

## FEDERAL RESERVE SYSTEM

The PNC Financial Services Group, Inc.  
Pittsburgh, Pennsylvania

### Order Approving the Merger of Bank Holding Companies

The PNC Financial Services Group, Inc. (“PNC”), 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<sup>1</sup> to acquire Riggs National Corporation (“Riggs”), Washington, D.C., and its subsidiary bank, Riggs Bank National Association (“Riggs Bank”), McLean, Virginia.<sup>2</sup>

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (69 Federal Register 50,382 (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 section 3 of the BHC Act.

PNC, with total consolidated assets of approximately \$80 billion, is the 20<sup>th</sup> largest depository organization in the United States, controlling deposits of approximately \$52.2 billion, which represent less than 1 percent of the total

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<sup>1</sup> 12 U.S.C. § 1842.

<sup>2</sup> Immediately after the merger of Riggs into PNC, PNC would contribute all the shares of Riggs Bank to PNC Bancorp, Inc., Wilmington, Delaware, a subsidiary bank holding company of PNC. PNC’s lead subsidiary bank, PNC Bank, National Association (“PNC Bank”), Pittsburgh, Pennsylvania, then would acquire substantially all the assets and assume substantially all the liabilities of Riggs Bank. This proposed transaction by PNC Bank is subject to approval by the Office of the Comptroller of the Currency (“OCC”) under section 18(c) of the Federal Deposit Insurance Act. 12 U.S.C. § 1828(c).

deposits of insured depository institutions in the United States.<sup>3</sup> PNC operates subsidiary insured depository institutions in Delaware, Florida, Indiana, Kentucky, New Jersey, Ohio, and Pennsylvania.

Riggs, with total consolidated assets of approximately \$6 billion, controls deposits of \$3.8 billion through Riggs Bank, its only subsidiary depository institution. On consummation of this proposal, PNC would become the 19<sup>th</sup> largest depository organization in the United States, with total consolidated assets of approximately \$85.5 billion and total deposits of \$56 billion, which represent less than 1 percent of the total amount of deposits of insured depository institutions 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.<sup>4</sup> For purposes of the BHC Act, the home state of PNC is Pennsylvania, and Riggs's subsidiary bank is located in Washington, D.C., Maryland, and Virginia.<sup>5</sup>

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<sup>3</sup> Asset, deposit, and nationwide ranking data are as of December 31, 2004. Deposit data reflect the unadjusted total of the deposits reported by each organization's insured depository institutions in their Consolidated Reports of Condition and Income or Thrift Financial Reports. In this context, insured depository institutions include commercial banks, savings banks, and savings associations.

<sup>4</sup> 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).

<sup>5</sup> For purposes of section 3(d), the Board considers a bank to be located in the states in which the bank is chartered or headquartered or operates a branch. See 12 U.S.C. §§ 1841(o)(4)-(7) and 1842(d)(1)(A) and (d)(2)(B).

Based on a review of all the facts of record, including a review of relevant state statutes, the Board finds that all the conditions for an interstate acquisition enumerated in section 3(d) of the BHC Act are met in this case.<sup>6</sup> Accordingly, based on 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>7</sup>

PNC and Riggs 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 an adverse effect on competition or on the concentration of banking resources in any relevant banking market and that competitive factors are consistent with approval of the proposal.

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<sup>6</sup> 12 U.S.C. §§ 1842(d)(1)(A) & (B), and (d)(2)(A) & (B). PNC is adequately capitalized and adequately managed, as defined by applicable law. Riggs Bank has been in existence and operated for the minimum period of time required by applicable law. On consummation of the proposal, PNC would control less than 10 percent of the total amount of deposits of insured depository institutions in the United States. All other requirements of section 3(d) would be met in this case.

<sup>7</sup> 12 U.S.C. § 1842(c)(1).

