For immediate release | September 1, 1999

The Federal Reserve Board today announced its approval of the proposal of Firstar Corporation, Milwaukee, Wisconsin, to merge with Mercantile Bancorporation, Inc. ("Mercantile"), and thereby acquire Mercantile's wholly owned registered bank holding company, Ameribanc, Inc. ("Ameribanc"), its lead subsidiary bank, Mercantile Bank National Association, all in St. Louis, Missouri, and the other subsidiary banks and the nonbanking subsidiaries of Mercantile.

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

Attachment

FEDERAL RESERVE SYSTEM

Firstar Corporation
Milwaukee, Wisconsin

Order Approving the Merger of Bank Holding Companies

Firstar Corporation ("Firstar"), 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 Mercantile Bancorporation Inc. ("Mercantile"), and thereby acquire Mercantile's wholly owned registered bank holding company, Ameribanc, Inc.("Ameribanc"), its lead subsidiary bank, Mercantile Bank National Association, all in St. Louis, Missouri, and Mercantile's other subsidiary banks.[1] Firstar 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) to acquire the nonbanking subsidiaries of Mercantile.[2]

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (64 Federal Register 32,497 and 38,909 (1999)). The time for filing comments has expired, and

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[1] All the subsidiary banks of Mercantile are listed in Appendix A. Firstar and Mercantile also have requested the Board's approval to hold and exercise options for Firstar to acquire up to 19.9 percent of Mercantile's voting shares and for Mercantile to acquire up to 9.9 percent of Firstar's voting shares. The options would expire on consummation of the proposal.

[2] The nonbanking subsidiaries of Mercantile and their activities are listed in Appendix B.

the Board has considered the proposal and all comments received in light of the factors set forth in sections 3 and 4 of the BHC Act.

Firstar, with consolidated assets of approximately $38.5 billion, is the 23rd largest commercial banking organization in the United States.[3] Firstar is the fifth largest depository institution in Ohio and the second largest depository institution in Wisconsin, controlling deposits of $8.5 billion in Ohio and $8.4 billion in Wisconsin.[4] Firstar also operates subsidiary banks in Arizona, Illinois, Indiana, Iowa, Kentucky, Minnesota, and Tennessee, and engages in a number of permissible nonbanking activities nationwide.

Mercantile, with total consolidated assets of approximately $36 billion, is the 27th largest commercial banking organization in the United States. Mercantile is the largest depository institution in Missouri, controlling deposits of $15 billion in the state. Mercantile also operates subsidiary banks in Arkansas, Illinois, Iowa, Kansas, and Kentucky, and engages in a number of permissible nonbanking activities nationwide.

After consummation of the proposal, Firstar would become the 15th largest commercial banking organization in the United States, with consolidated assets of approximately $74.5 billion. Firstar would operate subsidiary banks in twelve states.

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[3] Asset data are as of December 31, 1998, and deposit data are as of June 30, 1998. All data are adjusted to reflect subsequent acquisitions by Firstar. See Firstar Corporation, 84 Federal Reserve Bulletin 1083 (1998) ("Firstar Order").

[4] In this context, depository institutions include commercial banks, savings banks, and savings associations.

Interstate Analysis

Section 3(d) of the BHC Act allows the Board to approve an application by a bank holding company to acquire control of a bank located in a state other than the home state of such bank holding company if certain conditions are met.[5] For purposes of the BHC Act, the home state of Firstar is Wisconsin, and Firstar proposes to acquire banks that are located in Arkansas, Illinois, Iowa, Kansas, Kentucky, and Missouri.[6]

Section 3(d) of the BHC Act provides that the Board may not approve a proposal if, on consummation of the proposal, 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.[7] Firstar and Mercantile both operate insured depository institutions in Illinois, Kentucky, and Iowa. On consummation of the proposal, Firstar would control less than 30 percent of total deposits held by insured depository institutions in Illinois and

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[5] See 12 U.S.C. § 1842(d). A bank holding company's home state is the state in which the total deposits of all banking subsidiaries of such company were largest on July 1, 1966, or the date on which the company became a bank holding company, whichever is later.

[6] For purposes of section 3(d) of the BHC Act, the Board considers a bank to be located in the states in which the bank is chartered or headquartered or operates a branch. See 12 U.S.C. §§ 1841(o)(4)-(7) and 1842(d)(1)(A) and (d)(2)(B).

[7] 12 U.S.C. § 1842(d)(2)(B)-(D).

Kentucky, which is the appropriate percentage established by applicable state law.[8]

Iowa law prohibits any bank holding company from acquiring a depository institution in the state if, as a result of the acquisition, the bank holding company would control more than 10 percent of the total deposits held by insured depository institutions in the state, as determined by the Iowa Superintendent of Banking on the basis of the most recent reports of insured depository institutions available at the time of the acquisition.[9] Based on call report data, as of June 30, 1999, filed by insured depository institutions in Iowa, supplemented by the most recently available summary of deposit data, Firstar would not exceed the Iowa deposit cap on consummation of the proposal and the Iowa Superintendent has advised the Board in writing that the proposal is consistent with Iowa law.[10]

Based on all the facts of record, including the interpretation of the Iowa deposit cap provided by the Iowa Superintendent, the Board concludes that it is authorized to approve the proposal under section 3(d) of the BHC Act.[11] All other conditions for an interstate acquisition enumerated

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[8] See 205 Ill. Comp. Stat. 5/21.3 (West 1999); Ky. Rev. Stat. Ann. § 287.920(4) (Michie 1999).

[9] Iowa Code Ann. § 524.1802(1) (West 1999).

[10] See Letter from Donald G. Senneff, General Counsel, Iowa Division of Banking, to Ellen Holmgren, Federal Reserve Bank of Chicago, dated August 26, 1999.

