

FEDERAL RESERVE SYSTEM

HSBC Holdings plc
London, United Kingdom

HSBC Finance Netherlands
London, United Kingdom

HSBC Holdings BV
Amsterdam, Netherlands

Republic New York Corporation
New York, New York

Republic National Bank of New York
New York, New York

Order Approving Applications to Acquire a Bank Holding Company and to Merge
Banks, and Notice to Acquire Nonbanking Companies

HSBC Holdings plc (“HSBC”), HSBC Finance Netherlands (“HFN”), and HSBC Holdings BV (“HHBV”), all bank holding companies within the meaning of the Bank Holding Company Act (“BHC Act”), have requested the Board’s approval under section 3 of the BHC Act (12 U.S.C. § 1842) to acquire all the voting shares of Republic New York Corporation (“RNYC”), and its wholly owned subsidiary banks, Republic National Bank of New York (“Republic Bank”) and Republic Bank California National Association, Beverly Hills, California (“Republic California”).¹ HSBC, HFN, and HHBV also have requested the

¹ HSBC proposes to acquire RNYC by merging an indirect, wholly owned acquisition subsidiary with and into RNYC, with RNYC as the surviving corporation. HSBC proposes to hold the corporation resulting from the merger of RNYC with HSBC USA, Inc. through an intermediate holding company in the United States, HSBC North America, Inc. Because this intermediate company would indirectly control a U.S. bank, it would be a bank holding company for purposes of the BHC Act.

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 RNYC and thereby engage in permissible nonbanking activities.² Republic Bank has applied under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. § 1828(c)) (the "Bank Merger Act") to merge with HSBC Bank USA ("HSBC Bank"), a state member bank that is the primary U.S. banking subsidiary of HSBC.³ In addition, HSBC proposes to acquire the foreign operations and Edge corporations of RNYC pursuant to section 4(c)(13) of the BHC Act (12 U.S.C. § 1843(c)(13)) and section 25A of the Federal Reserve Act (12 U.S.C. § 611 *et seq.*) and the Board's Regulation K (12 C.F.R. 211), and Republic Bank proposes to acquire the Agreement corporation subsidiary of HSBC Bank pursuant to section 25 of the Federal Reserve Act (12 U.S.C. § 601 *et seq.*) and Regulation K.⁴

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (64 Federal Register 35660 (1999));

² The nonbanking activities in which RNYC engages and for which HSBC, HFN, and HHBV have sought Board approval under section 4 of the BHC Act include factoring, in accordance with section 225.28(b)(1) of Regulation Y (12 C.F.R. 225.28(b)(1)); trust company functions, in accordance with section 225.28(b)(5) of Regulation Y (12 C.F.R. 225.28(b)(5)); agency transactional services, in accordance with section 225.28(b)(7) of Regulation Y (12 C.F.R. 225.28(b)(7)); and investment transactions as a principal, in accordance with section 225.28(b)(8) of Regulation Y (12 C.F.R. 225.28(b)(8)).

³ Republic Bank has applied to the New York State Banking Department to convert from a national to a New York State charter, and to the Board under section 9 of the Federal Reserve Act (12 U.S.C. § 321 *et seq.*) for membership of the converted bank in the Federal Reserve System. On completion of the merger of Republic Bank and HSBC Bank, Republic Bank would change its name to HSBC Bank USA ("New HSBC Bank").

⁴ HSBC also has requested the Board's approval to hold and exercise an option to acquire up to 19.9 percent of the shares of RNYC's common stock.

64 Federal Register 36876 (1999)). The time for filing comments has expired, and 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, the Federal Reserve Act, and the Bank Merger Act.

HSBC, with total consolidated assets of \$497 billion is the largest banking organization headquartered in the United Kingdom and is the eighth largest banking organization in the world.⁵ HSBC operates subsidiary banks in New York State and California that control deposits of \$22.1 billion.⁶ Three of HSBC's non-U.S. subsidiary banks also maintain branches in the U.S.⁷ HSBC, HFN, and HHBV also engage in a broad range of permissible nonbanking activities in the United States through subsidiaries, including underwriting and dealing in debt and equity securities to a limited extent.

RNYC, with total consolidated assets of \$51.2 billion, is the 19th largest commercial banking organization in the United States and the sixth largest commercial banking organization in New York State. RNYC operates subsidiary banks in New York State and California that control aggregate deposits of \$13.6 billion. RNYC and its subsidiaries also engage in certain permissible nonbanking activities in the United States, including dealing in debt and equity securities to a limited extent.

⁵ Asset data are as of June 30, 1999, and ranking data are as of December 31, 1998, and are based on exchange rates then applicable.

⁶ Deposit data are as of June 30, 1999.

⁷ The Hongkong and Shanghai Banking Corporation Limited, Hong Kong Special Administrative Region, People's Republic of China ("HSBL"), and Midland Bank plc, London, United Kingdom, each maintain a branch in New York, New York; and Hongkong Bank of Canada, Vancouver, Canada, maintains branches in Portland, Oregon, and Seattle, Washington. In addition, HSBC Equator Bank plc, London, United Kingdom, has a representative office in Washington, D.C.

Factors Governing Board Review of Transaction

The BHC Act sets forth the factors that the Board must consider when reviewing the formation of a bank holding company 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 proposal; 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; the availability of information needed to determine and enforce compliance with the BHC Act and other applicable federal banking law; and, in the case of applications involving a foreign bank, whether the foreign bank is subject to comprehensive supervision or regulation on a consolidated basis by its home country supervisor. In cases involving interstate bank acquisitions, the Board also must consider the concentration of deposits in the nation and relevant individual states, and compliance with other provisions of section 3(d) of the BHC Act.

The Board has considered these factors in light of a comprehensive record that includes information provided by HSBC, confidential supervisory and examination information, and publicly reported financial and other information. The Board also has considered information collected from the primary home country supervisor of HSBC and various federal and state agencies, including the New York State Banking Department, and other relevant agencies. In addition, the Board has considered information provided by public commenters in connection with the proposal.⁸

⁸ The Board received comments from 12 public commenters.

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 the bank holding company if certain conditions are met. For purposes of the BHC Act, the home state of HSBC is New York,⁹ and the subsidiary banks of RNYC are located in New York, Florida, and California.¹⁰ HSBC's U.S. subsidiary banks maintain branches in New York, Pennsylvania, and California.