### 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. In reviewing these factors, the Board has considered, among other things, confidential reports of examination and other supervisory information received from the primary federal supervisors of the organizations involved in the proposal. In addition, the Board has consulted with the relevant supervisory agencies, including the OCC and the Federal Deposit Insurance Corporation (“FDIC”). The Board also has considered publicly available financial and other information on the organizations and their subsidiaries, all the information submitted on the financial and managerial aspects of the proposal by PNC, and public comment received by the Board about the financial and managerial resources of PNC and Riggs.

In evaluating financial factors in expansion proposals by banking organizations, the Board reviews the financial condition of the organizations involved on both a parent-only and consolidated basis, as well as the financial condition of the subsidiary banks and significant nonbanking operations. In this evaluation, the Board considers a variety of areas, including capital adequacy, asset quality, and earnings performance. In assessing financial factors, the Board consistently has considered capital adequacy to be especially important. The Board also evaluates the effect of the transaction on the financial condition of the applicant and the target, including their capital positions, asset quality, and earnings prospects and the impact of the proposed funding of the transaction.

The Board has reviewed these factors carefully in this case and believes that financial factors are consistent with approval of this application. The Board notes that PNC and its subsidiary depository institutions are well

capitalized and would remain so on consummation of the proposal.<sup>8</sup> The Board also finds that PNC has sufficient financial resources to effect the proposal.<sup>9</sup> The proposed transaction is structured as a partial share exchange/partial cash purchase of shares, and PNC will use existing cash resources to fund the cash purchase of shares.

The Board also has considered the managerial resources of PNC, Riggs, and the banking institutions and nonbanking subsidiaries to be acquired, and the effect of the proposal on these resources.<sup>10</sup> In reviewing this proposal, the Board has assembled and considered a broad and detailed record, including

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<sup>8</sup> One commenter questioned the basis for the selection by Riggs's board of directors of PNC's bid from among the competing offers and expressed concern that certain senior management officials of Riggs Bank may receive excessive severance payments. The Board notes that the transaction may be consummated only if approved by the Riggs shareholders, that information concerning the selection of PNC's bid and the management officials' severance payments has been disclosed to shareholders, and that PNC would remain well capitalized on consummation. The Board also notes that the price or consideration received by shareholders is not, by itself, within the limited statutory factors the Board may consider when reviewing an application under the BHC Act. See Western Bancshares, Inc. v. Board of Governors, 480 F.2d 749 (10<sup>th</sup> Cir. 1973).

<sup>9</sup> The commenter expressed concern about PNC's disclosure in a recent filing with the Securities and Exchange Commission that it may have to adjust its tax treatment for certain leveraged leases, based on an Internal Revenue Service ("IRS") audit of PNC's tax returns for the years 1998 to 2000. PNC has stated in its filing that it believes that its tax treatment of these leases was appropriate under federal tax law and that it plans to file an appeal with the IRS. The Board notes that the IRS and the federal courts, and not the Board, have jurisdiction to adjudicate compliance with federal tax laws. The Board has taken account of this matter, including the effect of both the current treatment and potential adjustment on the financial resources of PNC.

<sup>10</sup> The commenter expressed concern about lending by PNC to unaffiliated payday lenders. PNC stated that neither it nor any of its subsidiaries currently have any banking or similar financial relationships with any payday lenders.

substantial confidential and public information about PNC and Riggs. The Board has carefully reviewed the examination records of PNC, Riggs, and their subsidiaries, including assessments of their risk-management systems by relevant supervisors. The Board also reviewed confidential supervisory information on the policies, procedures, and practices of PNC and Riggs for complying with the Bank Secrecy Act (“BSA”), and other anti-money laundering laws, and has consulted with the appropriate federal financial supervisory agencies of PNC’s subsidiary banks and Riggs Bank about their records of compliance with anti-money laundering laws.

