities that violated the federal securities laws. Banc One denied these claims, many of which are the subject of pending litigation. The Securities and Exchange Commission ("SEC") has statutory jurisdiction to investigate and remedy violations of federal securities laws, and the Board is not authorized under the BHC Act to adjudicate disputes that arise under federal securities laws. A copy of the comments has been provided to the SEC.

considerations relating to the financial and managerial resources and future prospects of Banc One, First Chicago, 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.[32/]

Convenience and Needs Considerations

The BHC Act requires the Board to consider the convenience and needs of the communities to be served in connection with its review of proposals to acquire a bank. The CRA requires the federal financial supervisory agencies to encourage financial institutions to help meet the credit needs of local communities in which they operate, consistent with their safe and sound operation, and requires the appropriate federal supervisory authority, in evaluating bank expansion proposals, to take into account an institution's record under the CRA of meeting the credit needs of its entire community, including LMI neighborhoods. The Board has carefully considered the convenience and needs factor and the CRA performance records of the subsidiary depository institutions of Banc One and First Chicago in light of all the facts of record, including public comments on the proposal.

A. Summary of Public Comments Regarding the Convenience and Needs Factor

As noted above, the Board provided an extended public comment period and convened a public meeting in Chicago to aid in the collection of information on the aspects of the proposed merger that the Board is required to consider under the BHC Act and other relevant statutes. As noted above, approximately 330 interested

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[32/] Several commenters alleged that the lack of minority representation in the management of Banc One and First Chicago has made the banking organizations unresponsive to the banking and credit needs of LMI and minority communities. The Board also considered these comments in reviewing the convenience and needs factor.

persons submitted written comments or testified at the public meeting on all aspects of the proposal and, in particular, the effect of the proposal on the convenience and needs of the affected communities and the CRA performance records of the depository institutions involved.

Approximately 180 commenters either expressed support for the proposal or commented favorably on the CRA-related activities of Banc One and First Chicago.[33/] Many commenters commended Banc One and First Chicago for providing affordable home mortgages and home improvement loans, offering financial and technical support to small businesses, sponsoring and supporting a variety of community development activities and affordable housing initiatives, and participating in a number of programs designed to assist and benefit LMI communities and individuals. The commenters praised officers and employees of Banc One and First Chicago for the service and expertise that the staff members of the two banking organizations provide to civic and community groups as board members and volunteers. Commenters also related favorable experiences with specific programs and services offered by Banc One and First Chicago.

[33/] The commenters included: (1) members of the U.S. House of Representatives and the U.S. Senate; (2) several mayors, including the mayors of Louisville, Kentucky; Columbus, Ohio; Baton Rouge, Louisiana; Milwaukee, Wisconsin; Ft. Wayne, Indiana; and Ogden, Utah; (3) a number of community groups, including the Woodstock Institute, Chicago, Illinois; Detroit Alliance for Fair Banking, Detroit, Michigan; and Chicago Rehab Network, Chicago, Illinois; (5) state and local government agencies, including the Wisconsin Housing and Economic Development Authority, Madison, Wisconsin; Colorado Housing and Finance Authority, Denver, Colorado; and the Wilmington Housing Authority, Wilmington, Delaware; (7) groups supporting the development and growth of small businesses, including the Five Points Business Association, Denver, Colorado; and the Illinois State Microenterprise Initiative, Chicago, Illinois; and (8) representatives of other community, civic, and nonprofit organizations based in Arizona, Illinois, Indiana, Kentucky, Louisiana, Michigan, Nebraska, Ohio, Oklahoma, Tennessee, Texas, Utah, and Wisconsin.

A number of state and local government agencies commented favorably on their experiences with Banc One and First Chicago. The Wisconsin Housing and Economic Development Authority ("WHEDA"), for example, commended Banc One's record of providing credit and financial assistance to LMI home buyers, farmers, and small businesses in Wisconsin. The Mayor of Milwaukee, Wisconsin, commended Banc One's leadership role in the formation and continued success of New Opportunities for Homeownership in Milwaukee ("NOHIM"), which helps individuals purchase and renovate affordable homes in Milwaukee. The Metropolitan Housing Authority of Columbus, Ohio, commended Banc One's financial and technical contributions to the city's housing redevelopment program. The Economic Development Coordinator of Rockford, Illinois, also complimented Banc One for its participation in various small business loan programs sponsored by the city and commended Banc One for supporting the Northern Illinois Minority Companies Association.

In addition, a number of community groups and private developers commended Banc One and First Chicago for providing loans, grants, and technical assistance for affordable housing projects for low-income, elderly, and disabled individuals. Several community groups also commended the records of Banc One and First Chicago for making affordable home mortgages and other housing-related loans. Other community organizations praised both banking organizations for their contributions to educating first-time home buyers.

Several private organizations supported the proposal based on the records of Banc One and First Chicago of supporting small businesses and micro-enterprises, particularly small businesses owned by women and minorities, both directly and through nonprofit financial intermediaries. In addition, comments from owners of small businesses stated that Banc One had offered credit and technical assistance when other financial institutions were unwilling to do so.

Approximately 150 commenters opposed the proposal or requested that the Board approve the merger subject to conditions suggested by the commenter.[34] These commenters either expressed general concerns regarding the effects of large merger proposals on the convenience and needs of the communities to be served or expressed specific concerns about the CRA performance records of Banc One and First Chicago.[35]

A number of the commenters opposed to the merger proposal contended that Banc One and First Chicago have inadequate records of performance under the CRA, particularly in serving the banking and credit needs of LMI and minority

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[34] The commenters included: (1) several members of the U.S. House of Representatives and the U.S. Senate; (2) several state and local government officials, including the mayors of Gary, Indiana, and Lorain, Ohio; members of the city council of Denver, Colorado; city aldermen and other elected officials from Chicago, Illinois; and state senators and representatives from Colorado, Illinois, Louisiana, and Texas; (3) Association of Community Organizations for Reform Now, Washington, D.C. ("ACORN"), and regional offices of ACORN in Chicago, Illinois; Denver, Colorado; Detroit, Michigan; Houston and Dallas, Texas; Milwaukee, Wisconsin; and New Orleans, Louisiana; (4) Inner City Press/Community on the Move, Bronx, New York; (5) Delaware Community Reinvestment Action Council, Inc., Wilmington, Delaware; (6) Coalition for Reinvestment in Lorain County, Lorain, Ohio; (7) Rural Opportunities, Inc., Alliance, Ohio; (8) Wisconsin Rural Development Center, Inc., Mt. Horeb, Wisconsin; (9) Central Illinois Organizing Project, Springfield, Illinois; and (10) representatives of other community and nonprofit organizations based in Arizona, Illinois, Indiana, Michigan, Louisiana, Ohio, Texas, Utah, Virginia, Washington, D.C., and Wisconsin.

[35] Some commenters claimed that large multistate banking organizations engage in less small business lending, relative to their size and total lending activities, than small banks. Commenters also contended that multistate bank holding companies charge higher fees for and reduce the availability of banking services by closing branches.

individuals and of census tracts with predominantly LMI and minority populations.[36/] Some commenters questioned First Chicago's and Banc One's compliance with the Equal Credit Opportunity Act (15 U.S.C. § 1691 et seq.) and the Fair Housing Act (42 U.S.C. § 3601 et seq.) (collectively, "fair lending laws") and criticized the lending and credit referral practices of Banc One's banking and nonbanking subsidiaries, including Banc One Mortgage Corporation ("BOMC") and Banc One Financial Services ("BOFS").[37/] A number of commenters also criticized the lending records of Banc One and First Chicago, as reported under the Home Mortgage Disclosure Act (12 U.S.C. § 2801 et seq.) ("HMDA").

Several commenters criticized the branch closing records of First Chicago and Banc One and expressed concerns about the plans of New Bank One to close certain branches.[38/] Particular concern was expressed that branch closings would reduce the availability of banking services to individuals in LMI and minority neighborhoods and elderly individuals.

A number of commenters expressed concern about New Bank One's CRA plans and Banc One's refusal to enter into community reinvestment agreements similar to the agreements entered into by First Chicago in Detroit and Chicago. Some

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[36/] Several commenters also expressed concern about Banc One's record of serving rural communities. Other commenters expressed concern about the organizations' records of serving Native-American populations.

[37/] Some commenters expressed concern about Banc One's settlement of certain allegations regarding fair lending law violations brought by the Department of Housing and Urban Development and the Arizona Attorney General.

[38/] Commenters criticized Banc One as being unresponsive to community concerns in closing branches in Alliance and Lorain, in Ohio, and in Woodruff Place and in other communities in Indianapolis. Commenters also expressed concern about reports that Banc One and First Chicago independently have plans to close or consolidate a number of their branches by the year 2000.

commenters contended that Banc One has not cooperated with community groups or has negotiated with community groups in bad faith. Several commenters who commended First Chicago's CRA performance because it made specific CRA agreements contended that the Board should require Banc One to enter into similar agreements covering the communities in which Banc One currently operates and should monitor and enforce New Bank One's compliance with commitments made by First Chicago.

Some commenters also expressed concern that the merger would result in the loss of local control over lending decisions, decreased levels of service, and higher banking and credit-related fees. Other commenters were concerned that the relocation of Banc One's headquarters from Columbus, Ohio, to Chicago, Illinois, would adversely affect Banc One's commitment to meeting the convenience and needs of Columbus and other Ohio communities. In addition, commenters contended that the proposal would adversely affect local communities through job losses and reduced levels of charitable contributions.[39/]

B. CRA Performance Examinations

As provided in the CRA, the Board has evaluated the convenience and needs factor in light of evaluations by the appropriate federal supervisors of the CRA performance records of the relevant institutions. An institution's most recent CRA performance evaluation is a particularly important consideration in the applications process because it represents a detailed on-site evaluation of the institution's overall

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[39/] Several commenters opposed the proposal based on unfavorable experiences with Banc One in particular loan transactions or business dealings. The Board has reviewed these comments in light of all the facts of record, including information provided by Banc One. The Board has provided copies of these comments to the appropriate federal supervisor of the subsidiary.

record of performance under the CRA by the appropriate federal financial supervisory agency.