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 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.¹²

On consummation of the proposal, HSBC would control approximately 1 percent of the total amount of deposits of insured depository institutions in the United States. HSBC would control less than 30 percent or the

⁹ A bank holding company's home state is that state in which the total deposits of all banking subsidiaries of such company were the largest on July 1, 1966, or the date on which the company became a bank holding company, whichever is later. 12 U.S.C. § 1841(o)(4)(C).

¹⁰ For purposes of section 3(d), 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).

appropriate percentage established by applicable state law of total deposits held by insured depository institutions in the states in which HSBC and RNYC both operate an insured depository institution. All other requirements of section 3(d) of the BHC Act also would be met after consummation of the proposal.¹³ In light of all the facts of record, the Board is permitted to approve the proposal under section 3(d) of the BHC Act.

Competitive Considerations

Section 3 of the BHC Act prohibits the Board from approving a proposal that would result in a monopoly. The BHC Act also prohibits the Board from approving a proposed bank acquisition that would substantially lessen competition in any relevant banking market unless the anticompetitive effects of the proposal are clearly outweighed in the public interest by the probable effect of the proposal in meeting the convenience and needs of the community to be served.¹⁴

HSBC and RNYC control banking operations that compete directly in the New York/New Jersey Metropolitan banking market (“New York banking market”).¹⁵ HSBC is the ninth largest depository institution in the New York

¹³ HSBC is adequately capitalized and adequately managed, as defined by applicable law. 12 U.S.C. § 1842(d)(1)(A). Republic California has been in existence and operated continuously for at least the period of time required by applicable state laws. See 12 U.S.C. § 1842(d)(1)(B); Cal. Fin. Code § 3825 (1999) (5 years). Additionally, Pennsylvania law authorizes an out-of-state bank to establish and maintain branches acquired from a predecessor in a merger, on condition of reciprocity with the laws of the state where the acquiring bank is chartered. 7 P.S. § 904(a) (1999). New York law provides such reciprocity. N.Y. Banking Law § 225.1 (1999).

¹⁴ 12 U.S.C. § 1842(c)(1).

¹⁵ The New York banking market includes Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, and Westchester Counties in New York; Bergen, Essex, Hudson,

banking market, controlling deposits of \$10 billion, representing approximately 2.4 percent of total deposits in depository institutions in the New York banking market (“market deposits”). RNYC is the eighth largest depository institution in the New York banking market, controlling deposits of \$13.6 billion, representing approximately 3.2 percent of market deposits.¹⁶ On consummation of the proposal, New HSBC Bank would become the fifth largest depository institution in the New York banking market, and HSBC would control total deposits of approximately \$23.7 billion in the market, including deposits in the New York branches of HSBC’s foreign banking subsidiaries, HSBL and Midland Bank plc. After the transaction, the market would remain unconcentrated, as measured by the Herfindahl-Hirschman Index (“HHI”) under the Department of Justice Merger Guidelines (“DOJ Guidelines”).¹⁷ In addition, numerous competitors would remain in the New York banking market. Based on these and all other facts of record, the Board concludes that consummation of the proposal would not result in

Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union, Warren, and a portion of Mercer Counties in New Jersey; Pike County in Pennsylvania; and portions of Fairfield and Litchfield Counties in Connecticut.

¹⁶ Deposit and ranking data for the New York banking market are as of June 30, 1998.

¹⁷ The HHI in the New York banking market would increase from 771 to 786 as a result of the proposed transaction. See 49 Federal Register 26,823 (June 29, 1984). Under the DOJ Guidelines, a market in which the post-merger HHI is less than 1000 points is considered to be unconcentrated. 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 entities. As noted, the HHI in the New York banking market would remain less than 1000 points after consummation of the proposal.

any significantly adverse effects on competition or on the concentration of banking resources in the New York banking market or any other relevant banking market.

Financial and Managerial Resources

The Board has carefully considered the financial and managerial resources and future prospects of the companies and banks involved in the proposal, the effect the proposed transaction would have on such resources, and other supervisory factors in light of all the facts of record, including public comments.

In evaluating the financial and managerial factors, the Board has considered the terms of the merger, including the proposed financing arrangements for the transaction. The Board also has reviewed the proposed structure of the combined organization, and various commitments made by HSBC regarding the proposal. In addition, the Board has reviewed confidential examination and other supervisory information assessing the financial and managerial strength of HSBC and its subsidiaries and of RNYC and its subsidiaries. Moreover, the Board has reviewed information submitted by HSBC about the programs that HSBC and RNYC have implemented to prepare their systems for the year 2000 changeover and confidential examination and supervisory information assessing the organizations' efforts to ensure Year 2000 readiness, both before and after the proposed transaction.

In evaluating financial factors in expansion proposals by banking organizations, the Board consistently has considered capital adequacy to be especially important.¹⁸ The Board expects banking organizations contemplating expansion to maintain strong capital levels substantially in excess of the minimum levels specified in the Board's Capital Adequacy Guidelines. HSBC's capital

¹⁸ See Chemical Banking Corporation, 82 Federal Reserve Bulletin 239 (1996).

ratios exceed the minimum levels that would be required under the Basle Capital Accord and are considered equivalent to the capital that would be required of a U.S. banking organization. Moreover, the proposed transaction would not materially affect the capital position of HSBC or RNYC and is not expected to have a significantly adverse effect on the financial resources of HSBC. Other financial factors are consistent with approval.

The Board has also considered the managerial resources of HSBC and RNYC in light of all the facts of record, including confidential examination and other supervisory information.¹⁹ In particular, the Board has taken into account the record of operation by HSBC of banks, branches, and representative offices in the United States. Based on all the facts of record, the Board concludes that considerations relating to the financial and managerial resources and future prospects of the organizations involved are consistent with approval.²⁰

¹⁹ One commenter expressed concerns about the managerial resources of Republic Bank, contending that its purchase of mortgage-backed securities issued by a subprime lender, Delta Funding Corporation, Woodbury, New York (“Delta”), reflected poorly on its fair lending safeguards. The Board has also considered these comments in reviewing the convenience and needs factors in this case.

