

FEDERAL RESERVE SYSTEM

National City Corporation
Cleveland, Ohio

Order Approving the Acquisition of a Bank Holding Company

National City Corporation (“National City”), a financial 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 Allegiant Bancorp, Inc. (“Allegiant”) and its subsidiary bank, Allegiant Bank (“Allegiant Bank”), both in St. Louis, Missouri. National City also has requested the Board’s approval under sections 4(c)(8) and 4(j) of the BHC Act (12 U.S.C. §§ 1843(c)(8) and 1843(j)) and sections 225.28(b)(2), (6) and (12) of the Board’s Regulation Y (12 C.F.R. 225.28(b)(2), (6), and (12)) to acquire certain nonbanking subsidiaries of Allegiant and thereby engage in permissible activities related to extending credit, providing investment advice, and engaging in community development.

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (68 Federal Register 68,626 (2003)). 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.

National City is the 13th largest commercial banking organization in the United States with total consolidated assets of \$113.9 billion, representing approximately 1.4 percent of total assets of insured banking organizations in the United States.¹ National City operates subsidiary insured depository institutions in

¹ Asset data are as of December 31, 2003, and nationwide ranking data are as of September 30, 2003.

Illinois, Indiana, Kentucky, Michigan, Ohio, and Pennsylvania. Allegiant, with assets of approximately \$2.3 billion, is the eighth largest commercial banking organization in Missouri. On consummation of this proposal, National City would remain the 13th largest commercial banking organization in the United States with total consolidated assets of \$116.2 billion, representing approximately 1.4 percent of total assets of insured banking organizations in the United States.

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.² For purposes of the BHC Act, the home state of National City is Ohio, and Allegiant Bank is located in Missouri. Based on a review of all the facts of record, including relevant state statutes, the Board finds that all the conditions for an interstate acquisition enumerated in section 3(d) are met in this case.³

² A bank holding company's home state is the state in which the total deposits of all subsidiary banks of the company were the largest on the later of July 1, 1966, or the date on which the company became a bank holding company. 12 U.S.C. § 1841(o)(4)(C). For purposes of section 3(d) of the BHC Act, the Board considers a bank to be located in the states in which the bank is chartered, headquartered, or operates a branch.

³ See 12 U.S.C. §§ 1842(d)(1)(A) and (B), 1842(d)(2)(A) and (B). National City is adequately capitalized and adequately managed, as defined by applicable law. In addition, on consummation of the proposal, National City would control less than 10 percent of the total amount of deposits of insured depository institutions in the United States. Missouri law prohibits a bank holding company from acquiring an insured depository institution in Missouri if, as a result of the acquisition, the bank holding company would control more than 13 percent of state deposits. See Mo. Rev. Stat. § 362.915. This transaction would meet Missouri's state deposit cap. Missouri law prohibits the interstate acquisition of a Missouri bank that has existed for fewer than 5 years. This transaction would meet Missouri's minimum age requirements. See *id.* at § 362.077. The other requirements of section 3(d) also would be met on consummation of the proposal.

Competitive Considerations

Section 3 of the BHC Act prohibits the Board from approving a proposal that would result in a monopoly or would be in furtherance of any attempt to monopolize the business of banking in any relevant banking market. 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 Board finds that the anticompetitive effects of the proposal clearly are outweighed in the public interest by the probable effect of the proposal in meeting the convenience and needs of the community to be served.⁴ National City and Allegiant do not compete directly in any relevant banking market. Accordingly, the Board concludes, based on all the facts of record, that consummation of the proposal would not have a significantly adverse effect on competition or on the concentration of banking resources in any relevant banking market and that competitive considerations are consistent with approval.

Financial and Managerial Considerations

Section 3 of the BHC Act requires the Board to consider the financial and managerial resources and future prospects of the companies and banks involved in the proposal and certain other supervisory factors. The Board has carefully considered these factors in light of all the facts of record, including reports of examination, other confidential supervisory information received from the primary federal banking agency that supervises each institution, information provided by National City, and public comment on the proposal.

National City is and will remain well capitalized on consummation of the proposal. In addition, the Board has consulted with the Office of the Comptroller of the Currency (“OCC”), the primary federal supervisor of

⁴ 12 U.S.C. § 1842(c)(1).