All of Banc One's subsidiary banks received "outstanding" or "satisfactory" ratings in the most recent examinations of their CRA performance.[40/] In particular, Banc One's lead bank, Bank One, Columbus, N.A., Columbus, Ohio ("Bank One Columbus") received an "outstanding" performance rating from the OCC, as of February 1995. In addition, Bank One, Springfield, Springfield, Illinois ("Bank One Springfield"); Bank One, Indianapolis, N.A., Indianapolis, Indiana ("Bank One Indianapolis"); and Bank One Colorado all received "outstanding" ratings from their appropriate federal supervisors, as of December 1994, February 1995, and March 1997, respectively.[41/]

All of First Chicago's subsidiary banks also received "outstanding" or "satisfactory" ratings at the most recent examinations of their CRA performance. For

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[40/] Some commenters contended that the CRA performance examinations of Banc One's subsidiary banks are outdated and should be discounted by the Board. The Board notes that four of Banc One's subsidiary banks were examined in 1997: Bank One, Colorado, N.A., Denver, Colorado ("Bank One Colorado"); Bank One, Texas, N.A., Dallas, Texas ("Bank One Texas"); Bank One, Utah, N.A., Salt Lake City, Utah ("Bank One Utah"); and Bank One, West Virginia, N.A., Huntington, West Virginia ("Bank One West Virginia"). Each of the banks received an "outstanding" or "satisfactory" CRA performance rating. In addition, the Board has carefully reviewed information in the record about the CRA performance of Banc One's subsidiary banks since their last performance examinations.

[41/] After their most recent CRA performance examinations, Bank One Columbus, Bank One Springfield, and Bank One Indianapolis were merged with other Banc One banks in their home states of Ohio, Illinois, and Indiana and were renamed, respectively, Bank One, N.A., Columbus, Ohio ("Bank One Ohio"); Bank One Illinois, N.A., Springfield, Illinois ("Bank One Illinois"); and Bank One Indiana, N.A., Indianapolis, Indiana ("Bank One Indiana"). All the banks that were merged into Bank One Ohio, Bank One Illinois, and Bank One Indiana had "outstanding" or "satisfactory" CRA performance ratings.

example, First Chicago's lead subsidiary bank, First Chicago Bank, received a "satisfactory" rating at its most recent examination from the OCC, as of November 1997. NBD Bank, Detroit, Michigan ("NBD Michigan"), received an "outstanding" rating from the Federal Reserve, as of May 1996; NBD Bank, N.A., Indianapolis, Indiana ("NBD Indiana"), received an "outstanding" rating from the OCC, as of October 1995; and NBD Bank, Elkhart, Indiana, received an "outstanding" rating from the FDIC, as of July 1998.

C. CRA Policies and Programs

Banc One and First Chicago have indicated that the CRA policies and programs of New Bank One would draw on the best parts of the CRA policies and programs currently in place at the two institutions and that New Bank One would seek to expand the combined customer base served by the two banking organizations. Banc One has stated, for example, that it expects to expand the products and services offered to small businesses in the communities currently served by First Chicago and, in particular, that it expects New Bank One to introduce a variety of small business financing programs, including loan programs subsidized and guaranteed by the Small Business Administration ("SBA") to markets where First Chicago currently operates.

Banc One has committed that New Bank One will continue to offer products to assist in meeting the credit needs of LMI home buyers and would continue to participate in programs that offer financial and technical assistance to first-time home buyers. Banc One also has stated that New Bank One will pursue opportunities to finance affordable rental housing through construction, temporary, and equity financing in all the banking markets where the combined organization operates. New Bank One also will use innovative financing for low-income, multi-family housing projects and provide philanthropic grants to community-based organizations that support housing for individuals with special needs. In addition, New Bank One will participate in government-sponsored programs that finance affordable housing projects.

Banc One also has stated that New Bank One will offer basic banking accounts at affordable prices. New Bank One will, for example, cash government benefit checks for accountholders at no charge and will encourage recipients of government benefits to open accounts and to use direct-deposit services. Banc One currently offers a no-fee banking account for individuals who have government benefits checks deposited directly into their accounts. New Bank One also will support efforts to educate LMI consumers about affordable banking services.

New Bank One will continue to employ CRA officers to assist in effectively addressing community needs. Banc One also has stated that New Bank One also will support "outreach" programs that complement traditional mortgage and consumer lending. In addition, New Bank One would support educational initiatives that teach principles of financial management.

Banc One has noted that the community reinvestment strategies of Banc One and First Chicago currently emphasize the particular needs and opportunities in each community in which each banking organization operates. Banc One has stated that New Bank One will continue to focus locally in conducting community development and in other activities designed to assist in meeting the needs of the communities it serves.

Banc One also has emphasized that the decision to locate the corporate headquarters of New Bank One in Chicago would not reduce the CRA-related activities conducted in Ohio, where Banc One's corporate headquarters currently are located. Banc One notes that lending and retail banking service delivery decisions are not made at corporate holding company levels and will be unaffected by the location of the corporate headquarters.

Banc One and First Chicago have well-established CRA policies and programs that serve the credit and banking needs of their communities. The Board expects that New Bank One will implement policies and programs that help to address the credit and banking needs of local communities, including LMI neighborhoods.

D. Banc One's CRA Performance Record

Overview. Banc One recently initiated a comprehensive reorganization effort, entitled Project One, that standardized its product offerings, services, and marketing programs. Banc One maintains that Project One enhances its ability to meet the needs of all the communities that it serves.[42] Banc One also has stated that CRA officers of its subsidiary banks will continue to be responsible for understanding the needs of individual communities and developing appropriate community development strategies.

Banc One has been an active small business lender and, in 1996, Banc One made approximately $5 billion in small business loans. In 1997, Banc One's small business lending increased to approximately $7.5 billion. Banc One represents that, in both years, 80 percent of these small business loans were in amounts of less than $100,000, and that more than 25 percent of its small business loans were made in LMI communities. The growth in Banc One's small business lending is due, in part, to Banc One's business outreach program. In 1997, Banc One's lending officers contacted more than 6,500 small businesses each month. Through its Women

[42] Several commenters expressed concern about the ability of Banc One to address the specific needs of local communities in light of this initiative. Banc One has stated that its centralized structure allows it to accumulate its experience with a product or service in a wide variety of circumstances in order to make the product or service more accessible to all communities served. Banc One also has represented that certain lending decisions and charitable contributions and other aspects of Banc One's CRA program will continue to be conducted at the local level.

Entrepreneurs Initiative, Banc One contacted more than 8,000 businesses owned by women in 1997.

In addition to its direct lending to small businesses, Banc One has made investments in and provided financial support to a variety of programs and nonprofit financial intermediaries that assist small and emerging companies. From 1996 through June 1998, Banc One has made loans and investments totaling approximately $10 million to small business funds in seven states.

Banc One offers mortgage loans primarily through BOMC.[43/] BOMC offers a range of affordable housing products, participates in a number of down-payment assistance programs, and offers certain loans that feature flexible underwriting and lower closing costs for real property renovation. Banc One's Consumer Lending Division ("CLD") makes home equity and consumer installment loans. Banc One reports that, in 1997, its CLD made more than 131,000 home equity loans, totaling $4.8 billion, and almost 12 percent of the loans were to LMI borrowers. Banc One also has an "Outreach Program" to serve LMI individuals. Under the program, Banc One representatives visit community and neighborhood centers at scheduled times to offer affordable credit and banking products, including low-cost basic account services and secured credit cards.

[43/] A number of commenters expressed concern that mortgage lending would not represent a significant line of business for the New Bank One. Banc One stated at the public meeting that New Bank One would continue to originate mortgage loans. Banc One also noted that it recently formed a partnership with the Federal National Mortgage Association ("Fannie Mae") and other lenders to originate 35,000 affordable mortgages to low-income and minority home buyers over the next five years. The Board notes that the CRA does not require an institution to offer any specific credit products but allows an institution to help serve the credit needs of the institution's community by providing credit of the types consistent with the institution's overall business strategy and expertise.

Banc One Capital Funding Corporation ("Capital Funding Corp.") has funded numerous multifamily housing projects. Banc One reports that, in 1996 and 1997, Capital Funding Corp. provided more than $40 million in financing to affordable multifamily housing developments.[44] Capital Funding Corp.'s financial support resulted in more than 1,600 new affordable housing units.

Banc One Community Development Corporation ("Banc One CDC") also makes investments and loans for a variety of housing, community development, and small business development projects. The loan and investment commitments made by Banc One CDC totalled approximately $280 million for almost 200 projects.

Lending Record in General. CRA performance examinations of Banc One's subsidiary banks conducted by the appropriate federal supervisory agencies generally found that each bank offered a full range of consumer, housing-related, and small business loans, including loan products with flexible credit terms and underwriting guidelines. Examiners found that the banks effectively identified the credit needs of their service communities and affirmatively solicited loan applications from all segments of their communities, including LMI neighborhoods.

The examinations generally indicated that the banks' lending activities reached LMI individuals and that the loans made by Banc One's subsidiary banks were reasonably distributed throughout the local communities they served, including LMI communities. Examiners also found that the banks participated in lending programs designed to make credit available for affordable housing and small

[44] Capital Funding Corp., for example, invested $1.5 million in a 40-unit housing project that provides housing for LMI senior citizens in Milwaukee, Wisconsin. In addition, Banc One provided construction financing for the housing project.

businesses. In addition, all of Banc One's banks offered community development lending, investment, and technical assistance.[45/]

Ohio. According to the CRA performance examinations, Banc One's subsidiary banks in Ohio, which were consolidated to form Bank One Ohio, developed programs to identify the credit needs of their delineated communities and responded to those needs through a wide variety of credit products and banking services. The banks also generally had a significant volume of consumer, home-related, and small business loans in all segments of their communities. For example, the CRA performance examination states that, in 1994, Bank One Columbus had more than 3,700 small business credit relationships and made small business loans totaling more than $243 million in the Columbus area. Since the most recent CRA examinations, Banc One's banks originated more than 1,950 small business loans in the Cleveland, Ohio, MSA, totaling $165 million, and more than 16 percent of the loans were made in LMI communities.

The record also indicates that Banc One and its affiliates originated more than 12,000 small business loans, totaling over $1.1 billion, throughout Ohio in 1996. Approximately 22 percent of these loans were made in LMI census tracts. In

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[45/] A few commenters expressed particular concern regarding the CRA performance record of Banc One's subsidiary credit card bank, First USA Bank, Wilmington, Delaware ("First USA"). First USA was not acquired by Banc One until May 1997. First USA received a "satisfactory" rating in its last CRA performance examination in August 1996, before its acquisition by Banc One. Banc One has implemented several CRA-related programs and investments at First USA since its acquisition, including purchasing a $10.5 million portfolio of mortgage loans to LMI borrowers; exploring various partnership opportunities with the Wilmington Housing Authority; and making $600,000 in investments to certain loan pools that provide financing for community and housing development. In addition, in July 1998, First USA and its Banc One affiliates were selected by one of Delaware's largest social services organizations to provide equity financing for the rehabilitation of two buildings that will provide affordable housing for mentally disabled individuals.

addition, the SBA's district offices in Cleveland and Columbus designated Bank One Ohio as the number one SBA lender in 1997. In the Cleveland SBA district, Bank One Ohio made 140 SBA loans, totaling $15.4 million, and in the Columbus SBA district, the bank made 224 SBA loans, totaling $34.6 million.

