



## FEDERAL RESERVE SYSTEM

Valley View Bancshares, Inc.  
Overland Park, Kansas

### Order Approving Acquisition of a Bank

Valley View Bancshares, Inc. (“Valley View”), 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 acquire Bank of Lee’s Summit, Lee’s Summit, Missouri (“Bank of Lee’s Summit”).

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (64 Federal Register 71,457 (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 section 3 of the BHC Act.

Valley View operates five subsidiary banks in Kansas and one bank in Missouri. Valley View is the seventh largest commercial banking organization in Kansas, controlling approximately \$1.3 billion in deposits, representing 3.5 percent of total deposits in commercial banking organizations in the state (“state deposits”).<sup>1</sup> Valley View is the 31st largest commercial banking organization in Missouri, controlling approximately \$255.4 million in deposits, representing less than

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<sup>1</sup> State deposit data are as of June 30, 1999.

1 percent of state deposits. Bank of Lee's Summit is the 87th largest commercial banking organization in Missouri, controlling approximately \$113.9 million in deposits, representing less than 1 percent of state deposits. On consummation of the proposal, Valley View would become the 25th largest commercial banking organization in Missouri, controlling deposits of approximately \$369.4 million, representing less than 1 percent of state deposits.

### 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.<sup>2</sup> For purposes of the BHC Act, the home state of Valley View is Kansas, and Valley View would acquire a bank in Missouri. The conditions for an interstate acquisition under section 3(d) are met in this case.<sup>3</sup> In view of all the facts of

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<sup>2</sup> See 12 U.S.C. § 1842(d). A bank holding company's home state is that state in which the total deposits of all banking subsidiaries of the company were the largest on July 1, 1966, or on the date on which the company became a bank holding company, whichever is later. 12 U.S.C. § 1841(o)(4)(C).

<sup>3</sup> See 12 U.S.C. § 1842(d)(1)(A) and (B) and 1842(d)(2)(A) and (B). Bank of Lee's Summit has been in existence and continuously operated for the minimum period of time required under Missouri law. In addition, on consummation of the proposal, Valley View and its affiliates would control less than 10 percent of the total amount of deposits of insured depository institutions in the United States and less than 13 percent of the total amount of deposits of insured depository institutions in Missouri, as required by state law. Mo. Ann. Stat. § 362.915 (West 1997). Valley View also meets the capital, managerial, and other requirements established under applicable law.

record, the Board is permitted to approve the proposal under section 3(d) of the BHC Act.

### Competitive Considerations

The BHC Act prohibits the Board from approving an application under section 3 of the BHC Act if the proposal would result in a monopoly or would be in furtherance of any attempt to monopolize the business of banking. The BHC Act also prohibits the Board from approving a proposed combination that would substantially lessen competition or tend to create a monopoly in any relevant banking market, unless the Board finds that the anticompetitive effects of the proposal are clearly outweighed in the public interest by the probable effects of the proposal in meeting the convenience and needs of the community to be served.<sup>4</sup>

Valley View and Bank of Lee's Summit compete directly in the Kansas City, Missouri, banking market ("Kansas City banking market").<sup>5</sup> Valley View is the fifth largest commercial banking organization in the market, controlling deposits of \$1.3 billion, representing 6.4 percent of total deposits in depository institutions in the market ("market deposits").<sup>6</sup> Bank of Lee's Summit is the 26th largest

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<sup>4</sup> 12 U.S.C. § 1842(c).

<sup>5</sup> The Kansas City banking market is defined as the Kansas City Rand McNally Marketing Area in addition to the town of Trimble in Clinton County, Missouri.

<sup>6</sup> In this context, depository institutions include commercial banks, savings banks, and savings associations.

commercial banking organization in the market, controlling deposits of \$103.8 million in deposits, representing less than 1 percent of market deposits.