In assessing these matters, the Board notes that PNC is considered well managed overall. The Board has taken account of the experience and capability of PNC’s senior management; the enterprise-wide risk-management programs used to identify, measure, and control corporate and business line risks; and the adequacy of the organization’s internal controls and audit procedures as well as other management programs and matters. The Board also has considered PNC’s plans for integrating Riggs into the PNC organization, including the experience of the management team PNC has named to run the banking operations to be acquired from Riggs.<sup>11</sup>

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<sup>11</sup> The commenter expressed concerns about PNC’s managerial record in light of past enforcement actions against the organization, including enforcement actions by the Department of Justice (“DOJ”), the Federal Reserve Bank of Cleveland (“Reserve Bank”), and the OCC. The Board previously considered these enforcement actions in its order approving PNC’s application to acquire United National Bancorp, Bridgewater, New Jersey (order dated November 19, 2003) (the “United National Order”). As noted in the United National Order, PNC has developed a new ethics policy and training program, an enterprise-wide risk-management program, and enhanced credit administration procedures, internal controls, and corporate governance procedures. The Board notes that the Federal Reserve and the OCC terminated their respective enforcement actions with PNC in September 2003. In addition, the DOJ’s complaint against

The Board has taken into account that Riggs Bank pleaded guilty to a criminal violation of the BSA and paid a \$16 million fine,<sup>12</sup> and that Riggs and Riggs Bank were subject to enforcement actions by the Board and the OCC, respectively, that included payment by Riggs Bank of a \$25 million civil money penalty for BSA violations.<sup>13</sup> The Board continues to monitor investigations of Riggs and Riggs Bank by various U.S. governmental authorities and is consulting with the DOJ and the OCC about the ongoing investigations of former and current management officials of Riggs and its subsidiaries.<sup>14</sup>

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PNC was dismissed in June 2004, with the DOJ's concurrence, after PNC's compliance with the deferred prosecution agreement that PNC and the DOJ entered into in June 2003. U.S. v. PNC ICLC Corp., CRIM. No. 03-M-187 (W.D. Pa. June 2, 2003). Based on its review of the record in this case, the Board hereby reaffirms and adopts the facts and findings detailed in the United National Order with respect to these enforcement matters. See 90 Federal Reserve Bulletin 72, 74 n.9 (2004).

<sup>12</sup> See United States of America v. Riggs Bank N.A., Cr. 05-35 (RMU). The commenter objected to the size of the fine and to other terms of the plea agreement. The Board notes that the United States District Court for the District of Columbia, and not the Board, has jurisdiction to adjudicate the criminal complaint against Riggs Bank and that the court has approved the fine amount and the other terms of Riggs Bank's plea agreement.

<sup>13</sup> The Consent Orders entered into in May 2004 required Riggs and Riggs Bank to improve management and internal controls, in addition to enhancing compliance with BSA and other anti-money laundering requirements and requiring Riggs Bank to pay the \$25 million civil money penalty. The Board and the OCC modified their consent orders with Riggs and Riggs Bank in January 2005 to reflect the progress made in fulfilling the requirements of the May 2004 Consent Orders and to add provisions reflecting the most recent examinations of the institutions. The Board notes that the reviews required by the May 2004 Consent Orders of certain Riggs accounts to ensure that suspicious activity reports were properly filed have been completed.

<sup>14</sup> As a matter of practice and policy, the Board has generally not tied consideration of an application or notice to the scheduling or completion of an investigation if the applicant has an overall satisfactory record of

The Board notes that most of Riggs's supervisory issues arose from its international banking and foreign embassy banking business. In 2004, Riggs announced its intention to exit those lines of business, and Riggs Bank has substantially completed the sale or termination of those activities.<sup>15</sup> The Board has reviewed the progress of Riggs, and has consulted with the OCC about the progress of Riggs Bank, in complying with the Consent Orders. In addition, the Board has consulted with the OCC about enhancements Riggs Bank has made to its programs for complying with the requirements of the BSA.