The CRA performance examinations indicate that Banc One's subsidiary banks in Ohio, in conjunction with BOMC, generally offered a range of loans for affordable housing and home improvements. For example, Bank One Columbus introduced an affordable mortgage product with lower payments and flexible debt-to-income limits and, in 1994, Bank One Columbus originated 182 affordable mortgages, totaling $8.9 million, in its assessment area. Bank One Columbus outperformed competitors in originations of home improvement loans, particularly in LMI and minority census tracts, according to its CRA performance examination. Examiners also noted that Bank One, Akron, N.A., Akron, Ohio, established an "Own a Home" Loan program to provide affordable mortgage and home-related loan financing. In 1994, the bank originated more than 350 "Own a Home" Loans, totaling more than $15 million.

Examiners noted that Bank One Columbus played an active role in making loans that were insured, guaranteed, or subsidized under programs by local, state, and federal governmental agencies for families, small businesses, and small farms. In 1994, Bank One Columbus participated in government-sponsored loans totaling more than $24 million. The bank originated $1.2 million in loans through the Ohio Agricultural Linked Deposit program, a program that offers loans of less than $100,000 to full-time farmers. The bank also participated in a similar state program for small businesses, originating 16 loans totaling approximately $2.3 million in 1994. Examiners noted that Bank One, Cleveland, N.A., Cleveland, Ohio, participated in several government loan programs, including a home buyer down-payment assistance program with the City of Cleveland that originated 59 mortgage loans, totaling $127,000, through the first nine months of 1994.

Banc One's Capital Funding Corp. also financed a number of multifamily housing projects in Ohio in 1996 and 1997. In the Dayton-Springfield, Ohio, MSA, for example, Capital Funding Corp. originated more than $8.9 million for housing projects in 1996 and 1997 that provided more than 350 housing units. In the Columbus, Ohio, MSA, Capital Funding Corp. originated more than $3.9 million for housing projects in the same two years that provided more than 210 housing units.

The record also shows that Bank One Ohio has entered into partnerships with a number of community-based organizations. Banc One reports that, in 1996 and 1997, Bank One Ohio invested approximately $4.2 million in community-based, CRA-related initiatives.

Indiana. Examiners concluded that Bank One's subsidiary banks in Indiana, which were consolidated to form Bank One Indiana, generally offered loan products to meet the important credit needs of the communities they served. For example, Bank One Indianapolis, in conjunction with BOMC, offered several affordable home mortgage and home improvement loan programs. The CRA performance examination indicates that the bank made 435 loans, totaling $22.4 million, under these affordable home lending programs in 1994. Since the most recent CRA examinations, Bank One Indiana and its affiliates originated approximately 150 mortgage and more than 740 home improvement loans to LMI families in 1997.

Banc One's subsidiary banks in Indiana generally have been active small business lenders. During 1994, Bank One Indianapolis made more than 620 small business loans, totaling $25.8 million. In Indiana, Banc One developed the Banc One Business Line of Credit ("BOBLOC"), a low-cost credit line for small businesses generally seeking less than $250,000. By the end of 1994, Bank One Indianapolis had made $3.3 million in loans under the BOBLOC program. In 1995, Bank One Marion, N.A., Marion, Indiana, originated 11 loans under the BOBLOC program, totaling $1.3 million. Banc One and its subsidiaries also have invested more than $200,000 in and provided a $1.8 million line of credit to the Indiana Community Business Credit Corporation, which provides financing to small businesses in Indiana.

Examiners commended Bank One Indianapolis for participating in governmentally insured, guaranteed, and subsidized loan programs. Examiners noted that Bank One Indianapolis was the second largest provider of SBA loans in Indiana and within the Indianapolis MSA. According to the CRA performance examination, Bank One Indianapolis made more than 20 SBA loans totaling $5.3 million in 1994. The bank also made seven loans, totaling $235,000, under a small business loan program established by the Indiana Development Finance Authority in 1994. Since the most recent CRA examinations, Banc One's subsidiaries in Indiana made more than 150 government-sponsored small business loans in 1996 and 1997, totaling more than $14 million.

Since the CRA examinations, Bank One Indiana also has actively engaged in extending credit to LMI consumers and in LMI neighborhoods. During 1997, for example, the bank and its affiliates originated more than 12,000 consumer loans, totaling more than $100 million, to consumers residing in LMI census tracts in the Indianapolis banking market.

Illinois. The record indicates that Bank One Illinois, which was formed through the consolidation of Banc One's subsidiary banks in Illinois, offers a variety of credit products to serve all its communities, including LMI communities. For example, in 1997, Bank One Illinois originated more than 2,000 consumer loans, totaling more than $15 million, in LMI census tracts. Examiners also noted that Banc

One's banks in Illinois have demonstrated a willingness to meet the credit needs of the communities they serve. The CRA performance examinations of Banc One's subsidiary banks in Illinois generally indicated that these depository institutions originated loans consistent with the credit needs of their delineated service communities.

Banc One states that Bank One Illinois, in conjunction with BOMC, offers more than 55 different home purchase mortgage products, including affordable mortgage products. Banc One's subsidiary banks in Illinois also generally have been active in pursuing opportunities to finance affordable housing needs in their service communities. The CRA performance examination of Bank One Preoria, Preoria, Illinois, noted that, in 1993 and 1994, the bank made 51 mortgages, totaling $1.74 million, under its Affordable Housing Program, which offers financial assistance to first-time and LMI home buyers. Similarly, Bank One, Chicago, N.A., Chicago, Illinois, originated $2.1 million in affordable home purchase loans in 1994 and 1995.

Bank One Illinois and its affiliates have participated in government-sponsored small business loan programs since the last CRA examinations of Banc One's banks in Illinois. Banc One reports that, in 1996 and 1997, Bank One Illinois and its affiliates originated 49 government-sponsored small business loans, totaling more than $5 million.

In 1997, Bank One Illinois made $37.6 million in small business loans in Chicago. The bank also originated a significant volume of small business loans in MSAs outside Chicago. In 1997, Bank One Illinois made 333 small business loans in Springfield, totaling $28 million, and 241 small business loans in Champaign-Urbana, totaling $11.4 million.

Colorado. Examiners commended Bank One Colorado for its efforts to address the credit needs of its service communities through residential mortgage, home rehabilitation, home improvement, consumer, small business, and farm loans. Examiners highlighted, for example, the bank's small business lending efforts, noting that Bank One Colorado originated $248 million in small business loans in 1996. Examiners also commended the bank's small business lending in LMI communities. In 1996, 37 percent of its small business loans were made in LMI areas, which compares favorably to the 32 percent of the population that lives in LMI census tracts. According to the CRA performance examination, Bank One Colorado also won an award from the SBA for its strong commitment to lending, service, and outreach to minority-owned small businesses. Since the examination, Bank One Colorado has originated 45 loans, totaling $2.3 million, under the SBA "Fa$tTrack" program for loans of less than $100,000. Bank One Colorado was one of only 18 banks nationwide that originally offered Fa$tTrack as a pilot program.

Examiners found that Bank One Colorado had agricultural loans totaling $96 million on its books as of December 31, 1996. Examiners also stated that Bank One Colorado had more agricultural loans on its books than any other local competitor.

According to the CRA performance examination, Bank One Colorado's mortgage, consumer, and small business loan originations were well distributed throughout the bank's communities. Examiners stated, for example, that the bank was the leading home improvement lender in its communities, originating 11.9 percent of all home improvement loans, and that Bank One Colorado ranked second in home improvement lending to LMI individuals, originating 10.2 percent of all home improvement loans to LMI individuals.

Examiners also commended Bank One Colorado for providing technical assistance to individuals and small businesses. The bank, for example, participated in a partnership with the Urban League and Fannie Mae to provide home buyer seminars and one-on-one counseling to prospective home buyers in Denver. The bank also participated in numerous conferences for small businesses and sponsored many community events to promote and advertise its products and services.

Louisiana. Examiners noted that the volume of mortgage, home improvement, small business and small farm lending conducted by Bank One, Louisiana, N.A., Baton Rouge, Louisiana ("Bank One Louisiana"), demonstrated responsiveness to the credit needs of the bank's communities. The bank solicited credit applications and extended credit throughout its service area, including LMI communities. The bank, moreover, had marketing programs that focused on minority and LMI communities.

Examiners commended Bank One Louisiana for introducing innovative products and employing flexible underwriting standards to increase the availability of credit. In 1994, for example, Bank One Louisiana developed the Foundations Affordable Housing Program ("Foundations"), which offers 95 percent financing of home purchases and home refinancings to individuals on their completion of a home buyer training class. From January 1994 through June 1996, Bank One Louisiana originated over $12 million in Foundations loans.

From June 30, 1995 to June 30, 1996, Bank One Louisiana originated more than 5,600 small business loans totaling $141 million and approximately 400 small farm loans totaling $10 million. The bank also has introduced a "BusinessLine" product to help provide working capital to small businesses. In addition, the bank provides technical and educational programs to small businesses and businesses owned by minorities and women throughout its communities.[46/]

[46/] Some commenters expressed concern that the lending record of Bank One Louisiana had deteriorated since Banc One acquired the depository institution from Premier Bancorp in 1995. Banc One represents that since the bank's acquisition,

(continued...)

Texas. According to the performance examination conducted by the OCC, Bank One Texas effectively made its credit services available to all segments of its community. Bank One Texas made a significant number of mortgage, home improvement, consumer, credit card, and small business loans in 1996 and 1997, and examiners generally noted that the geographic distribution of the bank's loans throughout its service communities was good. Examiners noted, for example, that 36 percent of the businesses in the service area were in LMI census tracts and that 34 percent of the small business loans were made by Bank One Texas to businesses in LMI census tracts.

Banc One represents that the efforts of Bank One Texas to extend credit to all segments of its service communities has continued since the examination. In 1997, for example, Bank One Texas originated more than 18,000 consumer loans, totaling $131 million, in LMI communities in the Houston MSA.

In 1996 and the first quarter of 1997, Bank One Texas and BOMC made more than 5,300 home purchase mortgage loans totaling $303 million. The bank and BOMC offered home mortgage products with flexible underwriting criteria, including loan-to-value ratios exceeding 95 percent, higher debt-to-income ratios, and non-traditional credit histories. In addition, Bank One Texas offered financial education to first-time home buyers. The bank also originated more than 10,800 home improvement loans totaling approximately $198 million.

[46/](...continued)
Bank One Louisiana has increased the number of loans made to LMI and minority individuals. In 1996, for example, Bank One Louisiana made more purchase money mortgage loans to LMI African Americans than Premier's subsidiary bank made in 1995. In addition, the number of consumer and small business loans made by Bank One Louisiana and its affiliates in LMI census tracts increased in 1997, compared with 1996 data.