National City's lead banks, concerning the proposal.⁵ The Board also has considered the managerial resources and the examination records of National City and Allegiant and the subsidiary depository institutions to be acquired, including their risk management systems and other policies.⁶ Based on all the facts of record, the Board has concluded that considerations relating to the financial and managerial resources and future prospects of National City, Allegiant, and Allegiant Bank are consistent with approval, as are the other supervisory factors under the BHC Act.⁷

Convenience and Needs Considerations

In acting on a proposal under section 3 of the BHC Act, the Board is required to consider the effects of the proposal on the convenience and needs of the communities to be served and to take into account the records of the relevant

⁵ A commenter cited press reports about a class-action lawsuit and other litigation concerning the consumer lending and trust activities of three National City subsidiaries. The Board notes that the class-action lawsuit was settled in 2002. In addition, National City has submitted information on pending material litigation relating to the consumer lending activities of National City and its affiliates. The Board has considered this information in light of confidential supervisory information and has consulted with the OCC.

⁶ The commenter also cited press reports noting that in 2003, the Securities and Exchange Commission ("SEC") directed National City to provide certain information on its mutual fund activities as part of an industry-wide review of practices. The Board notes that the SEC has taken no action against National City on this matter.

⁷ The commenter also criticized National City for lobbying against state and local efforts to enact and enforce anti-predatory lending laws and ordinances. In addition, the commenter, citing press reports, expressed concern that the proposal might result in a loss of jobs. The Board notes that the commenter does not allege and has provided no evidence that National City engaged in any illegal activity or other action that has affected, or may reasonably be expected to affect, the safety and soundness of the institutions involved in this proposal or the competitive or other factors that the Board must consider under the BHC Act.

insured depository institution under the Community Reinvestment Act (“CRA”).⁸ 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 financial supervisory agency 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 expansionary proposals.

The Board has considered carefully the convenience and needs factor and the CRA performance records of the banks of National City and Allegiant in light of all the facts of record, including public comment on the proposal. A commenter opposing the proposal asserted, based on data reported under the Home Mortgage Disclosure Act (“HMDA”),⁹ that National City engages in discriminatory treatment of African-American and Hispanic individuals in its home mortgage lending operations. In addition, the commenter expressed concern about potential branch closings.

A. CRA Performance Evaluations

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

⁸ 12 U.S.C. § 2901 et seq.

⁹ 12 U.S.C. § 2801 et seq.

appropriate federal supervisor.¹⁰ At their most recent CRA evaluations by the OCC, National City Bank, Cleveland (“NC Bank”), National City’s largest bank as measured by total deposits, received an “outstanding” rating, and National City Bank of Indiana, Indianapolis (“NC Indiana”), National City’s largest bank as measured by total assets, received a “satisfactory” rating.¹¹ In addition, National City’s five other subsidiary banks received either “outstanding” or “satisfactory” ratings at their most recent CRA evaluations.¹²

Allegiant Bank, Allegiant’s only subsidiary bank, received a “satisfactory” rating at its most recent CRA performance evaluation by the Federal Deposit Insurance Corporation (“FDIC”), as of March 1, 2002. National City has indicated that on consummation of the proposal, Allegiant Bank would have access to National City’s CRA program, would offer certain National City CRA-related loan products, and would establish a CRA program comparable to those of National City’s subsidiary banks. National City anticipates integrating Allegiant’s community development activities with the National City Community Development Corporation. In addition, Allegiant Bank would be subject to National City’s corporate-wide compliance program.

NC Bank’s most recent CRA evaluation characterized its overall record of home mortgage and small business lending as excellent,¹³ noting

¹⁰ See Interagency Questions and Answers Regarding Community Reinvestment, 66 Federal Register 36,620 and 36,639 (2001).

¹¹ Both ratings are as of February 22, 2000.

¹² The Appendix lists the most recent CRA ratings of the National City subsidiary banks.

¹³ In evaluating the records of performance under the CRA of NC Bank and NC Indiana, examiners considered home mortgage loans by certain affiliates in the banks’ assessment areas. The loans reviewed by examiners included loans reported by National City Mortgage Corporation, Miamisburg, Ohio

specifically the bank's excellent loan penetration among borrowers of different income levels, including LMI individuals. Examiners also praised the bank's level of community development lending and noted favorably the use of several flexible lending products designed to address affordable housing needs of LMI individuals. Examiners commended the bank's level of qualified investments and reported that these investments were highly responsive to the credit needs of its assessment area. In addition, examiners reported that NC Bank's community development services were excellent and praised the distribution of the bank's branches.