[11] The Board received a comment from Inner City Press, Bronx, New York ("ICP"), alleging that certain deposit transfers made by Firstar and Mercantile impermissibly circumvent the Iowa deposit cap. The Iowa statute prohibits an acquisition of an Iowa bank if, "upon the acquisition,"

in section 3(d) of the BHC Act also are met in this case.[12] In view of all the facts of record, and for the reasons discussed above, the Board is permitted to approve this proposal under section 3(d) of the BHC Act.

Competitive Factors

Section 3 of the BHC Act prohibits the Board from approving a proposal that would result in a monopoly or would be in furtherance of any attempt to monopolize the business of banking. The BHC Act also prohibits the Board from approving a proposal that would substantially lessen competition in any relevant banking market unless the Board finds that the anticompetitive effects of the proposal in that banking market 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.[13]

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the acquiror "would have" more than 10 percent of total state deposits. Firstar would not have more than 10 percent of total Iowa deposits when it acquires Mercantile, and this fact has been confirmed by the Iowa Superintendent.

[12] Firstar is adequately capitalized and adequately managed as defined in section 3(d). 12 U.S.C. § 1842(d)(1)(A). Each bank subsidiary of Mercantile has been in existence and operated for the minimum period of time required by the law of the state in which it is located. 12 U.S.C. § 1842(d)(1)(B). On consummation, Firstar would control less than 10 percent of the total amount of deposits of insured depository institutions in the United States. 12 U.S.C. § 1842(d)(2)(A). All other requirements under section 3(d) of the BHC Act also would be met on consummation of the proposal.

[13] See 12 U.S.C. § 1842(c).

Firstar and Mercantile compete directly in ten banking markets.[14] The Board has carefully reviewed the competitive effects of the proposal in each of these banking markets in light of all the facts of record, including the number of competitors that would remain in the market, the share of total deposits in depository institutions in the market ("market deposits") controlled by each competitor in the market,[15] the concentration level of market deposits in the market and the increase in this level, as measured by the Herfindahl-Hirschman Index ("HHI"),[16] and other characteristics of the markets.

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[14] These banking markets are described in Appendix C.

[15] Market share data are based on calculations that include the deposits of thrift institutions, which include savings banks and savings associations, weighted at 50 percent. The Board previously has indicated that thrift institutions have become, or have the potential to become, significant competitors of commercial banks. See, e.g., Midwest Financial Group, 75 Federal Reserve Bulletin 386 (1989); National City Corporation, 70 Federal Reserve Bulletin 743 (1984). Thus, the Board regularly has included thrift deposits in the calculation of market share on a 50-percent weighted basis. See, e.g., First Hawaiian, Inc., 77 Federal Reserve Bulletin 52 (1991).

[16] Under the Department of Justice Merger Guidelines ("DOJ Guidelines"), 49 Federal Register 26,923 (June 29, 1984), a market in which the post-merger HHI is more than 1800 is considered to be highly concentrated. The Department of Justice has informed the Board that a bank merger or acquisition generally will not be challenged (in the absence of other factors indicating anticompetitive effects) unless the post-merger HHI is at least 1800 and the merger increases the HHI by more than 200 points. The Department of Justice has stated that the higher than normal HHI thresholds for screening bank mergers for anticompetitive effects implicitly recognize the competitive effects of limited-purpose lenders and other nondepository financial institutions.

Consummation of the proposal without divestitures would be consistent with Board precedent and the DOJ Guidelines in six of the ten banking markets in which Firstar and Mercantile directly compete: Ames, Cedar Rapids, Des Moines, Omaha-Council Bluffs, and Rock Island-Davenport, each located in whole or in part in Iowa; and Clarksville-Hopkinsville, located in Tennessee and Kentucky.[17] In each of these markets, a large number of competitors relative to the size of the market would remain after consummation of the proposal. These banking markets, with the exception of the Des Moines and Omaha-Council Bluffs markets, also would remain moderately concentrated, as measured by the HHI, after consummation of the proposal.[18]

In the four remaining banking markets in which Firstar and Mercantile directly compete, the resulting HHI would exceed the DOJ Guidelines. To mitigate the potential anticompetitive effects of the proposal in three of these markets (Dubuque-East Dubuque, Mount Pleasant, and Waterloo, each located in whole or in part in Iowa), Firstar has committed to divest in these markets a total of seven branches that currently control a total

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[17] The competitive effects of the proposal in these markets are summarized in Appendix D.

[18] Additional factors suggest that the anticompetitive effects of the proposal in the Des Moines and Omaha-Council Bluffs markets would be limited. In the Des Moines market, for example, the HHI would increase to 1802, 26 competitors would remain in the market, and Firstar would control 12 percent of market deposits. In the Omaha-Council Bluffs market, the HHI would increase by 3 points to 1941, and Firstar would control 2.9 percent of market deposits and would be the seventh largest depository institution in the market.

of $137 million in deposits.[19] After accounting for the proposed divestitures, consummation of the proposal would be consistent with Board precedent and the DOJ Guidelines in these three markets. In addition, other factors present in each of the three markets would tend to mitigate the anticompetitive effects of the proposal.[20]

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[19] The competitive effects of the proposal in the Dubuque-East Dubuque, Mount Pleasant, and Waterloo markets are summarized in Appendix D. Firstar has committed to execute, before consummation of the acquisition of Mercantile, sales agreements for the proposed divestitures in the Dubuque-East Dubuque, Mount Pleasant, and Waterloo banking markets with purchasers that would satisfy the DOJ Guidelines and to complete the divestiture within 180 days of consummation of the acquisition of Mercantile. Firstar also has committed that, if it is unsuccessful in completing any divestitures within the 180-day period, 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 branch(es) 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).