In 1996 and the first quarter of 1997, Bank One Texas made 107 community development loans totaling $72 million. Of this total, 71 loans were for affordable housing projects and 36 loans to promote the development of small businesses. In addition, Banc One states Bank One Texas has established partnerships with over 50 community-based organizations to serve the needs of LMI communities.

Wisconsin. Examiners generally concluded that Banc One's subsidiary banks in Wisconsin, which were merged after the date of their examinations to form Bank One, Wisconsin, N.A., Milwaukee, Wisconsin ("Bank One Wisconsin"), offered various credit products to address the credit needs of the communities served. Bank One, Milwaukee, N.A., Milwaukee, Wisconsin ("Bank One Milwaukee"), for example, introduced the "American Dream" mortgage program, which features flexible underwriting guidelines and low down-payment requirements. From its introduction in 1993 to the end of 1994, the bank originated 92 "American Dream" loans totaling $5 million. The CRA performance examination also noted that Bank One Milwaukee participated in a program to offer low-interest loans for the purpose of making homes more energy efficient. The bank originated more than 60 of these home improvement loans in 1994, totaling $192,000.

Examiners noted that Bank One Milwaukee developed a marketing program designed to reach all segments of the communities it serves, including LMI areas. As part of the program, the bank's consumer lending division conducted a mailing to residents of LMI communities in the bank's service area, which resulted in 305 new loans. Since the most recent CRA examinations, Bank One Wisconsin made more than 4,000 consumer loans in 1997, totaling more than $33 million, to residents in LMI census tracts.

Examiners generally commended Bank One's subsidiary banks in Wisconsin for being active small business lenders. The record indicates that, since the CRA examinations, Banc One's subsidiary banks have continued to make small business loans. In 1996, Bank One Wisconsin extended more than 1,700 loans to small businesses in the Milwaukee MSA, and more than 170 of the loans were made to small businesses in LMI census tracts. In 1997, Bank One Wisconsin made more than 240 small business loans in LMI census tracts.

Bank One's banks in Wisconsin also have used government and other credit enhancement programs to assist small businesses. The CRA performance examination noted that Bank One Milwaukee participated in Milwaukee's Capital Access Program to address the credit needs of higher-risk businesses. Under the program, the bank originated 17 loans in 1993 and 1994, totaling more than $320,000. Similarly, according to its CRA performance examination, Bank One Green Bay, Green Bay, Wisconsin, also was an active participant in several government guaranteed and sponsored loans.

Bank One Milwaukee participated in numerous local community development and redevelopment projects and programs. In 1994, the bank made a $1.4 million loan for the rehabilitation of commercial office space in downtown Milwaukee. The bank also lent $232,000 to the Northwest Side Community Development Corporation to purchase and renovate a building to house an alternative high school that trains students for jobs with industrial firms. In addition, Banc One states that Bank One Wisconsin has provided philanthropic support to 41 organizations serving the needs of LMI individuals and communities.

Banc One's subsidiaries in Wisconsin have been actively engaged in meeting the affordable housing needs of LMI communities. In Milwaukee, Banc One's subsidiaries are active participants in NOHIM, a public-private partnership with the city of Milwaukee that assists LMI families in purchasing homes. Bank One Wisconsin and Banc One CDC also have developed a joint venture with WHEDA in which WHEDA will originate and Banc One CDC will fund permanent, fixed-rate loans of up to $2.5 million for low-income housing tax credit projects throughout Wisconsin. The funds primarily will be used in rural Wisconsin, and Banc One represents that, of the nine projects under consideration, seven are located in rural counties.

Since their CRA examinations, Banc One's subsidiaries have attempted to meet the credit needs of rural communities and small farms. In 1996 and 1997, for example, Bank One Wisconsin and its affiliates originated nine Farm Service Administration loans, totaling $972,000, according to Banc One. In addition, Banc One notes that Bank One Wisconsin originated 81 SBA loans in 1996 and 1997, and that 22 percent of the businesses receiving the loans were in rural counties. During the Board's public meeting, a representative of WHEDA noted that Bank One Wisconsin made 133 agricultural production loan guarantees, totaling $1.7 million, and two beginning farmer loans, totaling $288,000.[47/]

E. First Chicago's CRA Performance Record

Overview. First Chicago oversees and manages its community development programs through its Community Affairs/CRA Coordinating Council ("CRA Council"). First Chicago represents that the CRA Council combines corporate-level oversight with local-level decision making to assure efficient deployment of First Chicago's resources to support its communities.

[47/] WHEDA also noted that many of the loans made by Bank One Wisconsin in conjunction with WHEDA are not reported in the bank's HMDA data and that the HMDA data for Bank One Wisconsin, accordingly, understate the bank's lending.

First Chicago provides a range of affordable home mortgage and small business lending products in the communities it serves. The banking organization participates in numerous flexible financing programs for affordable housing, including state-based and neighborhood initiatives. In addition, First Chicago supports a variety of micro-enterprise programs and participates in various small business credit enhancement programs.

First Chicago also has a strong record of participating in community development projects. In 1997, for example, First Chicago originated 64 loans, totaling $30 million, for affordable housing projects and made 48 loans, totaling more than $57 million, for economic development purposes. Examples of its community development initiatives include providing pre-development and construction financing and $3.5 million for mortgage financing for a re-development project in a LMI community in downtown Detroit; providing construction financing for a single-family subdivision containing 170 lots in Flint, Michigan; and rehabilitating two low-income housing projects in Chicago containing 380 units.

Lending Record in General. Examiners generally determined that loan originations by First Chicago's subsidiary banks were reasonably distributed throughout their communities, including LMI communities. The banks generally met the identified credit needs of their communities through a variety of loan products, including affordable mortgage financing and small business lending.

Examiners also generally commended First Chicago subsidiary banks for using innovative and flexible loan products to serve their communities.
First Chicago's subsidiary banks initiated the "Community Pride" loan program under which low-income borrowers can obtain loans in amounts as small as $500 for purposes such as home improvements. Through the first three quarters of 1997, First

Chicago Bank originated more than 1,200 "Community Pride" loans, totaling $25 million.

In addition, First Chicago's subsidiary banks were generally found to be active participants in government lending programs for housing and small business. The banks offered loans through programs sponsored by the Federal Housing Administration, the Veterans Administration, the SBA, and various state agencies.

Illinois. OCC examiners found that First Chicago Bank extended various types of credit to the communities it serves, including LMI areas. Examiners determined that the bank had a good distribution of housing and consumer loans in census tracts with different average income levels and had a good distribution of small business loans to borrowers of different income levels. In particular, examiners commended the bank's level of consumer loans to LMI borrowers, noting that the bank made 46 percent of its consumer loans in 1996 and the first three quarters of 1997 to LMI consumers, which compared favorably to the 37 percent of LMI individuals that resided in the bank's service areas.

First Chicago Bank has a strong record of lending to very small businesses, which examiners characterized as businesses with revenues less than $1 million. The bank made more than 2,000 loans to very small businesses in 1996 and the first three quarters of 1997. These loans represented approximately half the business loans made by First Chicago Bank during this period. The bank supplemented its direct lending efforts by supporting financial intermediaries, such as the ACCION Microlending Program, that lend to very small businesses.

Examiners noted that First Chicago Bank demonstrated leadership in its use of innovative and complex products to support community development lending. In 1996 and the first three months of 1997, the bank made more than 100 loans, totaling approximately $88 million, for affordable housing and economic development purposes. One innovative project noted by examiners was the bank's participation in developing a shopping center that provided a grocery store owned by a national chain to an area that lacked such a facility. First Chicago Bank provided construction financing for and established a branch in the shopping center.

The bank has initiated efforts to extend mortgage loans to LMI families through down-payment assistance and other programs to help home buyers pay closing costs. First Chicago Bank also has made more than $1.7 million in affordable home purchase loans in Chicago through the New Beginnings program, under which a local developer builds affordably priced homes on lots owned by the City of Chicago. In addition, the record developed since the CRA examination indicates that First Chicago Bank made more than $109 million in mortgage loans in LMI areas of Chicago in 1997, an increase of more than 40 percent from the amount of these loans made in 1996.

In Chicago, First Chicago has entered into two separate agreements with community groups under which the banking organization has agreed to provide over $8 billion in home mortgage, home improvement, and small business loans and other forms of financial assistance to LMI and minority neighborhoods. Goals set under the agreements included the origination of $120 million in home mortgage loans and $130 million in home improvement loans to LMI and minority communities over the next ten years. First Chicago also has stated that it would open four new branches in LMI communities in the Chicago area. In addition, First Chicago has agreed to continue to support homeownership education and counseling programs, particularly in LMI areas. The agreements provide for monitoring by and regular meetings with community groups.

Indiana. OCC examiners determined that NBD Indiana addressed a significant portion of the identified credit needs of the communities it serves through its credit products, including its affordable mortgages and small business loans. The bank was an active small business lender and, in the first nine months of 1995, it made more than 2,500 small business loans, totaling $184 million. Twenty-eight percent of the loans were made to businesses in LMI communities, which examiners noted correlated favorably to the fact that 28 percent of the population in the bank's communities resided in LMI census tracts.

NBD Indiana originated a significant amount of home purchase and home improvement loans. In 1994, the bank made more than 2,000 home purchase loans, totaling approximately $214 million, and more than 1,600 home improvement loans, totaling approximately $6 million. NBD Indiana offered a number of products to promote affordable housing, including low-down-payment mortgages and a specialized rehabilitation loan to help consumers, particularly in urban areas, to purchase and rehabilitate owner-occupied dwellings. In Indianapolis, the bank also supplemented its direct home mortgage lending by investing $2 million in an Indianapolis Neighborhood Housing Partnership mortgage pool to assist LMI home buyers.

Examiners found that NBD Indiana marketed its credit and credit-related products to all portions of the communities it served. The bank's CRA officers called on local community groups and other organizations that promote revitalization of the bank's communities. NBD Indiana also participated in a variety of seminars to promote awareness of credit and financial products, including programs for first-time home buyers and small businesses.

Michigan. The CRA performance examination of NBD Michigan concluded that the bank was responsive to the credit needs of the communities it served and that the bank had introduced a number of new products or modified several existing products to better serve those needs. These products included an acquisition/rehabilitation program for inner city homes that was initiated in the third quarter of 1994. Since the program was introduced, the bank has made 38 acquisition/rehabilitation loans, totaling more than $1.8 million.

NBD Michigan actively marketed its credit products and services in all its communities, including LMI areas. In July 1995, for example, the bank sent a mailing for pre-approved $1,000 personal loans to approximately 4,500 individuals earning less than $25,000 per year. The bank also sent materials promoting the bank's mortgage hotline and the benefits of home ownership to 4,800 renters living in the Detroit Empowerment Zone. CRA representatives from the bank also participated in a 30-minute weekly radio show on a radio station with a predominantly minority audience.

