

# 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 Provident Financial Group, Inc. (“Provident”) and its subsidiary bank, The Provident Bank (“Provident Bank”), both in Cincinnati, Ohio. 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 section 225.28(b)(6) of the Board’s Regulation Y (12 C.F.R. 225.28(b)(6)) to acquire a nonbanking subsidiary of Provident and thereby engage in permissible investment advisory activities.

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (69 Federal Register 8,660 (2004)). 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, with total consolidated assets of \$116.4 billion, is the 11<sup>th</sup> largest depository organization in the United States, controlling deposits of \$75.2 billion, which represents approximately 1.3 percent of total deposits in insured depository institutions in the United States.<sup>1</sup> National City is the third largest insured depository organization in Ohio, controlling deposits of \$23.7 billion, which represents approximately 11.2 percent of total deposits in

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<sup>1</sup> Asset, nationwide deposit, and ranking data are as of December 31, 2003, and statewide deposit and ranking data are as of June 30, 2003.

insured depository institutions in the state (“state deposits”). National City also operates subsidiary insured depository institutions in Illinois, Indiana, Kentucky, Michigan, Missouri, and Pennsylvania.

Provident, with total consolidated assets of approximately \$17.1 billion, is the seventh largest insured depository organization in Ohio, controlling deposits of \$10.3 billion, which represents approximately 4.9 percent of state deposits. Provident Bank operates branches in Ohio and Kentucky.

On consummation of this proposal, National City would become the tenth largest insured depository organization in the United States, with total consolidated assets of \$133.5 billion, and would control approximately 1.4 percent of total deposits in insured depository institutions in the United States.<sup>2</sup>

National City would become the largest insured depository organization in Ohio, controlling deposits of approximately \$34 billion, which represents approximately 16.1 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>3</sup> For purposes of the BHC Act, the home state of National City is Ohio,

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<sup>2</sup> All data include National City after consummation of the proposal to acquire Allegiant Bancorp, Inc., St. Louis, Missouri (“Allegiant”). The Allegiant proposal was approved by the Board on March 15, 2004. See National City Corporation, 90 Federal Reserve Bulletin 236 (2004) (“National City/Allegiant Order”).

<sup>3</sup> 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 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).

and Provident is located in Kentucky and Ohio.<sup>4</sup> 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.<sup>5</sup> 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 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.<sup>6</sup>

National City and Provident compete directly in the Cleveland,

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<sup>4</sup> 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.

<sup>5</sup> 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 and less than 15 percent of the total deposits of insured depository institutions in Kentucky, the only applicable state limitation on the amount of deposits a bank holding company can acquire in this transaction. See Ky. Rev. Stat. Ann. § 287.900 (Supp. 2003).

<sup>6</sup> 12 U.S.C. § 1842(c)(1).

Columbus, Dayton, and Springfield banking markets, all in Ohio.<sup>7</sup> The Board has reviewed carefully the competitive effects of the proposal in each of these banking markets in light of all the facts of record. In particular, the Board has considered the number of competitors that would remain in the markets, the relative shares of total deposits in depository institutions in the markets (“market deposits”) controlled by National City and Provident,<sup>8</sup> the concentration level of market deposits and the increase in this level as measured by the Herfindahl-Hirschman Index (“HHI”) under the Department of Justice Merger Guidelines (“DOJ Guidelines”),<sup>9</sup> and other characteristics of the markets.

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<sup>7</sup> These banking markets are described in Appendix A.

<sup>8</sup> Market share data are as of June 30, 2003, and 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, e.g., Midwest Financial Group, 75 Federal Reserve Bulletin 386 (1989); National City Corporation, 70 Federal Reserve Board 743 (1984). Thus, the Board regularly has included thrift deposits in the market share calculation on a 50 percent weighted basis. See, e.g., First Hawaiian, Inc., 77 Federal Reserve Bulletin 52 (1991).

<sup>9</sup> Under the DOJ Guidelines, 49 Federal Register 26,823 (1984), a market is considered moderately concentrated if the post-merger HHI is between 1000 and 1800 and highly concentrated if the post-merger HHI is more than 1800. The Department of Justice has informed the Board that a bank merger or acquisition generally will not be challenged (in the absence of other factors indicating anticompetitive effects) unless the post-merger HHI is at least 1800 and the merger increases the HHI by more than 200 points. The Department of Justice has stated that the higher than normal HHI thresholds for screening bank mergers for anticompetitive effects implicitly recognize the competitive effects of limited-purpose lenders and other nondepository financial institutions.