[20] For example, in the Dubuque-East Dubuque banking market, five competitors, including Firstar, each would control 5 percent or more of market deposits after consummation of the proposal, and two competitors would each have a larger market share than Firstar. As a result of the proposed divestitures in the Mount Pleasant banking market, consummation of the proposal would result in no change in market concentration. The Waterloo banking market appears to be attractive for entry and, in fact, two depository institutions have entered the market de novo in the past two years. The Waterloo Metropolitan Statistical Area ("MSA"), which approximates the Waterloo banking market, has a larger population and more deposits per banking office, and has experienced a larger percentage increase in total market deposits and per capita income, than any other MSA in Iowa.

Consummation of the proposal in the Clinton banking market, located in Iowa and Illinois, would exceed the DOJ Guidelines. In this market, the Board has considered whether other factors either mitigate the competitive effects of the proposal in the market or indicate that the proposal would have a significantly adverse effect on competition in the market.[21]

Firstar's bank subsidiary is the fourth largest depository institution in the Clinton banking market, controlling deposits of $82 million, representing approximately 11.2 percent of market deposits. Mercantile's bank subsidiary is the sixth largest depository institution in the market, controlling deposits of $71.1 million, representing approximately 9.7 percent of market deposits. After the proposed merger, Firstar's subsidiary bank would become the second largest depository institution in the market, controlling deposits of $153.1 million, representing approximately 20.9 percent of market deposits. The HHI would increase 218 points to 1835.

A number of factors indicate that the competitive effects of the proposal are not likely to be significantly adverse in this market. After consummation of the proposal, ten depository institutions would continue to operate in the market. One depository institution would control a larger percentage of market deposits than Firstar and five of the ten depository institutions in the market would each control more than 10 percent of market deposits.

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[21] The number and strength of factors necessary to mitigate the competitive effects of a proposal depend on the level of concentration and magnitude of the increase in market concentration. See NationsBank Corporation, 84 Federal Reserve Bulletin 129 (1998).

The Department of Justice has reviewed the proposal, including its effect on competition in the Clinton banking market, and advised the Board that 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, the Board concludes that consummation of the proposal would not result in any significantly adverse effects on competition or on the concentration of banking resources in the markets in which Firstar and Mercantile now compete or any other relevant market.

Convenience and Needs Factor

In acting on a proposal under section 3 of the BHC Act, the Board is required to consider the effect of the proposal on the convenience and needs of the communities to be served. The Board has carefully considered the effect of the proposal on the convenience and needs of the communities to be served in light of all the facts of record, including comments on the proposal submitted by the Wisconsin Rural Development Center, Inc., Ettrick, Wisconsin, and ICP ("Commenters"). Commenters opposed the merger proposal, alleging that Firstar has an inadequate record of meeting the banking and credit needs of the communities it serves, particularly in areas with predominantly low- and moderate-income ("LMI") and minority populations. Commenters also expressed concern about Firstar's record of lending on the basis of data submitted under the Home Mortgage Disclosure Act (12 U.S.C. § 2801 et seq.) ("HMDA"). One

Commenter also expressed concern about Firstar's record of lending and providing services to rural and LMI communities in Wisconsin and its record of participation in state and federally guaranteed loan programs designed to assist LMI individuals, small businesses, and owners of small farms.

A. CRA Performance Examinations

The Board has long held that consideration of the convenience and needs factor includes a review of the records of the relevant depository institutions under the Community Reinvestment Act (12 U.S.C. § 2901 et seq.) ("CRA"). As provided in the CRA, the Board has evaluated this factor in light of examinations of the CRA performance records of the relevant institutions by the appropriate federal financial supervisory agency.[22]

All of Firstar's subsidiary banks received "outstanding" or "satisfactory" ratings in the most recent examinations of their CRA performance. Firstar's lead subsidiary bank, Firstar Ohio, received an

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[22] The Interagency Questions and Answers Regarding Community Reinvestment provides that an institution's most recent CRA performance evaluation is an important and often controlling factor in the consideration of an institution's CRA record because it represents a detailed evaluation of the institution's overall record of performance under the CRA by the appropriate federal banking supervisor. 64 Federal Register 23,618 and 23,641 (1999). One Commenter expressed concern that the CRA performance evaluations of Firstar's subsidiary banks are outdated. The Board notes that it has not relied exclusively on the CRA performance evaluations to assess Firstar's CRA performance record. The Board also has relied on other information, including supervisory information and information provided by Firstar, concerning Firstar's CRA performance since the date of its most recent CRA performance evaluations.

"outstanding" rating in its most recent CRA performance evaluation by the OCC, as of December 1996.[23] Firstar's largest subsidiary bank in Wisconsin, Firstar Bank Milwaukee, National Association, Milwaukee, Wisconsin ("Firstar Milwaukee"), received a "satisfactory" rating in its most recent CRA performance evaluation by the OCC, as of November 1997.[24] The subsidiary banks of Mercantile also received "outstanding" or "satisfactory" ratings in the most recent examinations of their CRA performance.[25]

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[23] Firstar Ohio was formerly named Star Bank, N.A., and was acquired by Firstar in 1998 through a merger with Star Banc Corporation, Cincinnati, Ohio ("SBC"). See Firstar Order. The most recent CRA performance evaluation for Firstar Ohio was conducted before the merger. After the merger, Firstar adopted SBC's CRA program. See Firstar Order at 1084.

[24] In addition, Firstar Bank Wisconsin, Madison, Wisconsin ("Firstar Wisconsin"), received an "outstanding" rating in its most recent CRA performance evaluation by the Federal Reserve Bank of Chicago, as of April 1997; Firstar Bank of Minnesota, N.A., St. Paul, Minnesota, received a "satisfactory" rating in its most recent CRA performance evaluation by the OCC, as of December 1997; Firstar Bank U.S.A., N.A., Waukegan, Illinois, received a "satisfactory" rating in its most recent CRA performance evaluation by the OCC, as of November 1997; Firstar Bank Wausau, N.A., Wausau, Wisconsin, received an "outstanding" rating in its most recent CRA performance evaluation by the OCC, as of May 1995; Firstar Bank Burlington, National Association, Burlington, Iowa, received an "outstanding" rating in its most recent CRA performance evaluation by the OCC, as of April 1995; and Firstar Metropolitan Bank & Trust, Phoenix, Arizona, received a "satisfactory" rating in its most recent CRA performance evaluation by the FDIC, as of July 1996.