The Board has also reviewed and taken account of proposals by PNC as the acquiring institutions to implement enhanced risk-management and BSA-compliance programs at Riggs after consummation of this proposal. The

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performance and the issues being reviewed can be resolved in the examination and supervisory process. See 62 Federal Register 9,290 (1997) (Preamble to the Board's Regulation Y). In this case, as explained above, the Board has also considered the progress and cooperation shown by Riggs as well as the plans and ability of the acquiring institution to address these matters. As the Board has indicated previously, it has broad supervisory authority under the banking laws to address matters that are found in the examination and supervisory process. See Citigroup Inc., 91 Federal Reserve Bulletin \_\_ (2005) (Order dated March 16, 2005). Moreover, many issues are more appropriately and adequately addressed in the supervisory process, where particular matters and violations of law can be identified and addressed specifically, rather than in the application process, which requires a weighing of the overall record of the companies involved. The Board further notes that consummation of the proposed transaction would not impede the ability of the Congress, the DOJ, or the appropriate federal banking agencies to gain access to the records of Riggs or otherwise to complete investigations of these matters.

<sup>15</sup> Specifically, Riggs has represented that it has terminated all banking relationships with foreign embassies and is in the process of closing or selling its operations outside the United States. Riggs terminated the operations of Riggs International Banking Corporation ("RIBC"), Miami, Florida, the Edge Act subsidiary of Riggs Bank, during the third quarter of 2004, and RIBC surrendered its permit in December 2004.

Board has considered PNC's record of enhancing its own risk-management and BSA-compliance programs and its plans for implementing those programs at Riggs. These considerations included PNC's proposed management personnel and implementation of corporate-wide risk-management systems for compliance, including BSA-compliance programs, for the expanded PNC operations after consummation and PNC's record of successfully integrating acquired institutions into its existing operations. As previously noted, the banking operations of Riggs Bank will be merged into PNC Bank after consummation of the proposal.

Based on all the facts of record, the Board concludes that considerations relating to the financial and managerial resources and future prospects of PNC and the depository institutions involved in the proposal are consistent with approval, as are the other supervisory factors under the BHC Act.<sup>16</sup>

#### Convenience and Needs Considerations

In acting on this proposal, the Board must consider the effects of the proposal on the convenience and needs of the communities to be served and take into account the records of the relevant insured depository institutions under the Community Reinvestment Act ("CRA").<sup>17</sup> The CRA requires the federal financial

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<sup>16</sup> The commenter also noted press reports about litigation against Riggs, including suits claiming Riggs was negligent in failing to alert authorities to suspicious financial transactions allegedly related to the September 11, 2001, terrorist attacks and criminal and civil claims in a Spanish court asserting Riggs's concealment of assets and money laundering in connection with Riggs accounts held for the benefit of former Chilean President Augusto Pinochet. The Board notes that the Spanish civil and criminal claims were dismissed after Riggs reached a settlement with the plaintiffs in the civil suit in Spain. As previously noted, the courts, and not the Board, have jurisdiction to adjudicate legal claims against Riggs. In considering the financial and managerial factors in this case, the Board has considered how these litigation matters might affect the future prospects of the combined organization.

<sup>17</sup> 12 U.S.C. § 1842(c)(2); 12 U.S.C. § 2901 et seq.

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 PNC's subsidiary banks and Riggs Bank in light of all the facts of record, including public comment received on the proposal. One commenter opposed the proposal and alleged, based on data reported under the Home Mortgage Disclosure Act ("HMDA"),<sup>18</sup> that PNC Bank and Riggs Bank engaged in disparate treatment of minority individuals in home mortgage lending in the banks' assessment areas. The commenter also expressed concern about possible branch closures.