Consummation of the proposal would be consistent with the Department of Justice Merger Guidelines (“DOJ Guidelines”).<sup>7</sup> On consummation of the proposal, Valley View would remain the fifth largest commercial banking organization in the Kansas City banking market, controlling \$1.4 billion in deposits, representing approximately 7 percent of market deposits. The HHI would increase 7 points to 871.<sup>8</sup>

Based on all the facts of record, the Board concludes that consummation of the proposal is not likely to result in any significantly adverse

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<sup>7</sup> Under the revised DOJ Guidelines, 49 Federal Register 26,823 (June 29, 1984), a market in which the post-merger Herfindahl-Hirschman Index (“HHI”) is below 1000 is considered 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 effect of limited-purpose lenders and other nondepository financial entities.

<sup>8</sup> Market share data are as of June 30, 1998. These data are based on calculations in which the deposits of thrift institutions are included 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 Midwest Financial Group, 75 Federal Reserve Bulletin 386 (1989); National City Corporation, 70 Federal Reserve Bulletin 743 (1984). Thus the Board has regularly included thrift deposits in the calculation of market share on a 50-percent weighted basis. See, e.g., First Hawaiian, Inc., 77 Federal Reserve Bulletin 52 (1991).

effects on competition or on the concentration of banking resources in the Kansas City banking market or any other relevant market.

### Financial, Managerial, and Other Supervisory Factors

The BHC Act also requires that the Board, in acting on an application, consider the financial and managerial resources and future prospects of the companies and banks involved in a proposal and certain supervisory factors. The Board has carefully reviewed the financial and managerial resources and future prospects of Valley View and Bank of Lee's Summit in light of all the facts of record, including relevant supervisory reports of examination and other confidential supervisory information assessing the financial and managerial resources of the organization. The Board notes that Valley View is well capitalized and would remain so after consummation of the proposal. Based on these and all other facts of record, the Board concludes that the financial and managerial resources and future prospects of Valley View, its subsidiary banks, and Bank of Lee's Summit are consistent with approval, as are other supervisory factors the Board must consider under section 3 of the BHC Act.

### 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 community to be served and take into account the records of the relevant depository

institutions under the Community Reinvestment Act (“CRA”).<sup>9</sup> The Board has carefully considered the convenience and needs factor and the CRA performance records of Bank of Lee’s Summit and Valley View’s subsidiary banks in light of all the facts of record, including comments from The Concerned Clergy Coalition, Kansas City, Missouri (“Protestant”).<sup>10</sup> Protestant alleges that Valley View’s subsidiary banks have arbitrarily excluded low- and moderate-income (“LMI”) census tracts from their assessment areas and have failed to adequately assist in meeting the credit needs of these areas. Protestant contends that Valley View’s subsidiary banks are not adequately meeting the housing lending needs in LMI census tracts of the Kansas City banking market. Protestant also asserts that Security Bank of Kansas City, Kansas City, Missouri (“Security Bank”), has failed to comply with past CRA-related representations regarding participation in government-sponsored lending programs.

As provided in the CRA, the Board has evaluated the convenience and needs factor in light of examinations of the CRA performance records of the relevant institutions by the appropriate federal financial supervisory agency.<sup>11</sup> All

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<sup>9</sup> 12 U.S.C. § 2901 et seq.

<sup>10</sup> Protestant requests that the Board’s action on the proposal impose a condition on Valley View to implement specific steps and programs that Protestant contends would improve the CRA performance of all the subsidiary banks involved in the proposal.

<sup>11</sup> The interagency Questions and Answers Regarding Community Reinvestment provide that an institution’s most recent CRA performance evaluation is an important consideration in the applications process because it represents a detailed on-site evaluation of the institution’s overall record of performance under

the subsidiary banks of Valley View, and Bank of Lee's Summit have received "satisfactory" ratings from the Federal Deposit Insurance Corporation ("FDIC") in their most recent evaluations for CRA performance.<sup>12</sup>