[25] Mercantile Bank National Association received a "satisfactory" rating in its most recent CRA performance evaluation by the OCC, as of June 1997; Mercantile Bank of Arkansas National Association, North Little Rock, Arkansas, received a "satisfactory" rating in its most recent CRA

Firstar represents that it will retain its approach to meeting its responsibilities under the CRA after consummation of the proposal. Accordingly, the Board has paid particular attention to the CRA performance record of Firstar in considering the effect of the proposal on the convenience and needs factor.

B. Firstar's CRA Performance Record

Firstar Ohio. Examiners commended Firstar Ohio for its responsiveness to the credit needs in its assessment area, particularly the needs of LMI communities and borrowers. Between July 1, 1994, and June 30, 1996, Firstar Ohio made 18 percent of all its HMDA-reported loans, and 10 percent of the total dollar amount of these loans, in LMI areas. Examiners noted that the bank's penetration level in LMI areas compared favorably to the percentage of owner-occupied units in the assessment area that were located in LMI areas. Examiners also noted that 30 percent of the total dollar amount of home equity loans made by Firstar Ohio from January 1, 1995, through June 30, 1996, were made in LMI census tracts in the bank's assessment area.

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performance evaluation by the OCC, as of November 1996; Mercantile Bank, Overland Park, Kansas, received an "outstanding" rating in its most recent CRA performance evaluation by the Federal Reserve Bank of Kansas City, as of September 1998; Mercantile Bank of Illinois, Springfield, Illinois, received a "satisfactory" rating in its most recent CRA performance evaluation by the FDIC, as of December 1997; Mercantile Bank of Kentucky, Paducah, Kentucky, received an "outstanding" rating in its most recent CRA performance evaluation by the FDIC, as of August 1996; Mercantile Bank Midwest, Des Moines, Iowa, received a "satisfactory" rating in its most recent CRA performance evaluation by the Federal Reserve Bank of Chicago, as of August 1997; and Mercantile Bank of

Examiners noted that Firstar Ohio offered a variety of products and programs to assist in meeting the housing-related credit needs of LMI individuals and communities. The Home Advantage Program, for example, offers mortgages that feature lower downpayments, flexible debt ratios, and no private mortgage insurance for qualified individuals. Examiners stated that, in 1995, Firstar Ohio originated more than 1,100 mortgage loans under the program, totaling $56.4 million, and more than 600 home improvement loans, totaling $4.9 million.

Examiners also favorably noted Firstar Ohio's distribution of loans among businesses and farms of different sizes. For example, examiners noted that 93 percent of Firstar Ohio's total number of farm loans made between January 1995 and June 1996, accounting for 67 percent of the total dollar amount of these loans, were made to farms with gross annual revenues of $1 million or less.

The CRA performance examination cited the high level of community development loans that Firstar Ohio had originated. For example, from January 1994 through July 1996, Firstar Ohio originated 21 loans, totaling $70 million, which resulted in the rehabilitation of 1,848 units of affordable rental housing. Examiners also noted a significant level of community development investments. Firstar Ohio made $2.5 million in investments between November 1994 and December 1996, and examiners characterized a large portion of these investments as complex and innovative.

Trenton, Trenton, Missouri, received an "outstanding" rating in its most recent CRA performance evaluation by the FDIC, as of August 1995.

Firstar Ohio appears to have continued its efforts to address the credit needs of the communities in its assessment areas based on bank reporting data and information provided by Firstar. Firstar Ohio made 18.7 percent of its HMDA-reportable loans in LMI census tracts in 1997 and 14.8 percent of its HMDA-reportable loans in LMI census tracts in 1998. For each year, the percentage of these loans by Firstar Ohio was more than the percentage of HMDA-reportable loans originated in LMI census tracts by lenders in the aggregate. In addition, Firstar represents that, in 1998, the bank originated 428 loans, totaling $25.6 million, under the Home Advantage Program.

In 1998, Firstar Ohio originated approximately 19 percent of its Ohio small business loans to businesses located in LMI census tracts that had gross annual revenues of less than $1 million. The percentage of such loans made by lenders in the aggregate was approximately 17 percent. Firstar states that Firstar Ohio also participates in the Ohio Agricultural Linked Deposit Program, under which Firstar Ohio provides low-interest loans to Ohio farmers that are funded by the State of Ohio. Firstar represents that Firstar Ohio made 30 loans, totaling approximately $4.6 million, under this program from January 1997 to June 1999.

In July 1999, Firstar announced the establishment of the Adopt-A-Block program to be implemented in all of its subsidiary banks. Under the program, specific blocks or neighborhoods with special credit needs will be identified, and residents and small business in these communities will be offered low-cost loans and other banking services. For example, the program includes fixed-rate mortgage loans with no private mortgage insurance requirements and low downpayment requirements. Firstar represents that it has identified to date four communities for the program in

Ohio, Kentucky, and Wisconsin. Firstar also indicates that, in the two years since its CRA performance examination, Firstar Ohio has sponsored over 100 financial training programs and seminars that offer training and support to LMI individuals in the areas of homeownership, obtaining credit, small business formation, low-income housing development, and nonprofit financing.