²⁰ In reviewing the managerial resources factor, the Board has considered available information, including confidential and supervisory information, regarding the charges of securities fraud filed against the owner and founder of Princeton Global Management Limited, a customer of Republic New York Securities Corporation (“RNYSC”), a subsidiary of RNYC. Neither RNYC nor RNYSC has been charged with wrongdoing by any government authority in connection with this matter, and RNYC has suspended the chief executive officer of RNYSC and replaced the management of RNYSC’s Futures Division. In addition, the Board notes that HSBC has reviewed the activities of RNYSC, and the Board has taken account of plans by HSBC to address potential effects that might result from the Princeton matter. The Board is coordinating its review of this matter with the functional regulators of RNYSC and other appropriate law enforcement authorities.

Convenience and Needs Factor

In acting on this proposal, the Board also must consider the convenience and needs of the communities to be served and take into account the records of the relevant depository institutions under the CRA. 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 to take into account an institution's record of meeting the credit needs of its entire community, including low- and moderate-income ("LMI") neighborhoods, in evaluating bank expansion proposals. The Board has carefully considered the convenience and needs factor and the CRA performance records of the subsidiary depository institutions of HSBC and RNYC in light of all the facts of record, including public comments on the proposal.

Twelve persons submitted written comments on various 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. Several commenters opposed the proposal, alleging that HSBC and, to a lesser extent, RNYC have inadequate records of meeting the banking and credit needs of the communities they serve and, in particular, of communities with predominantly LMI and minority populations. Other commenters expressed the view that the proposal should not be approved absent certain specific commitments from HSBC to improve various aspects of its CRA-related programs. Some commenters praised the community reinvestment programs of Republic Bank in New York City, in particular its community development lending and affordable mortgage and consumer banking products, and expressed concern that these products or programs would not be continued after the banks merge.

A. CRA Performance Examinations

As provided in the CRA, the Board has evaluated the convenience and needs factor in light of examinations by the appropriate federal supervisors of the CRA performance records of the relevant institutions. An institution's most recent CRA performance review is a particularly important consideration in the applications process because it represents a detailed on-site evaluation of the institution's overall record of performance under the CRA by the appropriate federal financial supervisory agency.²¹

Both of HSBC's subsidiary banks have been examined for CRA performance and received "satisfactory" ratings in the most recent CRA examinations.²² In particular, HSBC's lead bank, HSBC Bank, received "satisfactory" performance ratings from the Federal Reserve Bank of New York ("Reserve Bank"), as of October 5, 1998, and from the New York State Banking Department, on June 30, 1998.

Both of RNYC's subsidiary banks that are subject to the CRA also received "satisfactory" ratings in the most recent examinations of their CRA performance.²³ Republic Bank, RNYC's lead bank, received its "satisfactory"

²¹ The Interagency Questions and Answers Regarding Community Reinvestment provide that a CRA examination is an important and often controlling factor in the consideration of an institution's CRA record. See 64 Federal Register 23,641 (1999).

²² In addition to HSBC Bank (formerly Marine Midland Bank), HSBC also owns, through HSBC USA, Inc., 40 percent of the equity of Wells Fargo HSBC Trade Bank N.A., San Francisco, California ("Trade Bank"), a national bank joint venture with Wells Fargo & Company. For CRA purposes, Trade Bank is evaluated as a wholesale financial institution because it is devoted solely to international trade finance and international banking services.

²³ Republic Bank Delaware National Association, Wilmington, Delaware, is an uninsured limited purpose trust company and, thus, is not subject to the CRA.

rating from the Office of the Comptroller of the Currency (“OCC”), as of May 15, 1997.

HSBC represents that it has no immediate plans to alter materially Republic Bank’s CRA program, and that it will continue the principal features of the program until 2001. HSBC has also said that it will honor all outstanding loan, investment, and contribution commitments that have been made by Republic Bank through the year 2000, and that a significant portion of the CRA investment initiatives of Republic Bank will be continued beyond 2000. HSBC has indicated that it intends to use Republic Bank’s retail lending operations to increase HSBC’s lending to LMI individuals in the New York City metropolitan area. Consequently, the Board has taken into account the CRA performance records of both HSBC and RNYC in evaluating this proposal.²⁴

B. HSBC’s CRA Performance Record

HSBC Bank. Examiners concluded that HSBC Bank’s lending activity had been responsive to the credit needs of its assessment areas, and

²⁴ One commenter expressed concern that the proposed transaction might result in job losses in the New York City area, and that the proposal could result in increased fees for banking products and services. The effect of a proposed acquisition on employment in a community is not among the factors included in the BHC Act, and the convenience and needs factor has been interpreted consistently by the federal banking agencies, the courts, and Congress to relate to the effect of a proposal on the availability and quality of banking services in the community. See Wells Fargo & Company, 82 Federal Reserve Bulletin 445, 457 (1996).

HSBC Bank and Republic Bank offer a full range of banking products and services, including low-fee bank accounts, and New HSBC Bank 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.

commended the geographic distribution of HSBC Bank's lending within its assessment areas as well as its penetration among borrowers of different income levels.²⁵ Examiners described HSBC Bank's community lending performance as excellent. During the examination period, HSBC Bank had \$137.7 million in community development loan commitments, \$82.4 million (60 percent) of which supported affordable housing initiatives that provided for the construction or rehabilitation of 3,517 affordable housing units in its assessment area. Loans for economic development activity totaled \$44 million, and community service lending accounted for \$11.2 million.

Examiners characterized as excellent the geographic distribution of home improvement and small business loans made by HSBC Bank. Examiners found that the number of small business loans made by HSBC Bank in LMI census tracts was approximately 30 times greater than the number of loans it made in non-LMI census tracts, and that the level of home improvement loan originations in LMI census tracts was the same as the level of such originations in non-LMI tracts. In addition, examiners characterized HSBC's geographic distribution of home purchase and refinance loans as adequate. HSBC's Home Mortgage Disclosure Act (12 U.S.C. § 2801 *et seq.*) ("HMDA") lending to moderate-income borrowers was described as good, and such lending to low-income borrowers was found to be adequate. Examiners found HSBC Bank's small business lending to reflect good penetration among small and large businesses. Between September 1, 1996, and June 30, 1998, 74 percent of HSBC Bank's small business loans in its assessment area were for \$100,000 or less, and 47 percent of those loans were to businesses with reportable gross annual revenues of \$1 million or less.