Protestant contends that Valley View Bank, Mission Bank, and First Bank, which serve suburban and other outlying areas of the Kansas City banking market, should extend their delineated communities under the CRA to include LMI census tracts in Kansas City. Although a bank's assessment area delineation is not a separate criterion for CRA performance, examiners review whether an institution's assessment area meets the requirements of the regulation, including whether it arbitrarily excludes LMI areas. In the most recent CRA performance evaluations of Valley View's banks, the FDIC reviewed their assessment areas delineation and concluded that the assessment area for each bank met the requirements of the regulation.<sup>13</sup> In addition, two of Valley View's subsidiary banks recently expanded their assessment areas to include a greater number of LMI areas.<sup>14</sup>

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the CRA by the appropriate federal financial supervisor. 64 Federal Register 23,618 and 23,641 (1999).

<sup>12</sup> Valley View's subsidiary banks received "satisfactory" ratings as follows, all in 1999: Citizens State Bank, Paola, Kansas ("Citizens"), as of June 29; First Bank, as of August 2; Industrial Bank, as of November 2; The Mission Bank, Mission, Kansas ("Mission Bank"), as of December 9; Security Bank, as of April 1; Valley View State Bank, Overland Park, Kansas ("Valley View Bank"), as of September 7. Bank of Lee's Summit received a "satisfactory" rating, as of November 2, 1998.

<sup>13</sup> Protestant has criticized the FDIC's performance evaluations of Valley View's banks, including its review of their assessment areas. As noted above, the CRA performance evaluation is an important factor in the consideration of an

In the most recent CRA performance examination of Valley View's subsidiary banks, examiners found that the geographic distribution of loans by the banks reflected a pattern of lending throughout their respective assessment areas and to individuals of all income levels. Examiners noted no substantive violations of any antidiscrimination laws or regulations on any of the examinations.

Examiners noted that five of Valley View's six subsidiary banks focused primarily on commercial lending.<sup>15</sup> Consistent with that business strategy, commercial loans, which include construction and development, commercial real estate, and multifamily housing, represented a majority of the dollar amount of the banks' total outstanding loans.<sup>16</sup> Examinations of these banks noted the banks'

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institution's CRA record, and is given great weight because it represents an on-site evaluation of the CRA performance record of the bank and includes a review of local community banking needs. Protestant has not presented any data or evidence that were not available at the time of the performance evaluations.

<sup>14</sup> Since the most recent CRA performance evaluations, Valley View Bank added 21 census tracts in Jackson County, Missouri, which includes Kansas City, to its assessment area. Five of these tracts are classified as LMI census tracts. Mission Bank added 14 census tracts in Wyandotte County, Kansas, to its assessment area. Ten of these tracts are LMI census tracts.

<sup>15</sup> Citizens focused primarily on residential real estate lending, which represented 49 percent of its total loans. Examiners concluded that Citizens achieved an excellent penetration among borrowers of different income levels. They noted that 56 percent of the total number of real estate loans were made to LMI borrowers, which exceeded the percentage of families in the assessment area that resided in LMI tracts (31 percent).

<sup>16</sup> Commercial loans represented 79 percent of the dollar amount of the outstanding loans for Valley View's lead bank, Valley View Bank. This statistic

commitments to small business lending. For example, examiners commended Valley View Bank for its excellent record of lending to businesses with gross annual revenues of \$1 million or less. Valley View Bank made 479 small business loans from January 1997 through September 1999 in its assessment area. Approximately 76 percent by number, and 63 percent of the total dollar amount of small business loans made, were to businesses with gross annual revenues of \$1 million or less. Examiners noted that this performance significantly exceeded the performance by area lenders in the aggregate, which averaged 42 percent of small business loans by number and 55 percent of the total dollar amount of small business loans made, to businesses with gross annual revenues of less than \$1 million.