Examiners noted that, in February 1995, NBD Michigan entered into a three-year strategic plan with the Alliance for Fair Banking to originate $678 million in loans and investments to revitalize Detroit. Under the plan, in 1995, the bank made 146 home mortgages in LMI census tracts, totaling $6.8 million, and made 311 business loans, totaling $35.9 million, to businesses with annual sales of less than $1 million. In total, NBD Michigan originated $232 million in consumer and business loans in the city of Detroit in 1995, which was 13 percent more than the plan's goal.

Since the last CRA examination, First Chicago renewed its CRA agreement in Detroit in 1998. Under the new agreement, NBD Michigan proposes to make loans and investments totaling $3 billion over three years to support LMI, minority, and inner-city communities. The agreement specifies that the bank will make approximately $2.2 billion in loans to businesses in Detroit and will assist in developing at least one major downtown project valued at $50 million or more. The agreement also provides for grants to community development organizations. NBD Michigan also has stated that it would train additional staff to process SBA loan applications and that it would continue a second-review process for small business and residential mortgage loan applications. New Bank One intends to honor the CRA agreements entered into by First Chicago and its subsidiary banks in Detroit and Chicago.

F. HMDA Data and Fair Lending

The Board also has carefully considered the lending records of Banc One and First Chicago in light of comments regarding HMDA data reported by subsidiaries of the organizations. In particular, commenters alleged that HMDA data from Banc One's banking and nonbanking subsidiaries evidence discrimination against minority credit applicants in violation of the fair lending laws.

Banc One and First Chicago deny allegations of illegal credit practices and have provided HMDA data and other information evidencing efforts by Banc One and First Chicago to serve minority and LMI communities.[48] Banc One also has stated that New Bank One will continue to market a variety of products with flexible terms to all segments of its service communities, and pursue opportunities to expand the customer base served by the banking organization through partnerships with community-based organizations.

The Board has carefully considered the 1995, 1996, and 1997 HMDA data reported by Banc One and First Chicago. The data generally show that Banc One and First Chicago have assisted in meeting the housing-related credit needs of

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[48] Examples provided by Banc One include the fact that Bank One Ohio and BOMC originated 171 mortgage loans in the Cincinnati, Ohio, MSA in 1996, and that more than 13 percent of such loans were made to African Americans, who constitute 12.5 percent of the population of the Cincinnati MSA. Banc One also represents that more than 8 percent of the home purchase mortgage loans made in Springfield, Illinois, in 1997 were to African-American borrowers, and that African Americans constituted approximately 8 percent of the population of the Springfield banking market. Banc One has provided similar statistics for other areas.

minority and LMI borrowers and borrowers in LMI census tracts. The data also generally do not indicate that the banking organizations are excluding any geographic areas or population segments on a prohibited basis.

The data also reflect certain disparities in the rates of loan applications, originations, and denials among members of different racial groups and persons at different income levels, both generally and in certain states and local areas. The Board is concerned when an institution's record indicates such disparities in lending, and believes that all banks are obligated to ensure that their lending practices are based on criteria that assure not only safe and sound banking, 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 the data cover only a few categories of housing-related lending. HMDA data, moreover, provide only limited information about the covered loans.[49/] HMDA data, therefore, have limitations that make the data 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 discrimination in making lending decisions.

Because of the limitations of HMDA data, the Board has carefully considered the data in light of other information, including examination reports that provide an on-site evaluation of the compliance by the subsidiary banks of First Chicago and Banc One with the fair lending laws and the overall lending and

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[49/] 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.

community development activities of the banks. Examiners found no evidence of prohibited discrimination or illegal credit practices at the subsidiary banks of Banc One. At Bank One Indianapolis, for example, examiners conducted a comprehensive review of the bank's home improvement loan portfolio to test for racial discrimination. The review, which included a review of all African-American applicants for home-improvement loans who were denied credit between June 1 and December 31, 1994, found that white and African-American applicants were treated equally and provided with the same level of assistance in the applications process. Examiners also tested for discrimination in direct consumer loans at Bank One Texas and found no violation of anti-discrimination laws. The examinations of First Chicago's subsidiary banks also found no illegal discrimination in the credit programs at the banks. For example, in the CRA examination of First Chicago Bank, OCC examiners did not detect any illegal discrimination on the basis of gender in a review of the bank's indirect automobile loan program. OCC examiners' review of the home improvement loan files of NBD Indiana revealed no fair lending law violations or illegal practices.

The Board notes that examiners reviewed the fair lending policies, procedures, and training maintained by the depository institutions of Banc One and First Chicago and found them to be appropriate for monitoring compliance with fair lending laws. The Board also has considered the HMDA data in light of the overall lending records of Banc One and First Chicago, which show that their subsidiary depository institutions assist in meeting the credit needs of their entire communities, including LMI neighborhoods.

Several commenters questioned Banc One's credit referral practices, alleging that minority applicants are referred from Banc One's other subsidiaries to

BOFS, which charges higher interest rates on its loans.[50/] In addition, commenters alleged that there are disparities in the denial rates of credit applications, based on race or other prohibited factors, at BOMC and at other nonbanking subsidiaries of Banc One.

The Board carefully considered substantially similar allegations in a previous case involving Banc One.[51/] Based on all the facts of record in that case, including certain preliminary information developed in the course of the Board's supervision of Banc One, the Board decided to conduct an examination of BOMC to ensure its compliance with fair lending laws. During 1997, examiners from the Federal Reserve System conducted an on-site examination of BOMC, which included a thorough review of BOMC's loan and application files in several markets and investigations of certain complaints filed by minority loan applicants against BOMC.

The Federal Reserve System's examination found no evidence of lending discrimination or unlawful and illegal credit practices at BOMC. In connection with the examination, the Federal Reserve System offered several recommendations to BOMC to improve its fair lending oversight and systems, including improvements to its systems and procedures for loan documentation and HMDA data collection. Those recommendations have been or are being implemented, and the Federal Reserve System will continue to monitor measures taken by Banc One to ensure fair lending compliance at BOMC.

[50/] Commenters also alleged that creditworthy applicants are not referred from BOFS to other Banc One subsidiaries that may offer lower-cost credit options.

[51/] See Banc One Corporation, 83 Federal Reserve Bulletin 520 (1997).

G. Branch Closures

A number of commenters expressed concerns about branch closures by Banc One and First Chicago. Commenters alleged that a disproportionate number of Banc One's branches were closed in LMI and minority communities and that the closings have adversely affected these local communities.[52] Commenters also alleged that Banc One's branches in LMI communities offered inadequate services when compared with Banc One's branches in other areas. In addition, commenters expressed concern that the proposed merger would result in additional branch closings, particularly in LMI neighborhoods.[53]

Banc One has indicated that branches may be closed as a result of the proposed merger. Banc One represents, however, that the analysis required to determine branch closings has not been completed and that no final decisions regarding branch closures have been made. Banc One states that it is reviewing branches of the two organizations that are within close geographic proximity as likely, but not automatic, candidates for closure.[54] On this basis, Banc One states that

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[52] Banc One's response to these comments noted that, as of July 1, 1997, approximately 26 percent of its branches were in LMI census tracts and that the percentage of branches in LMI census tracts remained unchanged as of March 31, 1998.

[53] Several commenters also expressed concerns that the proposal would result in increased fees for banking products and services. Banc One and First Chicago offer a full range of banking products and services, including low-fee bank accounts, and New Bank One intends to continue to offer affordable basic checking and savings accounts. Moreover, although the Board has recognized that banks help to serve the banking needs of communities by making basic services available at nominal or no charge, the CRA does not require an institution to limit the fees charged for its services or provide any specific types of credit products.

[54] Banc One has stated that, in evaluating its branch network, New Bank One will

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approximately 120 of the 650 branches in Illinois, Indiana, and Wisconsin are under review. Of the branches under review, 24 branches, out of a total of approximately 120 branches in these states, are in LMI census tracts. The Board has carefully considered the public comments about past and potential branch closures in light of all the facts of record, including information provided by Banc One.

The Board also has carefully considered the record of Banc One and First Chicago in opening and closing branches and the branch closing policy of Banc One. As part of its Project One reorganization, Banc One instituted a new corporate branch closing policy in January 1997, which will be adopted as the branch closing policy for the subsidiary banks of New Bank One. When a branch is identified for closing, the policy requires that the business case analysis include a discussion of how the closing would affect banking access for LMI consumers. If a decision is made to close a branch, based on that analysis and other information, a retention plan must be developed that contains a strategy for serving customers of the community affected by the closing, with particular attention to serving LMI consumers. The bank's CRA personnel participate in the process and review branch closing plans with community leaders to consider whether the retention plan responds to the concerns expressed by the community in light of all the facts of circumstances.

Banc One represents that its new branch closing policy was submitted to the OCC for review and that suggestions made by the OCC with respect to the policy were incorporated. Examiners from the OCC also have considered the effect of branch closings under the policy on the communities served by Banc One's subsidiary banks. The OCC's CRA performance examination of Bank One Texas, conducted

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[54/](...continued)
consider other relevant factors, including the volume of activity, trends in deposit share and profitability, viability of physical facilities, competition in the market, and traffic patterns.

after the implementation of the new branch closing policy, concluded that the bank had a satisfactory record of opening and closing branches and provided reasonable access to services for all segments of the bank's communities. The most recent CRA performance examinations of Banc One's banks, including Bank One Texas and Bank One West Virginia, generally noted no materially adverse effects on LMI neighborhoods from branch closings.

Examiners also concluded that the branch and ATM networks and alternative delivery systems of Banc One's subsidiary banks reasonably served the credit needs of all segments of their communities, including LMI areas. Examiners generally determined that hours of operation and services offered through branch networks were reasonable and that variations in hours and services did not adversely affect LMI communities. In some cases, examiners noted that Banc One's banks offered bilingual services that would enhance access to services for certain minority communities. In addition, examiners reviewed the record of branch closings of First Chicago's subsidiary banks and generally concluded that the banks had good records of opening and closing branches.

The Board also 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 federal regulatory agency before closing a branch.[55/] The law does not authorize federal regulators to prevent the closing of any branch. Any branch closings resulting from

[55/] 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 appropriate federal supervisory agency 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 policy for branch closings.

the proposed transaction will be considered by the appropriate federal supervisor at the next CRA examination of the relevant subsidiary bank.