Consummation of the proposal would be consistent with Board precedent and the DOJ Guidelines in each of these banking markets.<sup>10</sup> After consummation of the proposal, the Dayton banking market would remain moderately concentrated, as measured by the HHI, and numerous competitors would remain in the market. Although the Cleveland, Columbus, and Springfield banking markets would remain highly concentrated, the change in market shares would be small and numerous competitors would remain in the markets.

The Department of Justice also has conducted a detailed review of the competitive effects of the proposal and has advised the Board that consummation of the proposal would not have a significantly adverse effect on competition in the Cleveland, Columbus, Dayton, or Springfield banking markets or in any other relevant banking market.

Based on all the facts of record, the Board concludes 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, Managerial, and Supervisory 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.

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<sup>10</sup> The effects of the proposal on the concentration of banking resources in these markets are described in Appendix B.

National City is well capitalized and will remain so on consummation of the proposal.<sup>11</sup> In addition, the Board has consulted with the Office of the Comptroller of the Currency (“OCC”), the primary federal supervisor of National City’s lead banks, about the proposal.<sup>12</sup> The Board also has considered the managerial resources and the examination records of National City and Provident and the subsidiary depository institution to be acquired, including its risk management systems and other policies.<sup>13</sup> 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, Provident, and Provident Bank are consistent with approval, as are the other supervisory factors under the BHC Act.

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

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<sup>11</sup> A commenter alleged that the compensation under severance agreements for Provident’s senior management is excessive. The Board notes that the severance agreements have been disclosed to shareholders and that National City will remain well capitalized on consummation of the proposal.

<sup>12</sup> A commenter also expressed concern that Provident restated its earnings for the years 1997 through 2002. The Board monitored the restatement by Provident and has consulted with the Securities and Exchange Commission regarding this matter.

<sup>13</sup> One commenter criticized National City for lobbying against state and local efforts to enact and enforce anti-predatory lending laws and ordinances. Two commenters expressed concern that the proposal might result in a loss of jobs. The Board notes that the commenters do not allege and have 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 other factors that the Board must consider under the BHC Act.

insured depository institutions under the Community Reinvestment Act (“CRA”).<sup>14</sup> 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 subsidiary banks of National City and Provident in light of all the facts of record, including public comment on the proposal. The Board recently considered the convenience and needs factor in National City’s proposal to acquire Allegiant. In that proposal, the Board conducted a detailed review of the CRA performance records of the insured depository institutions controlled by National City, the lending records of all the National City bank and nonbank lending subsidiaries, including an analysis of data reported by National City under the Home Mortgage Disclosure Act (“HMDA”),<sup>15</sup> and the branch closing policies of National City and found the record of the Allegiant proposal to be consistent with approval.

A. Summary of Public Comments on Convenience and Needs Considerations

In response to the Board’s request for public comment on this proposal, approximately 56 commenters submitted their views. Of these commenters, approximately 51 commenters supported the proposal by generally

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<sup>14</sup> 12 U.S.C. § 2901 et seq.

<sup>15</sup> 12 U.S.C. § 2801 et seq.

commending National City or Provident for providing financial and technical support to their community development organizations or businesses. Other commenters related their favorable experiences with specific programs or services offered by National City or Provident.

Five commenters opposed the proposal. These commenters expressed concern about the subprime lending activities of First Franklin Financial Corporation, San Jose, California (“First Franklin”), a subsidiary of National City Bank of Indiana, Indianapolis, Indiana (“NC Indiana”), that originates home mortgage loans, including subprime loans. Commenters also asserted, based on data reported under the HMDA, that National City engages in discriminatory treatment of African-American and Hispanic individuals in its home mortgage lending operations. In addition, commenters expressed concern about potential branch closings resulting from this proposal and the percentage of Provident Bank branches in LMI and predominantly minority areas.