At NC Indiana's most recent CRA performance evaluation, examiners commended the bank's home lending record among borrowers of different income levels. In addition, examiners praised the bank's record of community development lending and its use of innovative loan products. NC Indiana's most recent evaluation also commended its strong level of qualified investments noting that the bank created opportunities for and engaged in complex and innovative investments in its assessment area. In addition, examiners characterized the distribution of NC Indiana's branches throughout its assessment area, including LMI geographies, as excellent.

Examiners at Allegiant Bank's most recent CRA performance evaluation concluded that the bank demonstrated a good record of serving the credit needs of its entire community, including the most economically disadvantaged portions of its assessment area. Examiners commended Allegiant Bank's home mortgage lending record and noted that in 2000, the percentage of loans extended by the bank in LMI geographies exceeded the

("NC Mortgage") (a subsidiary of NC Indiana); National City Mortgage Services, Kalamazoo, Michigan ("NC Mortgage Services") (a subsidiary of National City Bank of Michigan/Illinois, Bannockburn, Illinois); and other bank and nonbank affiliates of NC Bank.

percentage extended by the aggregate of lenders (“aggregate lenders”).¹⁴ Examiners also noted Allegiant Bank’s significant level of qualified investments and reported that such investments supported a wide variety of programs to develop LMI housing.

B. HMDA and Fair Lending Record

The Board has carefully considered the lending records of and HMDA data reported by National City in light of public comment. Based exclusively on a review of 2002 HMDA data, the commenter alleged that National City engages in discriminatory lending by directing minority customers to First Franklin Financial Corporation, San Jose, California (“First Franklin”), a subsidiary of NC Indiana that originates home mortgage loans that include subprime loans,¹⁵ rather than to National City’s subsidiary banks.¹⁶ The

¹⁴ The lending data of the aggregate lenders represent the cumulative lending for all financial institutions that have reported HMDA data in a given area.

¹⁵ As the Board previously has noted, subprime lending is a permissible activity that provides needed credit to consumers who have difficulty meeting conventional underwriting criteria. The Board continues to expect all bank holding companies and their affiliates to conduct their subprime lending operations without any abusive lending practices. See Royal Bank of Canada, 88 Federal Reserve Bulletin 385, 388 n.18 (2002). The Board also notes that the OCC has responsibility for enforcing compliance with fair lending laws by national banks and their subsidiaries.

¹⁶ Specifically, the commenter compared 2002 HMDA data reported by First Franklin and a National City subsidiary bank in the Metropolitan Statistical Areas (“MSAs”) that include six of the largest assessment areas of National City’s subsidiary banks (as determined by total deposits). These areas include the Chicago, Cleveland, Detroit, Indianapolis, Louisville, and Pittsburgh MSAs. The comparison did not include HMDA data reported by other National City lending subsidiaries operating in these areas. The commenter asserted that in 2002, First Franklin originated a higher volume and larger percentage of its

commenter also alleged that the denial disparity ratios¹⁷ of some of National City's subsidiary banks in certain markets indicated that the banks disproportionately denied African-American or Hispanic applicants for home mortgage loans.

The Board reviewed HMDA data reported by all of National City's bank and nonbank lending subsidiaries in the MSAs identified by the commenter, and focused its analysis on the data in the MSAs that include six major assessment areas of the banks. The Board compared the HMDA data of First Franklin with aggregate data submitted by the other subsidiaries of National City engaged in home mortgage lending, including its subsidiary banks, NC Mortgage, and NC Mortgage Services ("National City Lenders").

The 2002 HMDA data indicate that, although the National City Lenders extended a smaller percentage of their total HMDA-reportable loans to African-American borrowers than did First Franklin in the MSAs reviewed, they extended a larger number of such loans to African-American borrowers than did First Franklin in the majority of the MSAs. The data also indicate that the percentages of the National City Lenders' HMDA-reportable loans to Hispanics were comparable to or exceeded the percentages for First Franklin in each of the MSAs reviewed, and that they originated a larger number of HMDA-reportable loans to Hispanic borrowers than did First Franklin in each of the MSAs. In addition, the denial disparity ratios of the National City Lenders for

HMDA-reportable loans to African-American or Hispanic borrowers than the National City subsidiary bank in each of the areas. The commenter made similar allegations concerning two MSAs outside the banks' assessment areas.

¹⁷ The denial disparity ratio equals the denial rate for a particular racial category (for example, African American) divided by the denial rate for whites.