Firstar Milwaukee. Examiners found that Firstar Milwaukee was responsive to the credit needs of all segments of its service community. In particular, examiners commended the bank for the level of its home mortgage and home improvement lending in LMI census tracts. Examiners noted that, in 1996, Firstar Milwaukee made 10 percent of its housing-related loans in LMI census tracts, which almost equaled the 13 percent of owner-occupied housing in the bank's service communities that were in these census tracts. Examiners also commended Firstar Milwaukee for making 38 percent of its consumer loans to LMI borrowers, which exceeded the percentage of LMI borrowers in the general population in the bank’s assessment area. Since that examination, Firstar represents that Firstar Milwaukee made approximately 14.6 percent of its housing-related loans in LMI census tracts in 1997, and approximately 43 percent of its housing-related loans in LMI census tracts in 1998.

Examiners commended Firstar Milwaukee for its lending to small businesses, including small businesses in LMI census tracts. Examiners noted that Firstar Milwaukee had introduced a small business line-of-credit program that offered a streamlined application process and was designed for emerging small businesses that needed to build a credit history. From the program's inception in 1996 through November 1997, examiners noted that Firstar Milwaukee originated 147 small business credit lines under this program, totaling more than $3.5 million.[26] In addition, Firstar indicates that, in 1998, Firstar Milwaukee originated 808 loans with principal amounts of $1 million or less, totaling $81.2 million, to businesses with gross annual revenues of $1 million or less. On a combined basis, the Firstar lending organizations operating in Wisconsin, which include Firstar Milwaukee, Firstar Wisconsin, and Firstar Home Mortgage Corporation ("FHMC"), originated 17.5 percent of their loans to businesses with gross annual revenues of less than $1 million in LMI census tracts in Wisconsin in 1998, compared to 12.5 percent made by lenders in the aggregate.

Examiners reported in the examination that Firstar Milwaukee offered a variety of low-cost checking accounts to consumers, small businesses, community groups, and nonprofit organizations. Firstar Milwaukee also cashed certain types of federal government benefit checks without charge for both customers and noncustomers of the bank, which examiners noted was unique in the bank's assessment area. In September 1998, Firstar introduced the Family Services Loan Program in Wisconsin, which offers low-income individuals small loans at a reduced rate of interest for the purpose of paying unexpected personal expenses. As of June 8, 1999, Firstar Milwaukee and Firstar Wisconsin had loaned approximately $44,000 of the $50,000 allocated to the program in amounts that averaged $2,200.

Firstar Wisconsin. The CRA examination of Firstar Wisconsin found that the bank had a strong record of small business and small farm

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[26] Firstar represents that, during 1998, Firstar Milwaukee originated 98 lines of credit under this program, representing a total commitment of $1.2 million.

lending. Examiners noted that, in 1996, Firstar Wisconsin made more than 3,600 small business loans and originated more than 230 small farm loans. Examiners stated that approximately 500 of the bank's small business and farm loans, totaling approximately $42 million, were made in LMI areas.[27] Firstar reports that, during 1998, Firstar Wisconsin originated 2,826 small business loans in Wisconsin in amounts of $100,000 or less, totaling $83.5 million.

The CRA performance examination concluded that Firstar Wisconsin offered a variety of governmentally insured, guaranteed, and subsidized loans to small businesses, small farms, and LMI borrowers. Examiners noted, for example, that during 1996 Firstar Wisconsin originated 149 Small Business Administration ("SBA") loans, totaling $35.4 million, and 69 Farm Service Agency ("FSA") loans, totaling $11.7 million. Examiners also commended the bank for participating in a lending program

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[27] One Commenter expressed concern about Firstar's commitment to agricultural lending in Wisconsin. The number of small farm loans originated by all of Firstar's subsidiary lending institutions in Wisconsin increased by 312 percent between 1996 and 1997 and decreased by 43 percent between 1997 and 1998. By contrast, lenders in the aggregate in Wisconsin increased their small farm loans only 3 percent between 1996 and 1997, and their lending decreased by 13 percent between 1997 and 1998. Although Firstar's small farm lending fluctuated more widely than it did among lenders in the aggregate, Firstar's small farm lending increased by 76 percent between 1996 and 1998 compared to a decrease of 11 percent among lenders in the aggregate. Firstar represents that it continues to be committed to agricultural lending in Wisconsin. According to Firstar, its Wisconsin bank subsidiaries employ local relationship managers with expertise in agricultural lending and lending authority, and it recently formed an "Ag Council," which includes community bank presidents in all the communities in which Firstar operates, to address specific lending needs of farmers in these communities.

of the Department of Housing and Urban Development that offered nontraditional mortgage loans on real property located on the Lac Courte Oreille Reservation where conventional mortgage lending was difficult because borrowers often did not own the mortgaged real estate outright.

Firstar states that, since the CRA performance examination, Firstar Wisconsin has continued to participate actively in various government-guaranteed loan programs. For example, Firstar reports that Firstar Wisconsin made more than 130 SBA loans in 1997, totaling $37.8 million, and that the bank made 56 SBA loans in the first six months of 1998, totaling $15.2 million. Firstar also states that Firstar Wisconsin and its affiliates in Wisconsin continue to participate in various lending programs operated by the Wisconsin Housing and Economic Development Authority ("WHEDA"). Firstar reports that Firstar Wisconsin, Firstar Milwaukee, and FHMC together originated approximately 151 loans through WHEDA, totaling approximately $8.8 million in 1997 and approximately 117 such loans, totaling approximately $7.4 million in 1998.[28]

The CRA performance examination commended the bank's responsiveness to the credit needs of LMI individuals and areas. For example, according to the CRA performance examination, Firstar Wisconsin and FHMC made more than 10 percent of their housing-related loans in LMI

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[28] One Commenter expressed concern that Firstar has reduced its participation in WHEDA agricultural and home lending programs, and other government-supported loan programs that benefit farmers and rural communities in Wisconsin. Firstar has indicated that it remains an active participant in the WHEDA loan program, including the agricultural and home lending programs of WHEDA, and suggests that some borrowers

census tracts and approximately 21 percent of their housing-related loans to LMI borrowers. Examiners favorably characterized the distribution of the bank's housing-related loans in LMI census tracts and to LMI borrowers. Firstar represents that FHMC originated 10 percent of its mortgage loans in 1997, and 9 percent of its mortgage loans in 1998, in LMI census tracts. This is generally consistent with the percentage of mortgage loans originated by lenders in the aggregate in LMI census tracts, which was 12 percent in 1997 and 10 percent in 1998.