#### B. 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 appropriate federal supervisor.<sup>16</sup> 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 NC Indiana,

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<sup>16</sup> See Interagency Questions and Answers Regarding Community Reinvestment, 66 Federal Register 36,620 and 36,639 (2001).

National City's largest bank as measured by total assets, received a "satisfactory" rating.<sup>17</sup> In addition, National City's six other subsidiary banks received either "outstanding" or "satisfactory" ratings at their most recent CRA evaluations.<sup>18</sup>

The Board has carefully reviewed the CRA performance records of the insured depository institution subsidiaries of National City. A summary of the most recent CRA evaluations of NC Bank and NC Indiana was included in the National City/Allegiant Order. Based on its review of the record in this case, the Board hereby reaffirms and adopts the facts and findings detailed in the National City/Allegiant Order.

NC Bank's most recent CRA evaluation characterized its overall record of home mortgage and small business lending as excellent<sup>19</sup> and praised the bank's level of community development lending. Examiners noted favorably the use of several flexible lending products designed to address affordable housing needs of LMI individuals and commended the bank's level of qualified investments. 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

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<sup>17</sup> Both ratings are as of February 22, 2000.

<sup>18</sup> Appendix C lists the most recent CRA ratings of National City's bank subsidiaries, including the recently acquired Allegiant Bank, St. Louis, Missouri.

<sup>19</sup> 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 ("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.

commended the bank's record of home mortgage lending among borrowers of different income levels and its community development lending. NC Indiana's most recent evaluation also commended its strong level of qualified investments and characterized the distribution of the bank's branches throughout its assessment area, including LMI geographies, as excellent.

Provident Bank, Provident's only subsidiary bank, received an "outstanding" rating at its most recent CRA performance evaluation by the Federal Reserve Bank of Cleveland, as of March 11, 2002. National City has indicated that its CRA and consumer compliance programs would be implemented at Provident on consummation of the proposal.

At Provident Bank's most recent CRA performance evaluation, examiners concluded that the bank's lending activity reflected an excellent responsiveness to assessment-area credit needs. Examiners commended Provident Bank's home mortgage lending record and noted that it demonstrated an excellent geographic distribution of HMDA-reportable loans, especially in LMI areas and among borrowers of different incomes. They also reported that the bank had a good geographic distribution of small business loans. In addition, examiners commended the bank for its significant level of community development lending and investments and reported that such investments supported the development of LMI housing. They indicated that Provident Bank has taken a leadership role in community development services, noting that the bank provides services that promote affordable housing and economic development. In addition, examiners stated that Provident Bank's branches and automated teller machines are reasonably accessible to all segments of the bank's assessment areas.

### C. HMDA Data, Subprime Lending, and Fair Lending Record

The Board has carefully considered the lending record of and HMDA data reported by National City in light of public comment. Based on their review of HMDA data, commenters primarily contended that National City's lending operations are organized in a manner to direct First Franklin's higher priced loans disproportionately to minority and LMI borrowers and in LMI and predominantly minority communities, as compared with the other subsidiaries of National City engaged in home mortgage lending, including National City's bank subsidiaries, NC Mortgage, and NC Mortgage Services (collectively, "National City Lenders").<sup>20</sup> In addition, commenters criticized other aspects of the lending activities of First Franklin and the National City Lenders.<sup>21</sup>

The Board reviewed HMDA data reported by all of National City's bank and nonbank lending subsidiaries in the MSAs identified by the commenters and focused its analysis on the MSAs that comprise the assessment areas of the National City Lenders in Ohio, Illinois, Indiana, Kentucky, and Michigan. The

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<sup>20</sup> Two commenters asserted that First Franklin's market share is disproportionately concentrated in LMI and predominantly minority areas in Ohio and that the National City Lenders have ignored these areas. Another commenter asserted that, in 2002, First Franklin originated a higher volume and a larger percentage of its HMDA-reportable loans to African-American or Hispanic borrowers than NC Bank. The commenter compared 2002 HMDA data reported by First Franklin and NC Bank in the Metropolitan Statistical Areas ("MSAs") of Cincinnati, Columbus, and Dayton, but did not include HMDA data reported by other National City lending subsidiaries in those areas.