African-American and Hispanic applicants for total HMDA-reportable loans approximated or were lower than those of aggregate lenders in a majority of the MSAs reviewed. Moreover, the National City Lenders' origination rates for total HMDA-reportable loans to Hispanics and African Americans were comparable to or exceeded the rates for aggregate lenders in each of the MSAs reviewed.¹⁸

The Board is concerned when the record of an institution indicates disparities in lending and believes that all banks are obligated to ensure that their lending practices are based on criteria that ensure not only safe and sound lending, but also equal access to credit by creditworthy applicants regardless of race or income level. The Board recognizes, however, that HMDA data alone provide an incomplete measure of an institution's lending in its community because these data cover only a few categories of housing-related lending and provide only limited information about covered loans.¹⁹ Moreover, HMDA data indicating that one affiliate is lending to minorities or LMI individuals more than another affiliate do not, without more information, indicate that either affiliate has engaged in illegal discriminatory lending activities.

Because of the limitations of HMDA data, the Board has considered these data carefully in light of other information, including examination reports that provide on-site evaluations of compliance with fair lending laws by

¹⁸ The origination rate equals the total number of loans originated to applicants of a particular racial category divided by the total number of applications received by members of that racial category.

¹⁹ 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.

National City's banks and their lending subsidiaries, including First Franklin. Examiners found no evidence of prohibited discrimination or other illegal credit practices at any of National City's subsidiary banks or the lending subsidiaries of these banks at their most recent CRA performance evaluations.

The record also indicates that National City has taken several affirmative steps to ensure compliance with fair lending laws. National City has a centralized compliance function and has implemented corporate-wide compliance policies and procedures to help ensure that all National City business lines, including First Franklin's, comply with all fair lending and other consumer protection laws and regulations. It employs compliance officers and staff responsible for compliance training and monitoring and conducts file reviews for compliance with federal and state consumer protection rules and regulations for all product lines and origination sources, including First Franklin. National City also regularly performs self-assessments of its fair lending law compliance and fair lending policy training for its employees.

The Board also has considered the HMDA data in light of other information, including the CRA performance records of National City's subsidiary banks. These records demonstrate that National City is active in helping to meet the credit needs of its entire community.

C. Branch Closings

The Board has considered the commenter's concerns about potential branch closings in light of all the facts of record. National City has provided the Board with its branch closing policy and has represented to the Board that it intends to open thirteen new branches in the St. Louis market over the next three years. The Board has considered carefully National City's branch closing policy and its record of opening and closing branches. Examiners reviewed National

City's branch closing policy as part of the most recent CRA evaluations of each of National City's banks and found that it complied with federal law.

The Board also has considered the fact that federal banking law provides a specific mechanism for addressing branch closings.²⁰ Federal law requires an insured depository institution to provide notice to the public and to the appropriate federal supervisory before closing a branch. In addition, the Board notes that the FDIC, as the appropriate federal supervisor of Allegiant Bank, will continue to review its branch closing record in the course of conducting CRA performance evaluations.

D. Conclusion on Convenience and Needs Factor

The Board has carefully considered all the facts of record, including reports of examination of the CRA records of the institutions involved, information provided by National City, public comment on the proposal, and confidential supervisory information. Based on a review of the entire record, and for the reasons discussed above, the Board concludes that considerations relating to the convenience and needs factor, including the CRA performance records of the relevant depository institutions, are consistent with approval.

Nonbanking Activities

National City also has filed a notice under sections 4(c)(8) and 4(j) of the BHC Act to acquire the nonbanking subsidiaries of Allegiant. The subsidiaries engage in activities related to extending credit, providing investment advice, and

²⁰ Section 42 of the Federal Deposit Insurance Act (12 U.S.C. § 1831r-1), as implemented by the Joint Policy Statement Regarding Branch Closings (64 Federal Register 34,844 (1999)), requires that a bank provide the public with at least 30 days' notice and the appropriate federal supervisory agency and customers of the branch with at least 90 days' notice before the date of the proposed branch closing. The bank also is required to provide reasons and other supporting data for the closure, consistent with the institution's written policy for branch closings.

engaging in community development. The Board has determined by regulation that these activities are permissible for bank holding companies under the Board's Regulation Y,²¹ and National City has committed to conduct these activities in accordance with the Board's regulations and orders for bank holding companies engaged in these activities.