#### 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 appropriate federal supervisor.<sup>19</sup>

PNC Bank. PNC Bank, PNC's largest subsidiary bank as measured by total deposits, received an "outstanding" rating at its most recent CRA

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<sup>18</sup> 12 U.S.C. § 2801 *et seq.*

<sup>19</sup> See Interagency Questions and Answers Regarding Community Reinvestment, 66 Federal Register 36,620 and 36,639 (2001).

performance evaluation by the OCC, as of April 15, 2002 (“2002 Evaluation”).<sup>20</sup> Riggs Bank received an “outstanding” rating at its most recent CRA performance evaluation by the OCC, as of April 7, 2003 (“2003 Evaluation”). The Board consulted with the OCC about the CRA performance of PNC Bank and Riggs Bank since their most recent CRA evaluations. PNC has indicated that after the merger of PNC Bank and Riggs Bank, PNC Bank’s CRA program will be implemented at the resulting bank.

The 2002 Evaluation was discussed in the United National Order.<sup>21</sup> In that evaluation, PNC Bank received a “high satisfactory” rating under the lending test and “outstanding” ratings under the investment and service tests.<sup>22</sup> Examiners reported that the bank had excellent lending activity in its major markets and good distribution of loans by geography and borrower income. They noted that the bank had developed a bank-wide lending program to assist LMI borrowers through expanded credit criteria, reduced minimum loan amounts, and closing cost assistance. Examiners further stated that the bank’s record of community development lending for affordable housing, community services, and economic revitalization was strong. Examiners also reported that PNC Bank made more than \$169 million of qualifying community development investments during the evaluation period, a level examiners characterized as excellent. In addition, they reported that the bank’s services were readily accessible to LMI

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<sup>20</sup> PNC Bank, Delaware, PNC’s other subsidiary bank, also received an “outstanding” rating at its most recent CRA performance evaluation by the FDIC, as of January 21, 2003.

<sup>21</sup> 90 Federal Reserve Bulletin at 74-77.

<sup>22</sup> The evaluation period for the lending test was January 1, 1998, through December 31, 2001, except for community development loans, which were evaluated from July 6, 1998, through December 31, 2001. The evaluation period for the investment and service tests was July 6, 1998, through March 31, 2002.

individuals and geographies and that the bank was a leader in providing community development services in its assessment areas.

Riggs Bank. In the 2003 Evaluation, Riggs Bank received “outstanding” ratings under the lending, investment, and service tests.<sup>23</sup> Examiners reported that the percentage of home purchase loans by Riggs Bank to LMI borrowers exceeded the percentage of LMI families in the bank’s assessment area and that the bank’s market share of home purchase loans to LMI borrowers exceeded its overall market share of home purchase loans in that area. Examiners stated that the bank made use of innovative and flexible loan products, which provide relaxed underwriting standards for LMI borrowers. Examiners also indicated that the bank had a high level of community development lending.

Examiners characterized Riggs Bank’s level of qualified investments as excellent and stated that the bank played a vital role in increasing the level of funds available for affordable mortgages in the bank’s assessment area. In addition, examiners reported that the bank provided a relatively high level of community development services, which included participation in or sponsorship of seminars that provided training and assistance on home buying, consumer loans, debt and credit management, and building financial knowledge and relationships with financial institutions.

#### B. HMDA Data and Fair Lending Record

The Board has carefully considered the lending record of PNC in light of public comment received on the proposal. The commenter alleged, based on a review of 2003 HMDA data, that PNC Bank and Riggs Bank disproportionately

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<sup>23</sup> The evaluation period for the lending test was from September 1, 1999, through December 31, 2002, except for community development lending, which was evaluated from September 1, 1999, through April 7, 2003. For the investment test and the service test, the evaluation period was from September 1, 1999, through April 7, 2003.

excluded or denied African-American or Hispanic applicants for home mortgage loans in various Metropolitan Statistical Areas (“MSAs”).<sup>24</sup> The Board reviewed the HMDA data for 2002 and 2003 reported by PNC Bank and PNC Bank, Delaware (collectively “PNC Banks”), and by Riggs Bank for the states or MSAs where the banks’ primary assessment areas were located.<sup>25</sup>