The Board expects that Banc One's branch closing policy would be used by New Bank One for any branch closings that result from the proposal. To permit the Board to assess the effectiveness of the branch closing policy of New Bank One, the Board conditions its action on this proposal on the requirement that New Bank One report to the Federal Reserve System, on a semi-annual basis during the two-year period after consummation, all branch closings, including consolidations, that occur as a result of this proposal. For branches closed in LMI census tracts, New Bank One should indicate the proximity of the closed branch to the nearest branch of New Bank One and the steps that New Bank One took to mitigate the impact of the branch closure.[56/]

H. Conclusion on Convenience and Needs Factor

The Board recognizes that the proposed merger would create a large banking organization that will have a significant presence in the Midwest and in other parts of the country. Accordingly, the Board has carefully reviewed the proposal and its effects on the convenience and needs of all the communities to be served by New Bank One.

In conducting its review, the Board has carefully considered all the comments on the convenience and needs factor. A significant number of commenters have expressed support for the proposal based on the records of Banc One and First

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[56/] Several commenters expressed concern that the merger would result in the loss of jobs. The effect of a proposed transaction on employment in a community is not among the factors included in the BHC Act, and the federal banking agencies, courts, and Congress consistently have interpreted the convenience and needs factor to relate to the effect of a proposal on the availability and quality of banking services in the community. See, e.g., Wells Fargo & Company, 82 Federal Reserve Bulletin 445, 457 (1996).

Chicago in helping to serve the banking and, in particular, the lending needs of their entire communities, including LMI areas. Other commenters have expressed reservations about whether Banc One and First Chicago have been, and New Bank One would be, responsive to the banking and credit needs of all their communities.[57/] The Board has carefully considered these concerns and weighed them against the overall CRA records of Banc One and First Chicago, reports of examinations of CRA performance, and information provided by the two banking organizations, including Banc One's responses to the comments.

As discussed in this order, the record in this case demonstrates that Banc One and First Chicago have established records of helping to meet the convenience and needs of the communities that each currently serves. Banc One has indicated that New Bank One will draw on the CRA policies and programs of both organizations. The Board expects that New Bank One will demonstrate the same commitment to helping to serve the banking needs of its communities, including LMI neighborhoods, that Banc One and First Chicago have demonstrated to date. Based on a review of the entire record, the Board concludes that convenience and needs considerations,

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[57/] A number of commenters criticized Banc One for not entering into agreements with community-based organizations that would provide separate monetary goals for CRA performance for a particular geographic area. The Board recognizes that communications by depository institutions with community groups provide a valuable method of assessing and determining how best to meet the credit needs of a community. Neither the CRA nor the CRA regulations of the federal supervisory agencies, 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. The Board also notes that New Bank One will have a responsibility to help serve the credit needs of its entire community, including LMI neighborhoods, with or without private CRA agreements.

including the CRA records of performance of both organizations' subsidiary depository institutions, are consistent with approval of the proposal.

Nonbanking Activities

Banc One also has filed a notice under section 4(c)(8) of the BHC Act to acquire First Chicago's nonbanking companies and thereby to engage in a number of nonbanking activities, including underwriting and dealing to a limited extent in all types of equity and debt securities ("bank-ineligible securities"). The nonbanking activities for which Banc One has requested approval are described in Appendix A.

A. Activities Approved by Regulation

The Board has determined by regulation that extending credit and servicing loans, activities related to extending credit, engaging in leasing personal or real property, performing trust company functions, providing financial and investment advisory services, providing agency transactional services for customer investments, engaging in investment transactions as principal, engaging in certain insurance agency and underwriting activities, engaging in community development activities, and providing data processing services are all closely related to banking for purposes of the BHC Act.[58/] Banc One has committed that, after consummation of the proposal, New Bank One would conduct these nonbanking activities in accordance with the limitations set forth in Regulation Y and the Board's orders and interpretations.

B. Underwriting and Dealing in Bank-Ineligible Securities

First Chicago currently is engaged in underwriting and dealing in bank-ineligible securities, to a limited extent, through First Chicago Capital Markets, Inc., Chicago, Illinois ("FCCM"). Banc One also currently is engaged in underwriting and dealing in bank ineligible securities, to a limited extent, through Banc One Capital Corporation, Columbus, Ohio ("BOCC"). FCCM and BOCC are, and would

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[58/] See 12 C.F.R. 225.28(b)(1), (2), (3), (5), (6), (7), (8), (11)(i), (12), and (14).

continue to be, broker-dealers registered with the SEC, and members of the National Association of Securities Dealers, Inc. ("NASD"). Accordingly, both entities would remain subject to the recordkeeping and reporting obligations, fiduciary standards, and other requirements of the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), the SEC, and the NASD.

The Board has determined that, subject to the framework of prudential limitations established in previous decisions to address the potential for conflicts of interests, unsound banking practices, or other adverse effects, underwriting and dealing in bank-ineligible securities is so closely related to banking as to be a proper incident thereto within the meaning of section 4(c)(8) of the BHC Act.[59/] The Board also has determined that underwriting and dealing in bank-ineligible securities is consistent with section 20 of the Glass-Steagall Act (12 U.S.C. § 377), provided that the company engaged in the activities derives no more than 25 percent of its gross revenues from underwriting and dealing in bank-ineligible securities over a two-year period.[60/]

[59/] See J.P. Morgan & Co. Incorporated, et al., 75 Federal Reserve Bulletin 192 (1989), aff'd sub nom. Securities Industry Ass'n v. Board of Governors of the Federal Reserve System, 900 F.2d 360 (D.C. Cir. 1990) ("J.P. Morgan"); Citicorp, et al., 73 Federal Reserve Bulletin 473 (1987), aff'd sub nom. Securities Industry Ass'n v. Board of Governors of the Federal Reserve System, 839 F.2d 47 (2d Cir.), cert. den., 486 U.S. 1059 (1988) ("Citicorp"); as modified by Review of Restrictions on Director, Officer and Employee Interlocks, Cross-Marketing Activities, and the Purchase and Sale of Financial Assets Between a Section 20 Subsidiary and an Affiliated Bank or Thrift, 61 Federal Register 57,679 (1996), Amendments to Restrictions in the Board's Section 20 Orders, 62 Federal Register 45,295 (1997); and Clarification to the Board's Section 20 Orders, 63 Federal Register 14,803 (1998) (collectively, "Section 20 Orders").

[60/] See Section 20 Orders. Compliance with the revenue limitation shall be calculated in accordance with the method stated in the Section 20 Orders, as modified

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Banc One has committed that, after consummation of the transaction, FCCM and BOCC each would conduct their bank-ineligible securities underwriting and dealing activities subject to the 25-percent revenue limitation and the prudential limitations previously established by the Board. This order is conditioned on compliance by New Bank One with the revenue restriction and Operating Standards established for section 20 subsidiaries.[61/]

C. Proper Incident to Banking

In order to approve Banc One's notice to engage in nonbanking activities, the Board must determine that the acquisition of the nonbanking subsidiaries of First Chicago and the performance of those activities by New Bank One is a proper incident to banking. That is, the Board must determine 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."[62/]

[60/](...continued)
by the Order Approving Modifications to the Section 20 Orders, 75 Federal Reserve Bulletin 751 (1989), and 10 Percent Revenue Limit on Bank-Ineligible Activities of Subsidiaries of Bank Holding Companies Engaged in Underwriting and Dealing in Securities, 61 Federal Register 48,953 (1996); and Revenue Limit on Bank-Ineligible Activities of Subsidiaries of Bank Holding Companies Engaged in Underwriting and Dealing in Securities, 61 Federal Register 68,750 (1996) (collectively, "Modification Orders").

[61/] 12 C.F.R 225.200. As long as FCCM and BOCC operate as separate corporate entities, both companies will be independently subject to the 25-percent revenue limitation on underwriting and dealing in bank-ineligible securities. See Citicorp at 486 n. 45.

[62/] 12 U.S.C. § 1843(c)(8).

As part of its evaluation of these factors, the Board considers the financial condition and managerial resources of Banc One and its subsidiaries, including the companies to be acquired, and the effect of the proposed transaction on those resources. For the reasons noted above, and based on all the facts of record, the Board has concluded that financial and managerial considerations are consistent with approval of the notice.

The Board also has reviewed the capitalization of New Bank One, FCCM, and BOCC in light of the standards set forth in the Section 20 Orders. The Board finds the capitalization of each to be consistent with approval of the proposal and the Section 20 Orders. The Board's determination is based on all the facts of record, including the projections of the volume of bank-ineligible securities underwriting and dealing activities to be conducted by FCCM and BOCC. The Board also has considered that Banc One and First Chicago have established policies and procedures to ensure compliance with this order and the Section 20 Orders, including computer, audit, and accounting systems, internal risk management controls, and the necessary operational and managerial infrastructure.

The Board also has considered the competitive effects of the proposed acquisition by Banc One of the nonbanking subsidiaries of First Chicago in light of all the facts of record, including the public comments received.[63/] Many of the markets in which the nonbanking subsidiaries of Banc One and First Chicago compete are national or regional and are unconcentrated.[64/] The Board concludes that

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[63/] A number of commenters expressed concern that Banc One's acquisition of First Chicago's credit-card lending and servicing businesses would have an adverse effect on competition in the credit-card lending and servicing market.

[64/] The Board previously has determined that the market for residential mortgage origination is local. NBD Bancorp, Inc., 71 Federal Reserve Bulletin 258, 261

(continued...)

consummation of this proposal would have a de minimis effect on the markets for servicing residential mortgages, commercial mortgage banking, corporate and commercial leasing, securities brokerage and related services, securities underwriting and dealing, data processing, credit-card issuing, and credit-card processing.[65/] The Board notes that numerous competitors would remain in each of these markets.

[64/](...continued)
(1985); First National City Corp., 60 Federal Reserve Bulletin 50, 51 (1974). The Board has reviewed the 26 banking markets where Banc One and First Chicago have reported mortgage originations under the HMDA. These data show that, in every market except the Marion, Indiana, banking market, consummation of the proposal would not exceed DOJ Guidelines and prior Board precedent. Complete data are not available in the Marion banking market because most of the lending institutions in the Marion banking market do not report their residential mortgage loans under the HMDA. A significant number of competitors would remain in the Marion banking market and in each of the other banking markets after this transaction. In addition, there are low barriers to entry in the mortgage origination business.

[65/] The Board previously has determined that the markets for credit card issuers and credit card processors are national and are not concentrated. See Banc One Corporation, 83 Federal Reserve Bulletin 602 (1997). Based on data provided by the 100 largest bank credit card issuers, Banc One is the third largest credit card issuer, controlling approximately 11.1 percent of outstanding credit card balances. First Chicago is the sixth largest credit card issuer, controlling approximately 4.7 percent of outstanding credit card balances. On consummation of this proposal, Banc One would become the second largest issuer of credit cards, controlling approximately 15.8 percent of outstanding credit card balances. The HHI would increase by 104 points to less than 1000.