Examiners of Security Bank noted that its primary customer base consisted of small- and medium-size businesses, and its principal loan product was small business loans. Examiners also noted that Security Bank's lending reflected a good responsiveness to community credit needs. Examiners noted that 50 percent of the small business loans by number originated by Security Bank in its assessment area were made in LMI census tracts, compared with 10 percent by all reporting small business lenders in Wyandotte and Johnson Counties.<sup>17</sup> Examiners of First

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was 69 percent for Security Bank, 96 percent for The Mission Bank, 85 percent for Industrial Bank, and 81 percent for First Bank. Citizen's Bank, however, had only 28 percent of the total dollar amount of its outstanding loans in commercial loans.

<sup>17</sup> Protestant asserts that Security Bank has failed to comply with CRA-related commitments made to the Board in 1996, involving Federal Housing Administration ("FHA") and Small Business Administration ("SBA") lending. Although Valley View had stated in 1996 that part of Security Bank's business plan was to become a more active SBA and FHA lender, this statement was neither a commitment nor a

Bank noted that 29.3 percent of total dollar amount of the bank's small business loans were in LMI tracts.

Examiners noted that Valley View's subsidiary banks have had reasonable records of mortgage and consumer lending to LMI borrowers in light of the banks' focus on commercial lending and the demographic characteristics of the banks' delineated assessment areas.<sup>18</sup> For example, examiners determined that Valley View Bank made 35 percent of its consumer loans in its assessment area to LMI borrowers, which exceeded the percentage of LMI households in the bank's delineated area. In addition, of the 249 residential real estate loans Valley View Bank originated in its assessment area during the evaluation period, 16 percent were to LMI borrowers.<sup>19</sup> Examiners noted that although this percentage of residential

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condition of approval of Valley View's application. See Valley View Bancshares, Inc. 82 Federal Reserve Bulletin 1036, 1038 (1996). Moreover, the record indicates that Security Bank has made a good faith effort to employ individuals with experience in government-sponsored lending programs. Protestant highlights the fact that Security Bank has not made any SBA loans during its last assessment period. The Board notes that the CRA provides banks with substantial leeway in developing specific CRA-related policies and programs and does not require participation in any particular type of activity or program. Accordingly, in reviewing the proposal, the Board has focused on the programs and policies that Security Bank has in place to assist in serving the credit needs of the entire community. See Fifth Third Bancorp, 80 Federal Reserve Bulletin 838 (1994).

<sup>18</sup> For example, Industrial Bank, Mission Bank, and Security Bank all include Wyandotte County in their assessment areas. Several of the LMI census tracts in Wyandotte County are industrial or commercial in nature, have a low percentage of owner-occupied housing, or are in a flood plain.

<sup>19</sup> The evaluation period covered 1997 through June 1999. These statistics only include loans that included the borrower's gross income.

real estate loans to LMI residents was less than the aggregate percentage of Home Mortgage Disclosure Act (“HMDA”)<sup>20</sup> reporters in Johnson County, the bank’s lending record was reasonable when the demographic factors of Valley View Bank’s assessment area were taken into consideration.<sup>21</sup>

Examiners noted that First Bank had demonstrated an excellent responsiveness to the community’s home mortgage needs by originating 36 percent of its 99 HMDA reportable loans in 1997 and 1998 to LMI borrowers in its assessment area, compared with 24.7 percent for all reporting HMDA lenders in the bank’s assessment area.

Examiners also commended Security Bank for its excellent response to home mortgage needs in its community. In addition, 71 percent of the consumer loans Security bank originated in its assessment area were to LMI borrowers. Examiners noted that this compared favorably with the percentage of LMI borrowers in the assessment area (32.7 percent).

Protestant has criticized Industrial Bank’s level of housing-related lending compared with smaller banks and the decline in its loan-to-deposit ratio. As noted, Industrial Bank’s business strategy is focused on commercial lending, which represented 85 percent of the dollar amount of all outstanding loans. Residential real estate loans represented 5 percent of the dollar amount of the bank’s total outstanding loans. As discussed above, the CRA does not require participation in

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<sup>20</sup> 12 U.S.C. § 2801 et seq.