²⁵ Examiners also considered the lending activity of HSBC Bank's affiliated mortgage company HSBC Mortgage Corporation ("HSBC Mortgage").

HSBC has indicated that HSBC Bank and HSBC Mortgage have a variety of products and programs intended for LMI individuals and small businesses, including mortgage products from the Veterans Administration, Federal Housing Administration, Freddie Mac, and the State of New York Mortgage Agency (“SONYMA”), as well as its own low-down payment mortgage products.²⁶ From 1997 to 1998, HSBC Bank made 419 loans under the SONYMA Low Interest Rate Program, which provides below-market interest rate loans for first-time homebuyers with higher than usual debt levels. Additionally, in the last two years, HSBC Bank has made more than \$11 million in loans through the Fannie Mae Community Home Buyer program, which focuses on LMI borrowers.²⁷ Examiners found no evidence of prohibited discriminatory or other illegal credit practices by HSBC Bank.

HSBC Bank participates in several small business initiatives including the Business Consortium Fund, which provides contract financing to certified minority businesses across the United States; the Buffalo and Erie County Regional Development Corporation, under which HSBC Bank has extended \$1.5 million in loans to women- and minority-owned businesses; the Excelsior

²⁶ A number of commenters expressed concern that HSBC Bank’s mortgage products are more standardized, and thus potentially less able to meet the credit needs of particular communities, than those of Republic Bank. One commenter suggested that in general HSBC Bank did not provide adequate affordable lending products or homeowner education programs for LMI communities.

²⁷ HSBC Bank also provides grants to assist first-time homebuyers in meeting down payment requirements through a program sponsored by the Federal Home Loan Bank of New York (“FHLB NY”). HSBC Bank also participates in the FHLB System’s Affordable Housing Program, which provides subsidized funds to finance the purchase, construction, and rehabilitation of owner-occupied and rental housing for LMI households. One commenter requested that HSBC Bank commit to remaining a member of FHLB NY. HSBC indicated that it has not decided whether to continue its membership after consummation of the proposal.

Link Deposit program, run by the Empire State Development Corporation, through which HSBC has approved loans with an aggregate balance of \$16.5 million to smaller businesses; the New York Business Development Corporation, through which HSBC Bank provides \$7.5 million for lending and with which HSBC Bank has entered into four participations totaling \$8.1 million; and the Community Preservation Corporation (“CPC”) and the Community Lending Corporation, to which HSBC Bank has contributed a total of \$9.5 million for construction lines of credit and \$12.4 million for long-term loans aimed at financing affordable housing for LMI families in downstate and upstate New York, respectively.²⁸

The CRA performance examination concluded that HSBC Bank had an adequate level of qualified community development investments and grants, and exhibited an adequate responsiveness to the credit and community development needs of its assessment areas.²⁹ At the time of the examination, HSBC Bank had \$14.9 million in investments and deposits in various community development entities, and \$639,000 in charitable grants and contributions to organizations supporting community development projects and programs. A total of \$14.2 million in investments and grants were targeted for affordable housing. HSBC Development, which was acquired by HSBC Bank as part of its 1997 acquisition of First Federal Savings and Loan of Rochester, New York, specializes in building and rehabilitating affordable housing in the Buffalo and Rochester areas. In 1998, HSBC Development was involved in six projects which, when

²⁸ One commenter urged that HSBC offer construction lending, in particular, for affordable housing projects. 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.

²⁹ One commenter called for HSBC to expand its community development grant program.

completed, will have constructed or rehabilitated 81 homes in Rochester and 54 homes in Buffalo.

Examiners rated HSBC Bank's performance on the service test portion of the CRA examination as outstanding, finding that HSBC Bank provided a very high level of banking services in its assessment area. HSBC Bank operates 374 branches, 92 of which are in LMI census tracts.³⁰ Examiners also noted that HSBC Bank offered a variety of alternative delivery systems, including automatic teller machines ("ATMs") and banking by phone and home computer. In the New York City area, Spanish- and Chinese-speaking representatives were available to help telephone banking customers, and 57 of HSBC Bank's ATMs in the New York City area were programmed in Spanish, Chinese, or both. Additionally, HSBC Mortgage operated nine mortgage loan production offices in New York State, including one in an LMI area. The CRA performance examination also concluded that HSBC Bank's record of opening and closing branches during the examination period improved the accessibility of its service delivery systems, especially in LMI areas.

Examiners also noted that HSBC Bank offers no- or low-minimum balance savings accounts for all its customers and commended HSBC Bank's community development services, such as home buyer and home improvement seminars, credit counseling workshops, and small business financing seminars.³¹

Trade Bank. Trade Bank received a "satisfactory" rating from the OCC in its most recent CRA performance evaluation. Examiners concluded that it had an effective program for ascertaining community credit needs, which was

³⁰ This information is based upon branch data provided by HSBC, as of June 11, 1999.

³¹ One commenter urged HSBC to focus on African-Americans and Hispanics for its credit counseling and homebuyer education services.

carried out in conjunction with Wells Fargo Bank, N.A. (“Wells Fargo”), and used information from Wells Fargo’s Corporate Community Development Group, which worked with elected officials, public advocates, private nonprofit agencies and for-profit developers to identify community credit needs, especially in LMI areas. Additionally, in 1996, Trade Bank conducted a credit needs survey that focused on credit availability in Trade Bank’s particular market of international trade finance and banking services. Examiners also found that Trade Bank’s board of directors is generally involved in CRA activities through its Compliance/CRA Committee.

The CRA performance examination found that Trade Bank used specialized marketing media, such as trade journals, trade shows, conferences, and seminars to communicate with the business community that needed the services it provided. Examiners found that Trade Bank’s level of lending was responsive to the specialized credit needs of its delineated community, and that Trade Bank had addressed a significant portion of the identified need for international trade finance in that community. As of September 30, 1996, Trade Bank had total loans outstanding of \$254 million. Examiners further found that the geographic distribution of Trade Bank’s wholesale credit extensions was reasonable, and that there was no evidence of prohibited or illegal credit practices.

Trade Bank’s community development activities were found to be appropriately responsive to credit and economic development needs in its delineated community. For example, during the examination period Wells Fargo committed to loans totaling \$2 million on behalf of Trade Bank to develop five affordable housing projects with 189 units of multifamily, low-income rental housing. All the units were to be available to families with incomes of 60 percent or less of the area’s median family income, and all the projects were in Trade

Bank's delineated community. Trade Bank's other current community development investments totaled more than \$3 million.