Based on data provided by the top 25 credit card processors, Banc One is the seventh largest credit card processor, handling approximately 10 percent of the total credit and debit transactions processed. First Chicago is not one of the top 25 credit card processors, and it processed less than 1 percent of the total transactions processed by the largest credit card processor. On consummation of this proposal, Banc One would remain the seventh largest credit card processor, and the HHI would increase by 3 points to 1483.

Based on all the facts of record, the Board concludes that it is unlikely that significantly adverse competitive effects would result from the nonbanking acquisitions proposed in this transaction.[66]

Banc One has indicated that by combining the resources and operations of Banc One and First Chicago, New Bank One would be able to provide better products and services more efficiently through an enhanced delivery system to the current and future customers of Banc One and First Chicago. New Bank One would draw on the product strengths of each of its predecessor bank holding companies and offer a greater range of products in a larger number of locations than Banc One or First Chicago could offer separately. Banc One states that New Bank One would achieve greater operational efficiencies through expense reductions, greater

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[66] As a result of the proposal, New Bank One would be a member of four regional ATM networks. One commenter expressed concern that combinations of large banking organizations that are significant members of separate regional ATM networks may lead to the merger of the ATM networks and, thereby, result in a reduction in competition for ATM network services. Under section 4 of the BHC Act, a bank holding company is required to obtain the Board's approval before acquiring more than 5 percent of the voting shares of any company engaged in activities that are closely related to banking, including a company formed by the merger of two or more ATM networks. In the event that a merger of regional ATM networks controlled by bank holding companies is proposed at some time in the future, the Board would have the opportunity to address the issues raised by the commenter in the context of the specific facts presented at that time.

The commenter also expressed concern that financial institutions that operate very large numbers of ATMs may decide to perform their own ATM transactions processing, rather than relying on an ATM network or third parties for such processing, and that financial institutions that engage in significant levels of credit card lending may seek to establish a separate brand identity for the credit cards that they issue. Commenter has presented no evidence to demonstrate that, if such actions were to occur, they would result in a violation of the antitrust laws, and the Board notes that the events discussed by the commenter could, in fact, increase competition for ATM transaction processing or credit card lending by creating a new competitor for such services.

economies of scale, and elimination of redundant systems and technologies. These efficiencies would strengthen New Bank One's ability to compete more effectively in the markets in which it operates. In addition, as the Board has previously noted, 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 and from permitting banking organizations to allocate their resources in the manner they consider to be most efficient when such investments and actions are consistent, as in this case, with the relevant considerations under the BHC Act.[67/]

The Board also believes that the conduct of the proposed nonbanking activities within the framework established by 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 outweigh the public benefits of the proposal, such as increased customer convenience and gains in efficiency. Accordingly, based on all the facts of record, the Board has determined that the balance of public interest factors 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 Banc One's notice.

Banc One also has provided notice, in accordance with section 4(c)(13) of the BHC Act and section 211.5(c) of the Board's Regulation K (12 C.F.R. 211.5(c)), to acquire First Chicago's foreign nonbanking operations. In addition, Banc One has provided notice under sections 25 and 25A of the Federal Reserve Act and section 211.5(c) of Regulation K to acquire First Chicago NBD Bank, Canada, Toronto, Canada, a foreign bank held directly by First Chicago Bank; and First Chicago International, New York, New York, and First Chicago International Finance

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[67/] See, e.g., Banc One Corporation, 84 Federal Reserve Bulletin 553 (1998); First Union Corporation, 84 Federal Reserve Bulletin 489 (1998).

Corporation, Chicago, Illinois, both of which are organized under section 25A of the Federal Reserve Act. The Board concludes that all the factors required to be considered under the Federal Reserve Act, the BHC Act, and the Board's Regulation K in connection with the foregoing notices are consistent with approval of the proposal.

Requests for Additional Public Meetings

A number of commenters requested that the Board hold additional public meetings or hearings on the proposal in areas that may be affected by the merger, including communities in Colorado, Indiana, Michigan, Ohio, Louisiana, Texas, Wisconsin, and major cities throughout the country. The Board has carefully considered these requests in light of the BHC Act, its Rules of Procedure, and the substantial record developed in this case.[68/]

As explained above, the Board held a public meeting on the proposal in Chicago to clarify issues related to the application and notice and to provide an opportunity for members of the public to testify.[69/] The Board considered Chicago to be an appropriate location for the public meeting because New Bank One would be headquartered there and because Chicago was a reasonably central location in the region of the country in which the new bank holding company would have its most significant geographic presence. More than 85 interested persons appeared and provided oral testimony at the public meeting, including elected representatives and members of community groups from cities and towns throughout the Midwest and

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[68/] Section 3(b) of the BHC Act does not require that the Board 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 of the application. 12 U.S.C. § 1842(b). In this case, the Board has not received such a recommendation from any state or federal supervisory authority.

[69/] See 12 C.F.R. 262.3(e) and 262.25(d).

from a number of other states, including Colorado, Delaware, Texas, Virginia, and Louisiana. In addition, the public comment period provided more than 70 days for interested persons to submit written comments on the proposal, and the Board received and considered written comments from more than 245 interested persons who did not testify at the public meeting.

In the Board's view, all interested persons have had ample opportunity to submit their views either in writing or orally at the public meeting in Chicago. Numerous commenters have, in fact, submitted substantial materials that have been carefully considered by the Board in acting on the proposal. Commenters requesting additional public meetings have failed to show why their written comments do not adequately present their views, evidence, and allegations. They also have not shown why the public meeting in Chicago and the 70-day comment period did not provide an adequate opportunity for all interested parties to present their views and voice their concerns. Moreover, the Board has carefully considered the lending records of Banc One and First Chicago separately in many of the states where commenters requested public meetings, particularly Colorado, Indiana, Louisiana, Ohio, Michigan, Texas and Wisconsin. For these reasons, and based on all the facts of record, the Board has determined that additional public meetings or hearings are not required and are not necessary or warranted to clarify the factual record on the proposal. Accordingly, the requests for additional public meetings or hearings on the proposal are hereby denied.

Conclusion

Based on the foregoing, and in light of all the facts of record, the Board has determined that the application and notices should be, and hereby are, approved. In reaching this conclusion, the Board has carefully considered all oral testimony and the written comments regarding this proposal in light of the factors it is required to consider under the BHC Act and other applicable statutes and concludes that the comments do not warrant delay or denial of the proposal.[70/]

Approval of the application and notice is specifically conditioned on compliance by Banc One with all the commitments made in connection with the proposal and with the conditions stated or referred to in this order, including Banc One's divestiture commitments. The Board's determination in the nonbanking activities also is subject to all the terms and 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 such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to ensure compliance with, and to prevent evasion of, the provisions of the BHC Act and the Board's regulations and orders thereunder. For purposes of this transaction, the commitments and conditions referred to above shall be deemed to be conditions

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[70/] A number of commenters requested that the Board delay action on the proposal or extend the comment period until (i) new CRA or other examinations of Banc One or First Chicago or their subsidiaries were completed; (ii) Banc One made a nationwide CRA pledge or entered into CRA agreements with local community groups; (iii) Banc One provided further information about its CRA plans or responded to specific allegations or concerns; or (iv) pending lawsuits against Banc One were resolved.

The Board believes that the record in this case does not warrant postponement of the Board's consideration of the proposal. The Board has accumulated a significant record in this case, including reports of examination, supervisory information, public reports and information, and considerable public comment. For the reasons discussed above, the Board believes that commenters have had ample opportunity to submit their views and, in fact, have provided substantial written submissions and oral testimony that have been considered carefully by the Board in acting on the proposal. 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 further delay of consideration of the proposal, another extension of the comment period, or denial of the proposal on the grounds discussed above or on the basis of informational insufficiency is not warranted.

imposed in writing by the Board in connection with its findings and decision and, as such, may be enforced in proceedings under applicable law. Underwriting and dealing in any manner other than as approved in this order and the Section 20 Orders (as modified by the Modification Orders) is not within the scope of the Board's approval and is not authorized for New Bank One.

The acquisition of First Chicago's subsidiary banks shall not be consummated before the fifteenth calendar day following the effective date of this order, and the proposal shall 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 by the Federal Reserve Bank of Chicago, acting pursuant to delegated authority.

By order of the Board of Governors,[71/] effective September 14, 1998.

(signed)

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Robert deV. Frierson
Associate Secretary of the Board

[71/] Voting for this action: Chairman Greenspan and Governors Kelley, Meyer, Ferguson, and Gramlich. Absent and not voting: Vice Chair Rivlin.

Appendix A

Nonbanking Activities of First Chicago[72]

(1) Extending credit and servicing loans in accordance with section 225.28(b)(1) of Regulation Y (12 C.F.R. 225.28(b)(1)), through First Chicago Capital Corporation, ANB Mezzanine Corporation, First Chicago Investment Corporation, First Chicago Leasing Corporation, First Chicago Properties, Inc., and First Chicago Realty Services Corporation, all of Chicago, Illinois; First Card Services, Inc., Uniondale, New York; First Chicago NBD Mortgage Company, Troy, Michigan; and FCC National Bank, Wilmington, Delaware.

(2) Activities related to extending credit in accordance with section 225.28(b)(2) of Regulation Y (12 C.F.R. 225.28(b)(2)), through First Chicago Realty Services Corporation and First Chicago Properties, Inc., both of Chicago, Illinois; First Chicago NBD Real Estate Services, Inc., Indianapolis, Indiana; and FCC National Bank, Wilmington, Delaware.

(3) Engaging in leasing personal or real property in accordance with section 225.28(b)(3) of Regulation Y (12 C.F.R. 225.28(b)(3)), through First Chicago Lease Holdings, Inc., First Chicago Leasing Corporation, and Palo Verde Leasing Corporation, all of Chicago, Illinois; and FNW Capital, Inc., Mt. Prospect, Illinois.

(4) Performing trust company functions in accordance with section 225.28(b)(5) of Regulation Y (12 C.F.R. 225.28(b)(5)), through First Chicago Trust Company of New York, New York, New York.

(5) Providing financial and investment advisory services in accordance with section 225.28(b)(6) of Regulation Y (12 C.F.R. 225.28(b)(6)), through First Chicago Capital Markets, Inc., Chicago, Illinois ("FCCM").

(6) Providing agency transactional services for customer investments in accordance with section 225.28(b)(7) of Regulation Y (12 C.F.R. 225.28(b)(7)), through FCCM.

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[72] Subsidiaries also include organizations controlled by such subsidiaries.

(7) Engaging in investment transactions as principal in accordance with section 225.28(b)(8) of Regulation Y (12 C.F.R. 225.28(b)(8)), through FCCM and First Chicago Hedging Services Corporation, Chicago, Illinois.