<sup>21</sup> Commenters criticized First Franklin's use of loan brokers to distribute its products, including the payment of yield spread premiums to brokers. Another commenter criticized the level of due diligence performed by Provident in providing warehouse lines of credit to subprime lenders and criticized National City for financing payday lending operations.

analysis included a comparison of the HMDA data of First Franklin with combined data submitted by the National City Lenders.<sup>22</sup>

An analysis of 2002 HMDA data does not support the contention that National City disproportionately directs First Franklin's loans to minority and LMI borrowers and in LMI and predominantly minority communities as compared with the National City Lenders. The 2002 HMDA data indicate that the National City Lenders extended a larger number of HMDA-reportable loans to African-American borrowers than did First Franklin in the MSAs reviewed. In addition, the percentage and number of HMDA-reportable loans by the National City Lenders to Hispanics were generally comparable with or exceeded the percentage and number for First Franklin in each of the MSAs reviewed. The HMDA data indicate that the percentage of total HMDA-reportable loans made to African-American and Hispanic borrowers and in LMI and minority census tracts<sup>23</sup> by the National City Lenders generally remained the same or increased from 2002 to 2003. The HMDA data also indicate the National City Lenders generally performed favorably when compared with the aggregate lenders. The percentage of total HMDA-reportable loans originated to African-American and Hispanic borrowers by the National City Lenders was comparable to the aggregate lenders in most of the MSAs reviewed.

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<sup>22</sup> The Board analyzed HMDA data for 2001 through 2003 for National City and HMDA data for 2001 and 2002 for the aggregate of lenders in the areas reviewed ("aggregate lenders"). The 2003 HMDA data are preliminary and 2003 data for the aggregate lenders are not yet available.

<sup>23</sup> For purposes of this HMDA analysis, minority census tract means a census tract with a minority population of 80 percent or more.

Moreover, the denial disparity ratios<sup>24</sup> of the National City Lenders for African-American and Hispanic applicants for total HMDA-reportable loans were generally comparable to or lower than those of aggregate lenders in a majority of the MSAs reviewed.<sup>25</sup> In addition, 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.<sup>26</sup>

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 and provide only limited information about covered loans. Because of the limitations of HMDA data, the Board has considered these data carefully in light of other information, including public and confidential supervisory information, information on the use of loan brokers by First Franklin to distribute its loans, and information submitted by National City on its policies and procedures to ensure compliance with fair lending laws and to guard against abusive lending practices.

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

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<sup>24</sup> The denial disparity ratio equals the denial rate for a particular racial category (for example, African American) divided by the denial rate for whites.

<sup>25</sup> Two commenters also alleged that the denial disparity ratios of some of National City's bank subsidiaries in certain markets indicated that the banks disproportionately denied African-American or Hispanic applicants for home mortgage loans.

<sup>26</sup> 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 from members of that racial category.

Board also consulted with the OCC, which has responsibility for enforcing compliance with fair lending laws by national banks and their subsidiaries, about this proposal, the comments received by the Board criticizing the lending activities of First Franklin, and the record of performance of National City's banks and their subsidiaries since the last examination.

As discussed in the National City/Allegiant Order, National City has taken several affirmative steps to ensure compliance with fair lending laws and to prevent abusive lending practices at First Franklin and the National City Lenders. National City represented that all loan applicants are evaluated individually on their credit qualifications and the loans they receive are based on those qualifications. National City has a centralized compliance function and has implemented corporate-wide compliance policies and procedures to help ensure that all the business lines of National City, including First Franklin, comply with fair lending and other consumer protection laws and regulations. Compliance officers and staff are responsible for compliance training and monitoring. National City also conducts file reviews for compliance with federal and state consumer protection rules and regulations for all product lines and origination sources, including First Franklin. In addition, National City regularly performs self-assessments of its fair lending law compliance and fair lending policy training for its employees. National City represented that its corporate consumer compliance program will be implemented at Provident Bank after consummation of the proposal.<sup>27</sup>

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<sup>27</sup> Based on a review of a sample of First Franklin's loans that ended in foreclosure, one commenter expressed concern about certain terms, such as high interest rates with balloon payments, prepayment penalties, and adjustable interest rates, including "teaser rates," and other lending practices of First Franklin. In addition, commenters criticized National City for not having procedures for referring to the National City Lenders loan applicants of First Franklin who qualify