<sup>21</sup> Valley View Bank’s assessment area at the time of the evaluation was Johnson County, Kansas, which had no LMI census tracts.

any particular activity. Although Industrial Bank's home mortgage lending is limited, examiners found that Industrial Bank's overall lending levels reflected a good responsiveness to community credit needs. Of Industrial Bank's 95 small business loans originated from 1998 through November 1999 in its assessment area, 89 percent were to businesses that had annual revenues of less than \$1 million. Examiners commended Industrial Bank for its responsiveness to the community's consumer loan needs by originating 70 percent of its 417 consumer loans to LMI borrowers, compared with the percentage of LMI borrowers in the assessment area (32.7 percent).

Citizens is the only Valley View subsidiary that primarily focuses on residential real estate lending. Examiners noted that Citizens' loan-to-deposit ratio of 75 percent reflected a strong responsiveness to community credit needs. Examiners also noted that in the 12 months preceding Citizens' evaluation, Citizens made 110 HMDA reportable loans, of which 86 percent by number and 88 percent of the total dollar amount of these loans made, were originated in the assessment area. Of the residential real estate loans Citizens originated in its assessment area, 56 percent were made to LMI borrowers. Examiners noted that this lending record compared very favorably with the percentage of LMI borrowers in the assessment area (31 percent), and commended Citizens for achieving an excellent penetration among borrowers of different income levels.

Bank of Lee's Summit's primary business focus was residential real estate lending, which constituted 40 percent of the institution's loan portfolio. Examiners noted an excellent penetration of lending among borrowers of various income levels. For example, examiners found that 44 percent of loans by number

originated by Bank of Lee's Summit were to LMI borrowers. This compared favorably with the percentage of LMI families living in the bank's assessment area (23 percent). Examiners also noted that a majority of the bank's loan originations were in the bank's assessment area, and that the average loan-to-deposit ratio reflected a reasonable responsiveness to the credit needs of its community. Examiners noted no substantive or technical violations of any antidiscrimination laws or regulations.

#### Conclusion on the Convenience and Needs Factor

The Board has carefully considered the entire record in its review of the convenience and needs factor under the BHC Act. Based on all the facts of record, including information provided by Protestant, Valley View, and CRA performance examinations, and for the reasons discussed above, the Board concludes that considerations relating to convenience and needs, including the CRA performance records of the banks involved in the proposal, are consistent with approval.

#### Conclusion

Based on all the facts of record, the Board has determined that this application should be, and hereby is, approved.<sup>22</sup> The Board's approval is

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<sup>22</sup> Protestant has requested that the Board hold a public hearing or meeting to receive testimony on the proposal. Section 3 of the BHC Act does not require the Board to hold a public hearing or meeting on an application unless the appropriate supervisory authority for the bank to be acquired makes a timely written recommendation of denial of the application. In this case, the Board has received no such request. Under its rules, the Board may, in its discretion, hold a public hearing or meeting on an application to clarify factual issues related to the application and to provide an opportunity for testimony, if appropriate. 12 C.F.R. 262.3(e) and

specifically conditioned on compliance by Valley View with all the commitments made in connection with the application. 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 proposed acquisition of the Bank of Lee's Summit shall not be consummated before the fifteenth calendar day following the effective date of this order, and not 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 Kansas City, acting pursuant to delegated authority.

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262.25(d). The Board has carefully considered Protestant's request in light of all the facts of record. In the Board's view, Protestant has had ample opportunity to submit its views, and has in fact submitted substantial written materials that have been considered by the Board in acting on the application. Protestant fails to demonstrate why its substantial written submissions do not adequately present its allegations or why a public hearing or meeting is otherwise warranted in this case. For these reasons, and based on all the facts of record, the Board has determined that a public hearing or meeting is not necessary to clarify the factual record in the application, and is not warranted in this case. Accordingly, Protestant's request for a public hearing or meeting is denied.

By order of the Board of Governors,<sup>23</sup> effective April 3, 2000.

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Robert deV. Frierson  
Associate Secretary of the Board

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<sup>23</sup> Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Kelley, Meyer, and Gramlich.