C. RNYC's CRA Performance Record

Republic Bank. Examiners found that Republic Bank's efforts to ascertain the credit needs of its communities were strong and identified several products designed to meet those needs. Republic Bank's board of directors was found actively to support the Bank's CRA programs and to oversee them effectively, and examiners deemed satisfactory Republic Bank's marketing efforts to inform its communities of available credit products and services.

The CRA performance examination found that Republic Bank had a satisfactory overall record of originating loan products that addressed the credit needs of its communities.³² The examiners' analysis of lending patterns for mortgage, consumer, and small business loans indicated reasonable penetration in all segments of Republic Bank's delineated communities, including LMI areas. Using 1995 HMDA data, examiners found that for loans to LMI census tracts in the New York City market, Republic Bank ranked seventh in number of loans approved and fourth in dollar amount out of 210 lenders, originating 241 loans totaling \$33.5 million. This represented 3.3 percent of the number of originations and 3.1 percent of the total dollar amount lent by all lenders in those LMI tracts in 1995. Regarding loans to LMI applicants in the New York City market, the examiners found that Republic Bank ranked seventh out of 177 lenders with 2.3 percent of the number of LMI loans and 2.6 percent of the dollar amount. In 1996, Republic Bank originated 183 loans worth \$11.1 million to LMI borrowers in New York City, Westchester, and Long Island, and 79 loans totaling \$3.9 million to LMI borrowers in Florida, which examiners concluded was

reasonable relative to its presence in the market, competitive factors, and demographic characteristics. The CRA performance examination concluded that loan applications were received from all segments of the community, including LMI areas, and that Republic Bank was in substantial compliance with the various fair lending laws.

The CRA performance examination noted that Republic Bank had offered special mortgages for LMI borrowers through FNMA's Community Home Buyer Program since 1990. Examiners also noted Republic Bank's program for low-cost, below market rate mortgages for homebuyers in New York City Housing Partnership ("NYCHP") projects. According to Republic Bank, in 1998, the program was offered at two NYCHP projects in Brooklyn, two in the Bronx, and one in Manhattan. Republic Bank is also a founding member of the New York Mortgage Coalition ("NYMC"), which helps LMI individuals and families purchase homes. Through the NYMC program, community groups provide mortgage and credit education, counseling, and application assistance, while the NYMC member banks provide specialized mortgage products that include lower down payments and fees. According to Republic Bank, since 1993 the NYMC has originated approximately \$110 million in home loans in the New York City market.

Examiners found that in 1996 Republic Bank originated 517 loans to small businesses in LMI census tracts in the New York City area, representing 27 percent of all its small business loans in the region. In Florida, 31 percent of its small business loans were made in LMI tracts. According to Republic Bank, in 1998 it originated or renewed approximately \$180 million in loans to 1,758 borrowers, and 78 percent of those loans were for less than \$100,000.

³² Examiners also considered the home mortgage lending activity of Republic

Republic Bank is also a preferred Small Business Administration (“SBA”) lender, and in 1998, made \$1.3 million in new SBA loans. Since 1993, Republic Bank has had a micro-financing program in the New York City area that provides lines of credit and short-term loans of up to \$50,000 to nonprofit organizations, start-up enterprises, and small businesses with less than \$1 million in annual sales that do not meet its normal credit criteria. In 1998, Republic Bank made \$374,000 in micro-loans under the program and originated almost \$2 million in micro-lines of credit.

The CRA performance examination commended Republic Bank’s Community Affairs Department as a leader in developing programs to promote affordable housing and economic development. It found the overall level of participation in community development activities to be reasonable and consistent with available opportunities. Examiners determined that from April 1995 to March 1997, Republic Bank made \$13.5 million in community development loans and \$43.4 million in community development investments. Republic Bank has indicated that in 1998 it originated more than \$25 million in community development loans, with more than one-half of that amount for construction and rehabilitation projects.

Examiners took note of several of Republic Bank’s community development efforts, including the New York Equity Fund (“NYEF”), an investment pool formed to rehabilitate New York City buildings to provide rental housing to low- and very-low-income families; Global Resources for Affordable Neighborhood Development (“GRAND”), which provides loans to build the new homes projects of NYCHP; Primary Care Development Corporation (“PCDC”), which provides loans to support the development of primary care programs in New

York City; and the CPC. Republic Bank has indicated that it is still involved with all these programs, and that it has made total loans to NYEF since 1989 of more than \$35 million, total investments of \$43.5 million, and an investment commitment for 1999 of \$15 million. In addition, in 1999, Republic Bank has committed to lend \$5 million to GRAND, and \$5 million to support PCDC's lending program. Republic Bank has provided CPC with a \$10 million revolving line of credit, plus commitments of \$4 million in 1999 for a non-recourse program and \$17 million to purchase collateralized trust notes issued by CPC.³³

The CRA performance examination found that Republic Bank provided services in response to special community credit needs, that its offices provided reasonable access to all members of its communities, and that its branch closing policy was consistent with regulatory guidelines. It noted that Republic Bank provided alternative delivery systems, including automatic teller machines ("ATMs"), and 24-hour banking by phone and home computer. Additionally, Republic Bank has indicated that it uses Spanish and Chinese language advertising, in addition to advertising that focuses on Hispanic and African-American communities.

Republic California. Republic California received a "satisfactory" rating from the OCC in its most recent CRA performance evaluation. Examiners concluded that Republic California's lending activity adequately addressed the community's credit needs, based on an evaluation of the volume and patterns of lending, inside and outside the assessment area. Examiners also concluded that Republic California's trade finance program was focused on severely underserved communities, and that a majority of Republic California's letter of credit financing

³³ Several commenters praised Republic Bank's community development lending, calling it "a significant source of support for community revitalization" in New York City.

was in low income areas that had no nearby banking offices. A substantial majority of lending by Republic California was found to be in the assessment area, and geographic loan distribution was determined to be good. Republic California also has a micro-loan program similar to the one offered by Republic Bank. Republic California participates in a number of affordable housing programs that include below-market interest rates, reduced costs, and other features designed to respond to the needs of LMI families. Examiners also conducted a fair lending review of Republic California's consumer lending portfolio and found no violations of the substantive provisions of the antidiscrimination laws and regulations.