The Board also reviewed the use of loan brokers by First Franklin in distributing its loan products and concluded that this practice does not appear to have resulted in the disparate treatment of minorities or LMI individuals. National City represented that First Franklin has implemented a detailed program for establishing relationships with brokers, which includes the review of a prospective broker's license status, financial condition, and background. In addition, National City stated that, although the National City Lenders and First Franklin have relationships with brokers and correspondents that provide subprime credit as some portion of their business, National City does not pursue business relationships with brokers or correspondents that originate subprime loans exclusively. National City also represented that loan brokers are not chosen based on their geographic location or the income, race, or ethnicity of residents in the brokers' locations.

The Board also has considered the HMDA data, subprime lending, and fair lending record of National City in light of other information, including the CRA performance records of National City's subsidiary banks discussed above and in the National City/Allegiant Order, and public comment. These records demonstrate that National City is active in helping to meet the credit needs of its entire community.

#### D. Branch Closings

One commenter expressed concern about the effect of branch closings that might result from this proposal. The Board has considered those concerns in

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for credit at those affiliates. As discussed above, National City has represented that all loan applicants are evaluated individually on their credit qualifications and the loans they receive are based on those qualifications. In addition, National City has a substantial compliance program in place to ensure that First Franklin does not engage in abusive lending practices. The Board also notes that the terms of loans offered by First Franklin that were criticized by the commenter are not, in and of themselves, abusive, and the fact that some of these terms are present in foreclosed loans does not itself indicate that these terms are inappropriate or abusive.

light of all the facts of record. National City represented that it is in the process of determining whether to close branches in markets where there is overlap and that any closures or consolidations of branches will be conducted in accordance with National City's Branch Closing Policy and Procedures. The Board carefully considered National City's branch closing policy and its record of opening and closing branches in the National City/Allegiant Order. In addition, 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.<sup>28</sup> 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 OCC, as the appropriate federal supervisor of NC Bank, will continue to review the bank's branch closing record in the course of conducting CRA performance evaluations.

#### E. 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 comments on the proposal, and confidential supervisory information. Based on a review of the entire record, and for the

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<sup>28</sup> 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.

reasons discussed above and in the National City/Allegiant Order, 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 Provident Investment Advisors, Inc., also in Cincinnati (“Investment Advisors”), which engages in investment advisory activities. The Board has determined by regulation that this activity is permissible for bank holding companies under the Board’s Regulation Y,<sup>29</sup> 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 National City’s acquisition of Investment Advisors and the performance of the proposed activities “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.”<sup>30</sup> As part of its evaluation of these factors, the Board has considered the financial and managerial resources of National City, its subsidiaries, and the company 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 concludes 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 Provident’s nonbanking subsidiary in

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<sup>29</sup> See 12 C.F.R. 225.28(b)(6).

<sup>30</sup> See 12 U.S.C. § 1843(j)(2)(A).

light of all the facts of record. National City and Provident engage in activities related to investment advice. The market for the activity is regional or national in scope and unconcentrated. The record in this case also indicates that there are numerous providers of these services. Accordingly, the Board concludes that National City's acquisition of Investment Advisors would not have a significantly adverse effect on competition in any relevant market.

National City has indicated that the proposal would allow National City to provide an expanded array of services to individuals, businesses, and governmental units in a wider geographic area and provide customers of Provident a full array of brokerage services. 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.<sup>31</sup>

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<sup>31</sup> A commenter requested that the Board extend the comment period on this proposal. The Board has accumulated a significant record in this case, including reports of examination, supervisory information, public reports and information, and public comment. In the Board's view, interested persons had ample opportunity to submit views on the proposal and, in fact, the commenter has provided written submissions that the Board has considered carefully in acting on this proposal. The commenter's request for additional time to comment does not identify extraordinary circumstances that would justify an extension of the public comment period for this case. Moreover, the BHC Act and Regulation Y require the Board to act on proposals submitted under those provisions within certain time periods. 12 U.S.C. § 1842(b); 12 C.F.R. 225.15(d). Based on a review of all the facts of record, the Board has concluded that the record in this case is sufficient to warrant Board action at this time and that an extension of the comment period is not warranted. Accordingly, the request for an extension of the comment period is denied.