The HMDA data indicate that the PNC Banks’ denial disparity ratios<sup>26</sup> for African-American and Hispanic applicants for the banks’ total HMDA-reportable loans in Delaware, New Jersey, and Pennsylvania, which together accounted for more than 77 percent of the banks’ combined HMDA-reportable loans in 2003, were generally comparable with the ratios for the aggregate of lenders (“aggregate lenders”) in those areas.<sup>27</sup> In addition, the percentages of the PNC Banks’ total HMDA-reportable loans to African Americans and Hispanics in these states in 2003 were generally comparable with the percentages for the aggregate lenders. The data also indicate that the PNC Banks increased the percentages of their total HMDA-reportable

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<sup>24</sup> Specifically, the commenter cited HMDA data on lending by PNC’s subsidiary banks to African Americans or Hispanics in the Wilmington MSA in Delaware, Newark and Jersey City MSAs in New Jersey, Harrisburg and Pittsburgh MSAs in Pennsylvania, Philadelphia MSA in Pennsylvania and New Jersey, and Newburgh MSA in New York. The commenter cited HMDA data on Riggs Bank’s lending to African Americans in the Washington MSA in Washington, D.C., Maryland, and Virginia.

<sup>25</sup> The Board reviewed HMDA data for the PNC Banks in Delaware, New Jersey, and Pennsylvania, and in the Newark, Philadelphia, and Pittsburgh MSAs.

<sup>26</sup> The denial disparity ratio equals the denial rate of a particular racial category (e.g., African-American) divided by the denial rate for whites.

<sup>27</sup> The lending data of the aggregate lenders represent the cumulative lending for all financial institutions that have reported HMDA data in a particular area.

loans originated to African Americans and Hispanics in each of these states from 2002 to 2003.<sup>28</sup>

The HMDA data indicate that Riggs Bank's denial disparity ratios for African-American applicants in its assessment area were higher than those ratios for the aggregate lenders in both years. The data indicate, however, that Riggs Bank significantly reduced its denial disparity ratios for African-American applicants and increased the number and percentage of its total HMDA-reportable loans to African Americans in 2003.

Although the HMDA data might reflect certain disparities in the rates of loan applications, originations, and denials among members of different racial groups in certain local areas, these data generally do not demonstrate that either PNC Bank or Riggs excluded any racial group on a prohibited basis. The Board nevertheless is concerned when HMDA data for an institution indicate disparities in lending and believes that all banks are obligated to ensure that their lending practices are based on criteria that ensure not only safe and sound lending, but also equal access to credit by creditworthy applicants regardless of their race or income level. The Board recognizes, 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. HMDA data, moreover, provide only limited information about covered loans.<sup>29</sup> HMDA data, therefore,

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<sup>28</sup> The commenter also commented on HMDA data it derived from 2004 loan application registers of PNC Bank and Riggs Bank. The Board notes that such data are preliminary and that 2004 data for lenders in the aggregate are not yet available.

<sup>29</sup> 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

have limitations that make them an inadequate basis, absent other information, for concluding that an institution has not assisted adequately in meeting its community's credit needs or has engaged in illegal lending discrimination.

Because of the limitations of HMDA data, the Board has considered these data carefully in light of other information, including examination reports that provide an on-site evaluation of compliance by PNC and its subsidiary banks and Riggs Bank with fair lending laws. The Board also consulted with the OCC, which has responsibility for enforcing compliance with fair lending laws by PNC Bank and Riggs Bank, about this proposal and the compliance record of these banks.<sup>30</sup>

The record indicates that PNC has taken steps to ensure compliance with fair lending laws. PNC's fair lending policy includes a commitment to provide full and equal access to credit while maintaining safe and sound credit standards. To implement this commitment, PNC's fair lending compliance program includes employee training and review by senior management of credit decisions, pricing, marketing, and fair lending-related policies and procedures.