Examiners noted that Firstar Wisconsin made extensive use of innovative and flexible lending practices and programs. For example, examiners cited favorably Firstar's continued participation in the AdvoCap program, a state sponsored program that provides mortgages with flexible underwriting standards to LMI families that are first-time homebuyers.

C. <u>HMDA Data</u>

The Board also has considered the lending record of Firstar's subsidiaries in light of the comments on their HMDA data. The most recent data available for 1998 generally indicate that Firstar's record of lending in Ohio and Wisconsin compare favorably to the record of lenders in the aggregate in these states. For example, Firstar Ohio originated a higher percentage of HMDA-reportable loans in Ohio in 1998 to African Americans, Hispanics, LMI borrowers, and LMI residents than lenders in the aggregate. In Wisconsin, Firstar originated the same or a higher percentage of its HMDA-reportable loans in 1998 to African Americans and Hispanics than did lenders in the aggregate.

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eligible for loans under WHEDA may have obtained comparable financing through other Firstar programs.

The data for 1996, 1997, and 1998, however, reflect certain disparities in the rates of loan applications and denials among members of different racial groups and persons of different income levels.[29] The Board is concerned when the record of an institution indicates disparities in lending, and believes that all banks are obligated to ensure that their lending practices are based on criteria that ensure not only safe and sound lending but also equal access to credit by creditworthy applicants regardless of their race or income level.

The Board recognizes that HMDA data alone provide an incomplete measure of an institution's lending in its community because these data cover only a few categories of housing-related lending. HMDA data, moreover, provide only limited information about the covered loans.[30] HMDA data, therefore, have limitations that make them an inadequate basis, absent other information, for concluding that an institution has not adequately assisted in meeting its community's credit needs or has engaged in illegal lending discrimination.

Because of the limitations of HMDA data, the Board considered these data carefully in light of other information. The CRA

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[29] Commenters criticized Firstar for lending disparities between minority and white applicants in the Chicago MSA and MSAs in Wisconsin.

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

performance examinations found no evidence of prohibited discrimination or illegal credit practices at Firstar's subsidiary banks. Examiners concluded that the banks solicited and accepted credit applications from all segments of their communities. Examiners also generally noted that loans made by the banks were reasonably distributed throughout the local communities served, including LMI areas, and that the banks served all members of these communities, including LMI individuals. In addition, examiners generally determined that the banks' delineations of the local communities they served were reasonable and did not arbitrarily exclude any LMI census tracts. Moreover, the programs and lending efforts that Firstar has designed to address the credit needs of all the communities served by Firstar do not indicate any prohibited discrimination or illegal credit practices at Firstar's subsidiary banks and the lending subsidiaries of these banks. The Board also notes that, in addition to offering home mortgage programs to LMI and minority individuals, Firstar has a number of programs, including the programs described above, designed to address the diverse credit needs of these individuals.

D. Conclusion on the Convenience and Needs Factor

In its review of the convenience and needs factor under the BHC Act, the Board has carefully considered the entire record, including the CRA performance examinations of each of the insured depository institutions involved in this proposal, all the information provided by Commenters, recent data provided by the insured depository institutions in regulatory reports, and information provided by Firstar and Mercantile concerning recent efforts to address the convenience and needs of the communities served by the institutions.[31] Based on all the facts of record, and for the reasons discussed above, the Board concludes that considerations relating to the convenience and needs factor, including the CRA performance records of the relevant institutions, are consistent with approval of the proposal.

Financial, Managerial, and Other Supervisory Factors

The BHC Act also requires the Board, in acting on an application, to consider the financial and managerial resources and future prospects of the companies and banks involved in a proposal and certain other supervisory factors. The Board has carefully considered the financial and managerial resources and future prospects of Firstar, Mercantile, and their respective subsidiary banks, and other supervisory factors in light of all the facts of record, including supervisory reports of examination assessing the financial and managerial resources of the organizations and confidential

[31] The Commenters criticized Firstar for not entering into agreements with community-based organizations that would provide separate monetary goals for CRA performance in a particular geographic area and for not making CRA pledges for any community other than St. Louis, Missouri. 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 notes that Firstar will have a responsibility to help serve the credit needs of its entire community after consummation of the proposal, including LMI neighborhoods, with or without private CRA agreements, and that its actual CRA performance will continue to be evaluated in on-site examinations.

financial information provided by Firstar. Based on these and all the other facts of record, the Board concludes that the financial and managerial resources and future prospects of Firstar, Mercantile, and their subsidiary banks are consistent with approval, as are the other supervisory factors that the Board must consider under section 3 of the BHC Act.[32]

Nonbanking Activities

Firstar also has filed a notice under section 4(c)(8) of the BHC Act to acquire Mercantile's nonbanking subsidiaries and thereby to engage in credit activities, trust company functions, credit insurance activities, and community development activities. The Board has determined by regulation that these activities are closely related to banking for purposes of the BHC Act.[33] Firstar has committed to conduct these nonbanking activities in

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[32] A Commenter has asserted that the efforts of Firstar and Mercantile to plan for the integration of their organizations and operations after consummation of the proposal constitute the exercise by Firstar of a controlling influence over Mercantile without prior Board approval. Information provided by the Commenter and Firstar does not indicate that the actions taken in this case involve the actual integration of the two companies or other actions that would represent the exercise by Firstar of a controlling influence over the management or policies of Mercantile. Instead, Firstar and Mercantile have exchanged information and begun planning the manner in which certain operations could be integrated if the proposal receives all required regulatory approvals. The Board recognizes that it is necessary and appropriate for organizations that have agreed to merge to coordinate their integration efforts to ensure an orderly transition. Based on all the facts of record, the Board concludes that the actions of Firstar and Mercantile to coordinate their integration efforts are consistent with the BHC Act and with approval of the proposal.