To approve the notice, the Board must determine that the acquisition of the nonbanking subsidiaries of Allegiant and the performance of the proposed activities by National City "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."²² As part of its evaluation of these factors, the Board has considered the financial and managerial resources of National City and its subsidiaries, and the companies to be acquired, and the effect of the proposed transaction on those resources. For the reasons noted above, and based on all the facts of record, the Board has concluded that financial and managerial considerations are consistent with approval of the notice.

The Board also has considered the competitive effects of National City's proposed acquisition of the nonbanking subsidiaries of Allegiant in light of all the facts of record. National City and Allegiant compete directly in activities related to extending credit and providing investment advice. The markets for these activities are regional or national in scope and are unconcentrated.²³ The record in this case also indicates that there are numerous providers of these

²¹ See 12 C.F.R. 225.28(b)(2), (6), and (12).

²² See 12 U.S.C. § 1843(j)(2)(A).

²³ In addition, National City and Allegiant engage in community development activities. The market for community development activities is local, but National City and Allegiant do not compete directly in any local market.

services. Based on all the facts of record, the Board concludes that consummation of the proposal would have a de minimis effect on competition for the proposed activities. Accordingly, the Board concludes that it is unlikely that significantly adverse competitive effects would result from the acquisition of Allegiant's nonbanking subsidiaries.

National City has indicated that the proposal would provide customers of the two organizations with access to services across a broader geographic area. National City has also asserted that customers of Allegiant would gain access to a broader variety of nonbanking services, such as trust and securities broker-dealer services. National City has represented that it intends to integrate Allegiant's community development operations with National City's community development subsidiary and expand such activities in the communities served by Allegiant.

Based on all the facts of record, the Board has determined that consummation of the proposal can reasonably be expected to produce public benefits that would outweigh any likely adverse effects under the standard of section 4 of the BHC Act.

Conclusion

Based on the foregoing and all the facts of record, the Board has determined that the application and notice should be, and hereby are, approved.²⁴

²⁴ A commenter 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 regulations, 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 regulations provide for a hearing on a

In reaching its conclusion, the Board has considered all the facts of record in light of the factors that it is required to consider under the BHC Act and other applicable statutes. The Board's approval is specifically conditioned on compliance by National City with the conditions imposed in this order and the commitments made to the Board in connection with the application and notice, including compliance with state law. The Board's approval of the nonbanking aspects of the proposal also is subject to all the conditions set forth in Regulation Y, including those in sections 225.7 and 225.25(c) (12 C.F.R. 225.7 and 225.25(c)), and to the Board's authority to require 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. The commitments made in the application process are deemed to be conditions imposed in writing by the Board in connection with its findings and decisions and, as such, may be enforced in proceedings under applicable law.

notice to acquire nonbanking companies if there are disputed issues of material fact that cannot be resolved in some other matter. 12 C.F.R. 225.25(a)(2). The Board has considered carefully the commenter's request in light of all the facts of record. In the Board's view, the commenter has had ample opportunity to submit its views and has submitted written comments that have been considered carefully by the Board in acting on the proposal. The commenter's request fails to demonstrate why written comments do not present its evidence adequately and fails 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 request for a public meeting or hearing on the proposal is denied.

The acquisition of Allegiant Bank may not be consummated before the fifteenth calendar day after the effective date of this order, and the proposal may not be consummated later than three months after the effective date of this order, unless such period is extended for good cause by the Board or the Federal Reserve Bank of Cleveland, acting pursuant to delegated authority.

By order of the Board of Governors,²⁵ effective March 15, 2004.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

²⁵ Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Gramlich, Bies, Olson, Bernanke, and Kohn.

APPENDIX

CRA Performance Evaluations of National City

<u>Subsidiary Bank</u>	<u>CRA Rating</u>	<u>Date</u>	<u>Supervisor</u>
1. National City Bank, Cleveland, Ohio	Outstanding	February 2000	OCC
2. National City Bank of Indiana, Indianapolis, Indiana	Satisfactory	February 2000	OCC
3. The Madison Bank and Trust Company, Madison, Indiana	Outstanding	October 1999	FDIC
4. National City Bank of Kentucky, Louisville, Kentucky	Satisfactory	February 2000	OCC
5. National City Bank of Michigan/Illinois, Bannockburn, Illinois	Outstanding	February 2000	OCC
6. National City Bank of Pennsylvania, Pittsburgh, Pennsylvania	Outstanding	February 2000	OCC
7. National City Bank of Southern Indiana, New Albany, Indiana	Satisfactory	February 2000	OCC