The Board has also considered the HMDA data and the overall performance records of the subsidiary banks of PNC and Riggs under the CRA. Their established efforts demonstrate that the banks are actively helping to meet the credit needs of their entire communities.

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income (reasons most frequently cited for a credit denial) are not available from HMDA data.

<sup>30</sup> In addition, the Board consulted with the FDIC, the primary supervisor of PNC Bank, Delaware, about the bank's record of compliance with fair lending laws.

### C. Branch Closings

PNC has indicated that it has no plans to close any branches of PNC Bank or Riggs Bank as a result of the proposed transaction.<sup>31</sup> The Board has considered PNC Bank's branch banking policy and its record of opening and closing branches. In the 2002 Evaluation, examiners concluded that PNC Bank's record of opening and closing branches had not adversely affected the bank's delivery of services in LMI areas or to LMI individuals.

The Board also has considered the fact that federal banking law provides a specific mechanism for addressing branch closings.<sup>32</sup> Federal law requires an insured depository institution to provide notice to the public and to the appropriate federal supervisory agency before closing a branch. In addition, the Board notes that the OCC, as the appropriate federal supervisor of PNC Bank, will continue to review the bank's branch closing record in the course of conducting CRA performance evaluations.

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<sup>31</sup> The commenter also expressed concern about possible job losses resulting from this proposal. The effect of a proposed acquisition on employment in a community is not among the limited factors the Board is authorized to consider under the BHC Act, and the convenience and needs factor has been interpreted consistently by the federal banking agencies, the courts, and the Congress to relate to the effect of a proposal on the availability and quality of banking services in the community. See, e.g., Wells Fargo & Company, 82 Federal Reserve Bulletin 445, 457 (1996).

<sup>32</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.

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 PNC, public comments on the proposal, and confidential supervisory information. PNC has stated that the proposal would provide PNC and Riggs customers with expanded products and services, including access to expanded branch and ATM networks. 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.

Conclusion

Based on the foregoing and all the facts of record, the Board has determined that the application should be, and hereby is, approved.<sup>33</sup> In

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<sup>33</sup> The 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 authority. 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). 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 in fact, commenter has submitted written comments that the Board has considered carefully in acting on the proposal. The commenter's request fails to demonstrate why written comments do not present its views adequately. The request also 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

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>34</sup> The Board's approval is specifically conditioned on compliance by PNC with the conditions imposed in this order and the commitments made to the Board in connection with the application.<sup>35</sup> For purposes of this transaction, these conditions and commitments 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 merger with Riggs and the acquisition of Riggs 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

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required or warranted in this case. Accordingly, the request for a public meeting or hearing on the proposal is denied.

<sup>34</sup> The commenter also requested that the Board extend the comment period and delay action on the proposal. As previously noted, the Board has accumulated a significant record in this case, including reports of examination, confidential supervisory information, public reports and information, and public comment. In the Board's view, the commenter has had ample opportunity to submit its views and, in fact, has provided multiple written submissions that the Board has considered carefully in acting on the proposal. Moreover, the BHC Act and Regulation Y require the Board to act on proposals submitted under those provisions within certain time periods. Based on a review of all the facts of record, the Board has concluded that the record in this case is sufficient to warrant action at this time and that neither an extension of the comment period nor further delay in considering the proposal is warranted.

<sup>35</sup> The commenter asked that the Board's Chairman recuse himself from consideration of the application. The Board and the Chairman have carefully considered this request and concluded that recusal is not required by any law or warranted. The commenter also expressed concern about compliance by staff with the Board's *ex parte* communications policies in this case. The Board has carefully considered this concern and concludes that Federal Reserve System staff did not engage in any inappropriate communications.

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>36</sup> effective April 26, 2005.

(signed)

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Robert deV. Frierson  
Deputy Secretary of the Board

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<sup>36</sup> Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Gramlich, Bies, Olson, Bernanke, and Kohn.