[33] See 12 C.F.R. 225.28(b)(1), (5), (11)(i), and (12).

accordance with the limitations set forth in Regulation Y and the Board's orders and interpretations governing each of these activities.[34]

In order to approve a notice under section 4(c)(8) of the BHC Act, the Board also must determine that the proposed activities are a proper incident to banking, that is, that the proposal "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."[35] Firstar has indicated that, after consummation of the proposal, it would be able to provide more products and services with greater efficiency to current and future customers of Firstar and Mercantile. Firstar would achieve greater operational efficiencies, realize greater economies of scale, and eliminate redundant systems and technologies. These efficiencies would strengthen Firstar'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

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[34] Firstar also currently engages in insurance activities grandfathered under section 4(c)(8)(G) of the BHC Act (12 U.S.C. § 1843(c)(8)(G)) ("Exemption G"). The structure of the transaction, including the relative size and market capitalization of the parties; the relative share ownership of the surviving company by current Firstar and Mercantile shareholders; the management of the surviving company; and the fact that Firstar would be the legal entity surviving the proposed merger, indicates that Firstar would be the surviving company after consummation of the proposal for purposes of the BHC Act. Accordingly, based on all the facts of record in this case, the Board has determined that Firstar would retain its grandfathered rights to engage in Exemption G activities after consummation of the proposal.

[35] 12 U.S.C. § 1843(c)(8).

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.[36]

As part of its evaluation of these factors, the Board also considers the financial condition and managerial resources of the notificant 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 considered the competitive effects of the proposed acquisition by Firstar of the nonbanking subsidiaries of Mercantile. Numerous competitors would remain in each of the nonbanking markets in which Firstar and Mercantile compete, and the market structure for providing each of these services would remain unconcentrated. Consummation of the proposal, therefore, would have a de minimis effect on competition in each of these markets. 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 the transaction.

The Board also concludes that the conduct of the proposed nonbanking activities within the framework of Regulation Y and Board precedent is not likely to result in adverse effects, such as undue

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

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 consistent with approval of Firstar's notice.

Conclusion

Based on the foregoing, and in light of all the facts of record, the Board has determined that the application and notice should be, and hereby are, approved.[37] The Board's approval is specifically conditioned on compliance by Firstar with all the commitments made in connection with this application and with the conditions stated or referred to in this order. The Board's determination on 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

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[37] Commenters requested that the Board extend the public comment period, and one Commenter requested that the Board delay approval of the proposal until the Board completes a comprehensive review of Firstar's CRA performance and lending record. The Board has accumulated a significant record in this case, including reports of examination, supervisory information, public reports and information, and public comment. In addition, the Commenters have had ample opportunity to submit their views and, in fact, have provided substantial written submissions 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 that further delay of consideration of the proposal or an extension of the comment period is not warranted.

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 action, the commitments and conditions relied on by the Board in reaching its decision are deemed to be conditions imposed in writing by the Board in connection with its findings and decision and, as such, may be enforced in proceedings under applicable law.

The acquisition of Mercantile'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,[38] effective September 1, 1999.

(signed)

Robert deV. Frierson
Associate Secretary of the Board

[38] Voting for this action: Governors Kelley, Meyer, Ferguson, and Gramlich. Absent and not voting: Chairman Greenspan.

APPENDIX A

Banking Subsidiaries of Mercantile

Mercantile Bank National Association, St. Louis, Missouri

Mercantile Bank of Trenton, Trenton, Missouri

Mercantile Bank, Overland Park, Kansas

Mercantile Bank of Arkansas National Association, North Little Rock, Arkansas

Mercantile Bank of Illinois, Springfield, Illinois

Mercantile Bank of Kentucky, Paducah, Kentucky

Mercantile Bank Midwest, Des Moines, Iowa

APPENDIX B

Nonbanking Subsidiaries of Mercantile

Mercantile Consumer Loan Company, Rock Island, Illinois, and thereby engage in making, acquiring, brokering, or servicing loans or other extensions of credit in accordance with section 225.28(b)(1) of Regulation Y (12 C.F.R. 225.28(b)(1));

FFG Trust, Inc., Springfield, Illinois, and Mercantile Trust Company National Association, St. Louis, Missouri, and thereby engage in trust company activities in accordance with section 225.28(b)(5) of Regulation Y (12 C.F.R. 225.28(b)(5));

Mississippi Valley Life Insurance Company, St. Louis, Missouri, and Mercantile Consumer Loan Company, Rock Island, Illinois, and thereby engage in acting as principal, agent, or broker for insurance in accordance with section 225.28(b)(11)(i) of Regulation Y (12 C.F.R. 225.28(b)(11)(i)); and

D.D. Development of Sterling, Sterling, Illinois, and thereby engage in community development activities in accordance with section 225.28(b)(12) of Regulation Y (12 C.F.R. 225.28(b)(12)).