Examiners concluded that Republic California is active in community development lending, given its size and business focus. From January 1995 through June 1997, Republic California originated 10 community development loans totaling \$925,000 throughout its assessment area. The CRA performance examination also concluded that Republic California had a good record of providing community development investments in its assessment area and throughout Los Angeles County. At the time of the examination, Republic California had investments of \$9.2 million, primarily in bonds and other securities that funded housing for LMI families and in LMI census tracts. According to Republic California, its current community development investment portfolio in its assessment area is \$28.8 million, \$27.7 million of which is invested in bonds, securities, and federal low-income tax credits serving LMI communities.

D. HMDA Data

The Board has also carefully considered the lending records of HSBC and RNYC in light of comments on the 1997 and 1998 HMDA data of the

organizations' subsidiaries.³⁴ The data reflect certain disparities and weaknesses in the rates of loan applications, originations, and denials by racial group and income level.³⁵ The Board is concerned when the record of an institution indicates such disparities in lending, and believes that all banks are obligated to ensure that their lending practices are based on criteria that ensure not only safe and sound lending but also equal access to credit by creditworthy applicants regardless of their race or income level. The Board recognizes 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.³⁶ HMDA data, therefore, have limitations that make them an inadequate basis, absent other information, for

³⁴ Several commenters were critical of HSBC Bank's lending record as reflected in its 1997 and 1998 HMDA data. Among the criticisms made by the commenters were that HSBC Bank makes too few of its HMDA-related loans to minority applicants and in predominantly minority areas; that the disparity between the denial rates for white and minority loan applicants is too large; that HSBC Bank's overall market share of loans in LMI areas is too small; and that HSBC Bank attracts too few minority and LMI loan applicants. One commenter identified the level of HSBC Bank's single-family housing lending as requiring improvement.

³⁵ For example, HSBC's mortgage originations in LMI and minority census tracts and to African-American and Hispanic applicants, as a percentage of its total mortgage lending, are lower relative to the aggregate and relative to the demographics of the markets in which HSBC operates. In this context, the aggregate means the cumulative lending for all institutions that have reported HMDA data in a given market.

³⁶ 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.

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 has considered these data carefully in light of other information, including examination reports that provide an on-site evaluation of the compliance by the subsidiary banks of HSBC and RNYC with fair lending laws and the overall lending and community development activities of the banks. In particular, examiners have found substantial compliance with fair lending laws at the most recent examinations of the subsidiary depository institutions of HSBC and RNYC. The Board also has considered the HMDA data in light of HSBC's and RNYC's overall lending records, which show that the organizations' subsidiary depository institutions assist significantly in helping to meet the credit needs of their communities, including LMI areas, through a variety of forms of lending, including small business loans and community development lending.

The data for 1998 generally show that HSBC³⁷ increased the number of HMDA-related loans it made to African-American, Hispanic, and LMI applicants and to applicants in LMI and minority census tracts,³⁸ and that the overall proportion of loans by HSBC to LMI applicants was only slightly lower than the aggregate. HMDA data for 1998 show that RNYC significantly increased its overall volume of HMDA-related loans from 1997, including increases in the number of loans to African-American and LMI applicants and to borrowers in LMI

³⁷ HMDA data for HSBC represent the combined lending of HSBC Bank and HSBC Mortgage in the MSA portions of HSBC Bank's New York assessment area.

³⁸ In this case, minority tracts are those in which 80 percent or more of the population are minorities.

and minority census tracts.³⁹ Importantly, the information collected in the examination process does not indicate that HSBC engaged in any prohibited discriminatory practices. In addition, although HSBC received a lower percentage of loan applications from African-Americans than the aggregate, HSBC originated loans to a higher percentage of its African-American applicants than did the aggregate. In its most recent CRA examination, HSBC received a “high satisfactory” rating for its overall lending performance. As noted above, HSBC has a number of lending programs that benefit LMI communities and individuals that are not reflected in HMDA data. These programs include HSBC’s community development lending, much of which finances affordable housing, and its small business lending.

The Board notes that HSBC has provided projections to the New York State Banking Department (“NYSBD”) that it would increase the dispersion of its applications in majority minority census tracts⁴⁰ of New York State by the end of 2000 and has undertaken a variety of initiatives to increase its lending in predominantly minority and LMI areas. The Board encourages HSBC to continue to pursue these initiatives and, as a condition to approval of the proposal, requires HSBC to provide the Reserve Bank with a copy of the semiannual reports that HSBC files with the NYSBD concerning its efforts to achieve the projections. In addition, the Board expects HSBC to address any weaknesses in its CRA record noted at the most recent CRA examinations.

³⁹ HMDA data for RNYC represent the combined lending of Republic Bank and its subsidiary, Republic Consumer Lending Group, Inc., in Republic Bank’s New York assessment area.

⁴⁰ Majority minority tracts are those in which more than 50 percent of the population are minorities.

E. Branch Closings

HSBC Bank and Republic Bank together operate 456 branches in New York State, including 103 in LMI census tracts.⁴¹ HSBC has indicated that it has not yet made any decisions on possible branch closures or consolidations as a result of the proposed transaction, although HSBC has indicated that it is evaluating for possible consolidation fewer than 20 pairs of HSBC Bank and Republic Bank branches that have offices that are in close proximity to each other. According to HSBC, six of the branch pairs under review for possible consolidation involve locations that could affect LMI areas. Five of the six branch pairs that might affect LMI areas involve branches that are within 500 feet of each other. Examiners found that HSBC Bank's branch closure policy conforms to the Joint Interagency Policy Statement Regarding Branch Closings.⁴² HSBC Bank's policy requires consideration of the impact of a branch closure on the branch's neighborhood and that requires advance written notice of any branch closure be provided to the community. The examination found that past branch closures by HSBC Bank were conducted in accordance with its branch closure policy, and that HSBC Bank provided reasons for closings and timely advance notification to customers and regulatory authorities.

F. Conclusion on Convenience and Needs

The Board has carefully considered all the facts of record,⁴³ including public comments received, responses to the comments, and reports of examinations

⁴¹ This total includes branches in block numbering areas, where the branch is located outside a MSA, and is based on branch data provided by HSBC, as of June 11, 1999.

⁴² 64 Federal Register 34,844 (1999).