(8) Engaging in insurance agency and underwriting activities in accordance with section 225.28(b)(11)(i) of Regulation Y (12 C.F.R. 225.28(b)(11)(i)), through First Chicago NBD Insurance Company and NBD Insurance Agency, Inc., both of Troy, Michigan; Charter Oak Insurance Agency of Michigan, Inc., Lathrup Village, Michigan; and NBD Insurance Services, Inc., Birmingham, Michigan.

(9) Engaging in community development activities in accordance with section 225.28(b)(12) of Regulation Y (12 C.F.R. 225.28(b)(12)), through NBD Community Development Corporation, Detroit, Michigan; NBD Neighborhood Revitalization Corporation, Indianapolis, Indiana; and First Chicago Leasing Corporation, Chicago, Illinois.

(10) Providing data processing services in accordance with section 225.28(b)(14) of Regulation Y (12 C.F.R. 225.28(b)(14)), through NBD Services Corporation, Troy, Michigan; and Cash Station, Inc., Chicago, Illinois.

Appendix B

Banking Market Definitions

A. *Illinois Banking Markets*

The Aurora banking market is approximated by the southern three tiers of townships in Kane County; Plano, Bristol, Oswego, Fox, and Kendall townships in Kendall County; and Sandwich township in DeKalb County, all in Illinois.

The Chicago banking market is approximated by Cook, Du Page, and Lake Counties, all in Illinois.

The Elgin banking market is approximated by Marengo, Seneca, Nunda, Riley, Coral, Grafton, and Algonquin townships in McHenry County; and the northern two tiers of townships in Kane County, all in Illinois.

The Rockford banking market is approximated by Winnebago and Boone Counties; and Byron, Marion, Scott, and Monroe townships in Ogle County, all in Illinois.

B. *Indiana Banking Markets*

The Bloomington banking market is approximated by Monroe County, Indiana.

The Corydon banking market is approximated by Crawford County and Harrison County, both in Indiana, excluding Morgan, Jackson, and Franklin townships.

The Elkhart-Niles-South Bend banking market is approximated by Elkhart County; St. Joseph County, excluding Olive and Warren townships; Scott, Jefferson, Van Buren, and Turkey Creek townships in Kosciusko County, all in Indiana; Cass County, Michigan; and Oronoko, Berrien, Buchanan, Niles, and Bertrand townships in Berrien County, Michigan.

The Gary-Hammond banking market is approximated by Lake County; Porter County, except for Pine township; and New Durham, Clinton, Cass, Dewey and Prairie townships in La Porte County, all in Indiana.

The Indianapolis banking market is approximated by Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan, and Shelby Counties, and Green township in Madison County, all in Indiana.

The Lafayette banking market is approximated by Tippecanoe County and Carroll County, both in Indiana, except for Burlington township.

The Lawrence County banking market is approximated by Lawrence County, Indiana.

The Marion banking market is approximated by Grant County; Jackson township in Wells County; Washington township in Blackford County; and Jackson township in Miami County, all in Indiana.

The Rensselaer banking market is approximated by Jasper County, Indiana.

C. *Kentucky Banking Market*

The Louisville banking market is approximated by Jefferson, Oldham, and Bullitt Counties, all in Kentucky; Clark and Floyd Counties, Indiana; and Morgan, Jackson and Franklin townships in Harrison County, in Indiana.

D. *Wisconsin Banking Markets*

The Milwaukee banking market is approximated by the Milwaukee Ranally Metro Area, and portions of Jefferson, Racine, Walworth, and Washington Counties, all in Wisconsin.

The Madison banking market is approximated by Dane County, excluding the eastern tier of townships; plus Dekorra, Lowville, Otsego, Fountain Prairie, Columbus, Hampden, Leeds, Arlington, Lodi, and West Point townships in Columbia County, all in Wisconsin.

Appendix C

Banking Markets With No Divestitures

A. *Illinois Banking Markets*

1. Aurora--Banc One is the 18th largest depository institution in the market, controlling deposits of $18 million, representing less than 1 percent of total market deposits. First Chicago is the third largest depository institution in the market, controlling deposits of $184.1 million, representing 6.6 percent of total market deposits. On consummation of the proposal, Banc One would become the third largest of 22 depository institutions in the market, controlling deposits of $202.1 million, representing 7.3 percent of total market deposits. The HHI would increase by 9 points to 1324.

2. Chicago--Banc One is the 16th largest depository institution in the market, controlling deposits of $1.2 billion, representing less than 1 percent of total market deposits. First Chicago is the largest depository institution in the market, controlling deposits of $25.2 billion, representing 18.8 percent of total market deposits. On consummation of the proposal, Banc One would become the largest of 228 depository institutions in the market, controlling deposits of $26.4 billion, representing 19.6 percent of total market deposits. The HHI would increase by 33 points to 882.

3. Elgin--Banc One is the 16th largest depository institution in the market, controlling deposits of $58.3 million, representing 2.2 percent of total market deposits. First Chicago is the largest depository institution in the market, controlling deposits of $422.7 million, representing 15.6 percent of total market deposits. On consummation of the proposal, Banc One would become the largest of 31 depository institutions in the market, controlling deposits of $481 million, representing 17.8 percent of total market deposits. The HHI would increase by 68 points to 772.

4. Rockford--Banc One is the third largest depository institution in the market, controlling deposits of $545.2 million, representing 14.6 percent of total market deposits. First Chicago is the 20th largest depository institution in the market, controlling deposits of $19 million, representing less than 1 percent of total market deposits. On consummation of the proposal, Banc One would become the second largest of 23 depository institutions in the market, controlling deposits of $564.2 million, representing 15.1 percent of total market deposits. The HHI would increase by 15 points to 1340.

B. *Indiana Banking Markets*

1. Elkhart-Niles-South Bend--Banc One is the 16th largest depository institution in the market, controlling deposits of $26.8 million, representing less than 1 percent of total market deposits. First Chicago is the third largest depository institution in the market, controlling deposits of $606 million, representing 12.2 percent of total market deposits. On consummation of the proposal, Banc One would become the third largest of 22 depository institutions in the market, controlling deposits of $632.8 million, representing 12.8 percent of total market deposits. The HHI would increase by 13 points to 1339.

2. Gary-Hammond--Banc One is the fifth largest depository institution in the market, controlling deposits of $508.3 million, representing 8.1 percent of total market deposits. First Chicago is the largest depository institution in the market, controlling deposits of $1.6 billion, representing 26 percent of total market deposits. On consummation of the proposal, Banc One would become the largest of 24 depository institutions in the market, controlling deposits of $2.1 billion, representing 34.1 percent of total market deposits. The HHI would increase by 421 points to 1634.

3. Marion--Banc One is the third largest depository institution in the market, controlling deposits of $94.8 million, representing 14.8 percent of total market deposits. First Chicago is the largest depository institution in the market, controlling deposits of $115.2 million, representing 18 percent of total market deposits. On consummation of the proposal, Banc One would become the largest of 10 depository institutions in the market, controlling deposits of $210 million, representing 32.8 percent of total market deposits. The HHI would increase by 533 points to 1712.

C. *Kentucky Banking Market*

Louisville--Banc One is the third largest depository institution in the market, controlling deposits of $2.3 billion, representing 15.9 percent of total market deposits. First Chicago is the seventh largest depository institution in the market, controlling deposits of $413.5 million, representing 2.9 percent of total market deposits. On consummation of the proposal, Banc One would remain the third largest of 30 depository institutions in the market, controlling deposits of $2.7 billion, representing 18.8 percent of total market deposits. The HHI would increase by 89 points to 1716.

D. *Wisconsin Banking Market*

1. Milwaukee--Banc One is the third largest depository institution in the market, controlling deposits of $2 billion, representing 9.9 percent of total market deposits. First Chicago is the 33rd largest depository institution in the market, controlling deposits of $54.8 million, representing less than 1 percent of total market deposits. On consummation of the proposal, Banc One would remain the third largest of 54 depository institutions in the market, controlling deposits of $2 billion, representing 10.2 percent of total market deposits. The HHI would increase by 5 points to 1499.

2. Madison--Banc One is the fourth largest depository institution in the market, controlling deposits of $253.4 million, representing 5.3 percent to total market deposits.[73/] First Chicago is the 34th largest depository institution in the market, controlling $4.7 million in deposits, representing less than 1 percent of total market deposits. On consummation of the proposal, Banc One would remain the fourth largest of 34 depository institutions in the market, controlling deposits of $258.1 million, representing 5.4 percent of market deposits. The HHI would increase by 1 point to 1185.

[73/] Deposit data for this market are as of December 31, 1997, and reflect First Chicago's entry into the market after June 30, 1997.

Appendix D

Banking Markets with Divestitures--All in Indiana
(Other than Indianapolis and Lafayette)

1. Bloomington--Banc One is the largest depository institution in the market, controlling deposits of $336.4 million, representing 31.6 percent of market deposits. First Chicago is the sixth largest depository institution in the market, controlling deposits of $68.6 million, representing 6.4 percent of total market deposits. Banc One proposes to divest two branches controlling deposits of approximately $31.4 million. On consummation of the proposal, and after giving effect to the divestitures, Banc One would remain the largest of 10 depository institutions in the market, controlling deposits of $373.6 million, representing 35.1 percent of market deposits. The HHI would increase by 200 points to 2270.

2. Corydon--In the Corydon, Indiana banking market, Banc One is the third largest depository institution in the market, controlling deposits of $61.5 million, representing 19.4 percent of market deposits. First Chicago is the second largest depository institution in the market, controlling deposits of $84.3 million, representing 26.6 percent of total market deposits. Banc One proposes to divest two branches controlling deposits of approximately $39.3 million. On consummation of the proposal, and after giving effect to the divestitures, Banc One would become the largest of seven depository institutions in the market, controlling deposits of $106.5 million, representing 33.6 percent of total market deposits. The HHI would increase by 199 points to 2495.

3. Lawrence County--Banc One is the largest depository institution in the market, controlling deposits of $109.6 million, representing 29.9 percent of total market deposits. First Chicago is the second largest depository institution in the market, controlling deposits of $81.7 million, representing 22.3 percent of total market deposits. Banc One proposes to divest two branches controlling deposits of approximately $56.4 million. On consummation of the proposal, and after giving effect to the divestitures, Banc One would remain the largest of seven depository institution in the market, controlling deposits of $134.8 million, representing 36.7 percent of total market deposits. The HHI would increase by 199 points to 2051.

4. Rensselaer--Banc One is the largest depository institution in the market, controlling deposits of $111.6 million, representing 30.6 percent of total market deposits. First Chicago is the sixth largest depository institution in the market, controlling deposits of $28 million, representing 7.7 percent of total market deposits. Banc One proposes to divest one branch controlling approximately $28 million. On consummation of the proposal, and after giving effect to the divestitures, Banc One would remain the largest of seven depository institution in the market, controlling deposits of $111.6 million, representing 30.6 percent of total market deposits. The HHI would remain unchanged at 2056.