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.<sup>32</sup> 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 is also 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

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<sup>32</sup> Commenters also 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 notice to acquire nonbanking companies if there are disputed issues of material fact that cannot be resolved in some other manner. 12 C.F.R. 225.25(a)(2). The Board has considered carefully the commenters' requests in light of all the facts of record. In the Board's view, the commenters had ample opportunity to submit their views and submitted written comments that have been considered carefully by the Board in acting on the proposal. The commenters' requests fail to demonstrate why written comments do not present their evidence 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 or hearing on the proposal are denied.

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 to the Board 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.

The acquisition of Provident Bank may not be consummated before the fifteenth calendar day after the effective date of this order, or 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,<sup>33</sup> effective June 8, 2004.

(signed)

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Robert deV. Frierson  
Deputy Secretary of the Board

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<sup>33</sup> Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Gramlich, Bies, Olson, Bernanke, and Kohn.

## APPENDIX A

### Ohio Banking Market Definitions

#### *Cleveland*

Cuyahoga, Lake, Lorain, and Geauga Counties; Sagamore Hills, Northfield Center, Twinsburg, Richfield, Boston, and Hudson townships in Summit County; Medina County, excluding Homer, Harrisville, Westfield, Guilford, Wadsworth and Sharon townships; Aurora and Streetsboro townships in Portage County; and the City of Vermillion in Erie County.

#### *Columbus*

Franklin, Delaware, Fairfield, Licking, Madison, Pickaway, and Union Counties; Perry township in Hocking County; and Thorn township in Perry County.

#### *Dayton*

Montgomery, Miami, and Greene Counties; Bethel and Mad River townships in Clark County; and Clear Creek, Wayne, and Massie townships in Warren County.

#### *Springfield*

Clark County, excluding Bethel and Mad River townships.

## APPENDIX B

### Ohio Banking Markets in which National City and Provident Compete Directly

#### *Cleveland*

National City operates the second largest depository institution in the Cleveland banking market, controlling \$15 billion in deposits, representing 25.8 percent of market deposits. Provident operates the 25<sup>th</sup> largest depository institution in the market, controlling \$65.8 million in deposits, representing less than 1 percent of market deposits. On consummation of the proposal, National City would operate the second largest depository institution in the market, controlling deposits of \$15 billion, representing approximately 25.9 percent of market deposits. The HHI would increase 6 points to 1,990. Thirty-seven bank and thrift competitors would remain in the market.

#### *Columbus*

National City operates the fourth largest depository institution in the Columbus banking market, controlling \$2.3 billion in deposits, representing 8.3 percent of market deposits. Provident operates the 40<sup>th</sup> largest depository institution in the market, controlling \$29.4 million in deposits, representing less than 1 percent of market deposits. On consummation of the proposal, National City would operate the fourth largest depository institution in the market, controlling deposits of \$2.3 billion, representing approximately 8.4 percent of market deposits. The HHI would increase 2 points to 1,996. Fifty-one bank and thrift competitors would remain in the market.

#### *Dayton*

National City operates the third largest depository institution in the Dayton banking market, controlling \$1.4 billion in deposits, representing 15.3 percent of market deposits. Provident operates the sixth largest depository institution in the market, controlling \$446.5 million in deposits, representing 5 percent of market deposits. On consummation of the proposal, National City would operate the second largest depository institution in the market, controlling deposits of \$1.8 billion, representing approximately 20.4 percent of market deposits. The HHI would increase 155 points to 1,657. Twenty-six bank and thrift competitors would remain in the market.

*Springfield*

National City operates the third largest depository institution in the Springfield banking market, controlling \$187 million in deposits, representing 19.3 percent of market deposits. Provident operates the seventh largest depository institution in the market, controlling \$36.6 million in deposits, representing 3.8 percent of market deposits. On consummation of the proposal, National City would operate the third largest depository institution in the market, controlling \$223.5 million in deposits, representing approximately 23.1 percent of market deposits. The HHI would increase 146 points to 1,967. Eight bank and thrift competitors would remain in the market.

APPENDIX C

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	May 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
8. Allegiant Bank, St. Louis, Missouri	Satisfactory	October 2001	FDIC