APPENDIX C

Banking Markets in Which Firstar and Mercantile Directly Compete

Iowa

Ames	Boone County; Story County; and the townships of Clear Lake, Ellsworth, Lincoln, Lyon, Marion, and Scott in Hamilton County.
Cedar Rapids	Linn County and Jefferson township in Johnson County.
Clinton	Clinton County, except the townships of Bloomfield, Brookfield, and Sharon; York township in Carroll County; and the townships of Albany, Fulton, and Garden Plain in Whiteside County, Illinois.
Des Moines	Polk County and Linn township in Warren County.
Dubuque-East Dubuque	Dubuque County; Dunleith township in Jo Daviess County, Illinois; the townships of Hazel Green, Jamestown, Paris, and Smelser in Grant County, Wisconsin; and Benton township in Lafayette County, Wisconsin.
Mount Pleasant	Henry County and Cedar township in Lee County.
Omaha–Council Bluffs	Omaha-Council Bluffs Rand McNally Marketing Area; the contiguous areas east of the Elkhorn River in Douglas County, Nebraska; and Pottawattamie County, Iowa, except the eastern two tiers of townships.
Rock Island-Davenport	Scott County; Farmington township in Cedar County; Rock Island County, Illinois, except the townships of Drury and Buffalo Prairie; and the townships of Colona, Edford, Geneseo, Hanna, and Western in Henry County, Illinois.

Waterloo	Black Hawk County; the townships of Jefferson and Jackson in Bremer County; and Beaver township in Butler County.

Tennessee and Kentucky

Clarksville-Hopkinsville	Montgomery County and Stewart County in Tennessee and Christian County in Kentucky.

APPENDIX D

Summary of Market Structure

A. Banking Markets Without Divestitures

Ames	Firstar is the second largest depository institution in the market, controlling deposits of $114.8 million, representing approximately 9 percent of market deposits. Mercantile is the third largest depository institution in the market, controlling deposits of $96 million, representing approximately 7.5 percent of market deposits. After the proposed merger, Firstar would remain the second largest depository institution in the market, controlling deposits of $210.8 million, representing approximately 16.5 percent of market deposits. The HHI would increase 135 points to 1721.
Cedar Rapids	Firstar is the largest depository institution in the market, controlling deposits of $542.4 million, representing approximately 24.1 percent of market deposits. Mercantile is the fourth largest depository institution in the market, controlling deposits of $174.2 million, representing approximately 7.7 percent of market deposits. After the proposed merger, Firstar would remain the largest depository institution in the market, controlling deposits of $716.8 million, representing approximately 31.8 percent of market deposits. The HHI would increase 372 points to 1644.
Des Moines	Firstar is the fourth largest depository institution in the market, controlling deposits of $360.2 million, representing approximately 6.7 percent of market deposits. Mercantile is the eighth largest depository institution in the market, controlling deposits of $283.9 million, representing approximately 5.3 percent of market deposits. After the proposed merger, Firstar would become the second largest depository institution in the market, controlling deposits of $644.1 million,

representing approximately 12 percent of market deposits. The HHI would increase 70 points to 1802.

Omaha-Council Bluffs	Firstar is the ninth largest depository institution in the market, controlling deposits of $181 million, representing approximately 2.1 percent of market deposits. Mercantile is the 15th largest depository institution in the market, controlling deposits of $75 million, representing less than 1 percent of market deposits. After the proposed merger, Firstar would become the seventh largest depository institution in the market, controlling deposits of $256 million, representing approximately 2.9 percent of market deposits. The HHI would increase 3 points to 1941.
Rock Island-Davenport	Firstar is the fifth largest depository institution in the market, controlling deposits of $214.6 million, representing approximately 5 percent of market deposits. Mercantile is the second largest depository institution in the market, controlling deposits of $595.3 million, representing approximately 13.9 percent of market deposits. After the proposed merger, Firstar would become the second largest depository institution in the market, controlling deposits of $809.9 million, representing approximately 18.9 percent of market deposits. The HHI would increase 140 points to 1061.
Clarksville-Hopkinsville	Firstar is the seventh largest depository institution in the market, controlling deposits of $94.3 million, representing approximately 5.7 percent of market deposits. Mercantile is the tenth largest depository institution in the market, controlling deposits of $48.6 million, representing approximately 3 percent of market deposits. After the proposed merger, Firstar would become the sixth largest depository institution in the market, controlling deposits of $142.9 million, representing approximately 8.7 percent of market deposits. The HHI would increase 34 points to 1137.

B. Banking Markets With Divestitures, Except the Clinton Banking Market

Dubuque- East Dubuque	Firstar is the fourth largest depository institution in the market, controlling deposits of $130.9 million, representing approximately 9.3 percent of market deposits. Mercantile is the third largest depository institution in the market, controlling deposits of $235.5 million, representing approximately 16.7 percent of market deposits. Firstar proposes to divest two branches with total deposits of approximately $52.4 million. After the proposed merger and divestiture, Firstar would become the third largest depository institution in the market, controlling deposits of $313.9 million, representing approximately 22.3 percent of market deposits. Assuming that Firstar would sell the branches to a suitable out-of-market competitor, the HHI would increase 145 points to 2083.
Mount Pleasant	Firstar is the largest depository institution in the market, controlling deposits of $85.9 million, representing approximately 37.9 percent of market deposits. Mercantile is the second largest depository institution in the market, controlling deposits of $41.3 million, representing approximately 18.2 percent of market deposits. Firstar proposes to divest three branches with total deposits of approximately $41.3 million. After the proposed merger and divestiture, Firstar would remain the largest depository institution in the market, controlling deposits of $85.9 million, representing approximately 37.9 percent of market deposits. Thus, Firstar's market share would not increase in this market. Assuming that Firstar would sell branches to a suitable out-of-market competitor, the HHI would remain unchanged at 2105.
Waterloo	Firstar is the fourth largest depository institution in the market, controlling deposits of $96 million,

representing approximately 5.9 percent of market deposits. Mercantile is the second largest depository institution in the market, controlling deposits of $435.2 million, representing approximately 26.7 percent of market deposits. Firstar proposes to divest two branches with total deposits of approximately $43 million. After the proposed merger and divestiture, Firstar would become the second largest depository institution in the market, controlling deposits of $488.2 million, representing approximately 30 percent of market deposits. Assuming that Firstar would sell the branches to a suitable out-of-market competitor, the HHI would increase 156 points to 2584.