⁴³ Several commenters urged the Board to condition approval of the proposal on HSBC's making certain community reinvestment and other commitments. The CRA requires the Board, in considering HSBC's application to acquire RNYC and

of CRA performance of the institutions involved, in reviewing the proposal's effect on the convenience and needs of the communities to be served by the combined organization.⁴⁴ Based on a review of the entire record, and for the reasons discussed in this order, the Board has concluded that convenience and needs

RNYC's subsidiaries, to review carefully the actual record of past performance of the insured depository institutions controlled by HSBC and RNYC in helping to meet the credit needs of their communities. Consistent with this mandate, the Board previously has held that, to gain approval of a proposal to acquire an insured depository institution, an applicant must demonstrate a satisfactory record of performance under the CRA at the time an application is filed with the Board without reliance on plans or commitments for future action. See Totalbank Corporation of Florida, 81 Federal Reserve Bulletin 876 (1995); First Interstate Bank Systems of Montana, Inc., 77 Federal Reserve Bulletin 1007 (1991). The Board notes that the future activities of HSBC's subsidiary banks will be reviewed by the appropriate federal supervisors in future performance examinations, and such CRA performance records will be considered by the Board in any subsequent applications by HSBC to acquire a depository institution.

⁴⁴ One commenter maintained that the purchase by Republic Bank of mortgage-backed securities ("MBSs") issued by Delta, which recently reached a settlement with New York State authorities regarding its lending practices, suggests that Republic Bank lacks fair lending compliance safeguards and might constitute a discriminatory lending practice. Republic Bank purchased MBSs issued by Delta on 10 occasions between July 1997 and June 1999. The Board has reviewed Republic Bank's standards for investing in MBSs and has found nothing to suggest that its decisions to invest in particular MBSs are based on any prohibited criteria. Moreover, RNYC has indicated that it was not involved in originating the underlying loans that were securitized or in developing the criteria governing the types of loans that were securitized. The Board has forwarded a copy of all comments on Delta to the Department of Justice, the Department of Housing and Urban Development, and the Federal Trade Commission, which have responsibility for reviewing compliance with the fair lending laws by nonbanking companies.

considerations, including the CRA performance records of the subsidiary depository institutions of HSBC and RNYC, are consistent with approval.⁴⁵

Other Considerations

Under section 3 of the BHC Act, the Board may not approve any application by a company that involves a foreign bank unless the bank is “subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank’s home country.”⁴⁶ HSBC is the parent company for various banking and nonbanking companies (“HSBC Group”), including subsidiary banks located in the United Kingdom and elsewhere. The Financial Services Authority (“FSA”) is the consolidated supervisor for the HSBC Group.⁴⁷

The Board previously has determined, in other applications under the International Banking Act (12 U.S.C. § 3101 et seq.) (“IBA”) and the BHC Act involving United Kingdom banks, that those banks were subject to home country

⁴⁵ One commenter raised an issue concerning a labor dispute between Republic Bank and a union representing some of the bank’s support personnel. Several claims resulting from this dispute have been filed with the National Labor Relations Board, which has jurisdiction over such matters.

⁴⁶ 12 U.S.C. § 1842(c)(3)(B). As provided in Regulation Y, the Board determines whether a foreign bank is subject to consolidated home country supervision under the standards set forth in Regulation K. 12 C.F.R. 225.13(a)(4). Regulation K provides that a foreign bank may be considered subject to consolidated supervision if the Board determines that the bank is supervised or regulated in such a manner that its home country supervisor receives sufficient information on the worldwide operations of the foreign bank, including the relationships of the bank to its affiliates, to assess the foreign bank’s overall financial condition and compliance with law and regulation. 12 C.F.R. 211.24(c)(1)(ii).

⁴⁷ In June 1998, the FSA assumed the bank supervisory functions formerly exercised by the Bank of England. This transfer of supervisory responsibilities has not resulted in any substantial changes in the scope or nature of the supervision of U.K. banks.

supervision on a consolidated basis.⁴⁸ The Board also previously has determined that the HSBC Group is supervised on substantially the same terms and conditions as those United Kingdom banks. Moreover, the Board previously determined that the requirements of section 3(c)(3)(B) of the BHC Act regarding comprehensive, consolidated supervision were met in connection with an application involving HSBC.⁴⁹ Based on all the facts of record, the Board has concluded that the requirements of section 3(c)(3)(B) of the BHC Act regarding comprehensive, consolidated supervision are met in this case.

The BHC Act also requires the Board to determine that the foreign bank has provided adequate assurances that it will make available to the Board such information on its operations and activities and those of its affiliates that the Board deems appropriate to determine and enforce compliance with the BHC Act. HSBC has committed that, to the extent not prohibited by applicable law, it will make available to the Board such information on the operations of HSBC and any of its affiliates that the Board deems necessary to determine and enforce compliance with the BHC Act, the IBA, and other applicable federal law. HSBC has also committed to cooperate with the Board to obtain any waivers or exemptions that may be necessary in order to enable HSBC to make any such information available to the Board. In light of these commitments and other facts

⁴⁸ See Bank of Scotland, 84 Federal Reserve Bulletin 230 (1998); West Merchant Bank Limited, 81 Federal Reserve Bulletin 519 (1995). The Board has previously determined that HSBL and HSBC Equator Bank plc, members of the HSBC Group, are subject to comprehensive, consolidated supervision. HSBC Equator Bank plc, 84 Federal Reserve Bulletin 564 (1998); The Hongkong and Shanghai Banking Corporation Limited, 81 Federal Reserve Bulletin 902 (1995).

⁴⁹ Wells Fargo & Company, HSBC Holdings plc, et al., 81 Federal Reserve Bulletin 1037 (1995).

of record,⁵⁰ the Board has concluded that HSBC has provided adequate assurances of access to any appropriate information the Board may request. For these reasons, and based on all the facts of record, the Board has concluded that the supervisory factors it is required to consider under section 3(c)(3) of the BHC Act are consistent with approval.

Nonbanking Activities

HSBC has also filed a notice under section 4(c)(8) of the BHC Act to acquire RNYC's nonbanking subsidiaries and thereby to engage in factoring, trust company functions, agency transactional services for customer investments, and investment transactions as principal. The Board has determined by regulation or order that the activities for which notice has been provided are closely related to banking for purposes of section 4(c)(8) of the BHC Act.⁵¹ HSBC has committed to conduct these activities in conformance with Regulation Y and all applicable regulations and orders governing each activity.⁵²

⁵⁰ The Board notes that it previously has reviewed relevant provisions of confidentiality, secrecy, and other laws in the jurisdictions in which HSBC has material operations. See HSBC Equator Bank plc, 84 Federal Reserve Bulletin 564 (1998); The Hongkong and Shanghai Banking Corporation Limited, 81 Federal Reserve Bulletin 902 (1995).

⁵¹ See 12 C.F.R. 225.28(b)(1), (5), (7), and (8).

⁵² HSBC has applied to acquire Republic New York Securities Corporation ("RNYSC"), a subsidiary of RNYC that currently is engaged in underwriting and dealing in bank-ineligible securities, to a limited extent, pursuant to section 20 of the Glass-Steagall Act (12 U.S.C. § 377). However, HSBC and RNYC have committed that on or before consummation of the proposal, RNYC will cease underwriting and dealing in bank-ineligible securities or performing any other activity restricted by section 20 of the Glass-Steagall Act. HSBC has indicated that all section 20 activities performed by HSBC will be conducted solely through HSBC Securities, Inc. See HSBC Holdings plc, et al., 82 Federal Reserve Bulletin 356 (1996).

In order to approve HSBC's notice to engage in nonbanking activities, the Board must determine that the acquisition of the nonbanking subsidiaries of RNYC and the performance of those activities by HSBC 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."⁵³

As part of its evaluation of these factors, the Board considers the financial condition and managerial resources of HSBC 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 resources are consistent with approval of this notice.

The Board also has considered the competitive effects of the proposed acquisition by HSBC of the nonbanking subsidiaries of RNYC in light of all the facts of record, including the public comments received. The markets in which the nonbanking subsidiaries of HSBC and RNYC compete are national or regional and are unconcentrated. The Board concludes that consummation of this proposal would have a de minimis effect on the markets for lending and trust company and agency transactional services. The Board notes that numerous competitors would remain 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 this transaction.

HSBC has indicated that the proposed transaction would increase the financial stability of the combined organization by assisting it in maintaining a

⁵³ 12 U.S.C. § 1843(c)(8).

well-balanced revenue stream and a broad capital base, and would also allow it to realize significant cost savings. 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.⁵⁴

The Board also believes 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 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.

HSBC has requested approval under 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 the non-U.S. operations of RNYC. HSBC also has applied under section 25A of the Federal Reserve Act and section 211.4 of Regulation K (12 C.F.R. 211.4) to acquire Republic International Bank of New York (Miami), Miami, Florida, and Republic International Bank of New York (Delaware), Wilmington, Delaware. In addition, Republic Bank has applied under sections 9 and 25 of the Federal Reserve Act (12 U.S.C. §§ 321 *et seq.* and 601 *et seq.*) to establish the Nassau,

⁵⁴ See, e.g., Norwest Corporation, 84 Federal Reserve Bulletin 1088 (1998);

Bahamas branch of HSBC Bank as a branch of Republic Bank, and has applied under section 25 of the Federal Reserve Act and section 211.4 of Regulation K to acquire HSBC Bank's subsidiary, Marine Midland Overseas Corporation, an Agreement corporation. The Board concludes that all the factors required to be considered under the Federal Reserve Act, the BHC Act, and Regulation K are consistent with approval of the proposal.

In addition, Republic Bank has applied under section 9 of the Federal Reserve Act to become a member of the Federal Reserve System after its conversion to a New York State charter. The Board has considered the factors it is required to consider when reviewing applications pursuant to section 9 of the Federal Reserve Act and finds those factors to be consistent with approval.

Conclusion

Based on the foregoing, the Board has determined that the applications and notices should be, and hereby are, approved.⁵⁵ In reaching its

Deutsche Bank AG, 85 Federal Reserve Bulletin 509 (1999).

⁵⁵ Three commenters requested that the Board hold a public meeting or hearing on the proposal. Section 3(b) of the BHC Act does not require the Board to hold a public hearing on an application unless the appropriate supervisory authority for the bank to be acquired makes a timely written recommendation of denial of the application. The Board has not received such a recommendation from the appropriate supervisory authorities.

Under its rules, the Board also may, in its discretion, hold a public meeting or hearing on an application to acquire a bank if a meeting or hearing is necessary or appropriate to clarify factual issues related to the application and to provide an opportunity for testimony. 12 C.F.R. 225.16(e). Section 4 of the BHC Act and the Board's rules thereunder provide for a hearing on a notice to acquire nonbanking companies if there are disputed issues of material fact that cannot be resolved in some other manner. 12 U.S.C. § 1843(c)(8); 12 C.F.R. 225.25(a)(2). The Board has considered carefully these commenters' requests in light of all the facts of record. In the Board's view, commenters have had ample opportunity to submit their views, and did submit written comments that have been considered carefully by the Board in acting on the proposal. The commenters' requests fail to

conclusion, the Board has considered all the facts of record in light of the factors that the Board is required to consider under the BHC Act and other applicable statutes. The Board's approval is specifically conditioned on compliance by HSBC with all the commitments made in connection with this application and notice, and on the Board's receiving access to information on the activities or operations of HSBC and any of its affiliates that the Board determines to be appropriate to determine and enforce compliance by HSBC and its affiliates with applicable federal statutes. The Board's approval of the nonbanking aspects of the proposal also is subject to all the conditions set forth in this order and in Regulation Y, including those in sections 225.7 and 225.25(c) of Regulation Y (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 issued thereunder. These commitments and conditions 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 RNYC's subsidiary banks may not be consummated before the fifteenth calendar day after the effective date of this order, and the proposal may not be consummated later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Reserve Bank, acting pursuant to delegated authority.

demonstrate why their written comments do not present their views adequately and fail to identify disputed issues of fact that are material to the Board's decision that would be clarified by a public meeting or hearing. For these reasons, and based on all the facts of record, the Board has determined that a public meeting or hearing is not required or warranted in this case. Accordingly, the requests for a public meeting on the proposal are denied.

By order of the Board of Governors,⁵⁶ effective December 6, 1999.

(signed)

Robert deV. Frierson
Associate Secretary of the Board

⁵⁶ Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Kelley, Meyer, and Gramlich.