

FEDERAL RESERVE SYSTEM

Old National Bancorp  
Evansville, Indiana

Order Approving the Merger of Bank Holding Companies

Old National Bancorp (“Old National”), Evansville, Indiana, has requested the Board’s approval under section 3 of the Bank Holding Company Act (“BHC Act”)<sup>1</sup> to merge with Tower Financial Corporation (“Tower”) and thereby indirectly acquire its subsidiary bank, Tower Bank and Trust Company (“Tower Bank”), both of Fort Wayne, Indiana. Immediately following the proposed merger, Tower Bank would be merged into Old National’s subsidiary bank, Old National Bank, Evansville.<sup>2</sup>

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (78 Federal Register 69680 (2013)).<sup>3</sup> The time for submitting 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.

Old National, with consolidated assets of approximately \$9.6 billion, is the 104th largest insured depository organization in the United States,

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<sup>1</sup> 12 U.S.C. § 1842.

<sup>2</sup> The merger of Tower Bank into Old National Bank is subject to the approval of the Office of the Comptroller of the Currency (“OCC”) under the Bank Merger Act.

<sup>3</sup> 12 CFR 262.3(b).

controlling approximately \$7.2 billion in deposits.<sup>4</sup> Old National Bank operates in Indiana, Michigan, Illinois, Kentucky, and Ohio. Old National is the fourth largest depository institution in Indiana, controlling deposits of approximately \$5.4 billion, which represent 5.2 percent of total deposits of insured depository institutions in that state.<sup>5</sup>

Tower, with total consolidated assets of \$691 million, controls Tower Bank, which operates only in Indiana. Tower is the 29th largest insured depository institution in Indiana, controlling deposits of approximately \$600 million, which represent less than 1 percent of the total deposits of insured depository institutions in that state.

On consummation of this proposal, Old National would become the 101st largest depository organization in the United States, with total consolidated assets of approximately \$10.3 billion, which represent less than 1 percent of the total amount of assets of insured depository institutions in the United States. Old National would have total deposits of approximately \$7.8 billion. In Indiana, Old National would remain the fourth largest depository organization, controlling deposits of approximately \$6 billion, which represent 5.7 percent of the total deposits of insured depository institutions in the state.

### 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 market. The BHC Act also prohibits the Board from approving a proposal that would substantially lessen

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<sup>4</sup> Asset and nationwide deposit-ranking data are as of December 31, 2013, unless otherwise noted.

<sup>5</sup> State deposit data are as of June 30, 2013. In this context, insured depository institutions include commercial banks, nondeposit trust companies, savings and loan associations, cooperative banks, industrial banks, and savings banks.

competition in any relevant banking market, unless the anticompetitive effects of the proposal are clearly outweighed in the public interest by the probable effect of the proposal in meeting the convenience and needs of the community to be served.<sup>6</sup>

Old National and Tower compete directly in the Fort Wayne, Indiana banking market.<sup>7</sup> The Board has considered the competitive effects of the proposal in this banking market in light of all the facts of record. In particular, the Board has considered the number of competitors that would remain in the banking market; the relative shares of total deposits in insured depository institutions in the market (“market deposits”) controlled by Old National and Tower;<sup>8</sup> the concentration levels of market deposits and the increase in those levels, as measured by the Herfindahl-Hirschman Index (“HHI”) under the Department of

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<sup>6</sup> 12 U.S.C. § 1842(c)(1).

<sup>7</sup> The Fort Wayne, Indiana market is defined as Allen, DeKalb, and Whitley counties; Preble, Root, and Union townships in Adams County; Union and Jefferson townships in Wells County; Jackson and Union townships in Huntington County; Noble, Green, and Swan townships in Noble County, all in Indiana; and Carryall township in Paulding County and Hicksville township in Defiance County, both in Ohio.

<sup>8</sup> Deposit and market share data are as of June 30, 2013, 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); and National City Corporation, 70 Federal Reserve Bulletin 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).

Justice Bank Merger Competitive Review guidelines (“DOJ Bank Merger Guidelines”);<sup>9</sup> and other characteristics of the market.

Consummation of the proposal would be consistent with Board precedent and within the thresholds in the DOJ Bank Merger Guidelines for this market. On consummation of the proposal, the banking market would remain moderately concentrated, as measured by the HHI, and numerous competitors would remain.<sup>10</sup>

The DOJ has advised the Board that consummation of the proposal would not likely have a significantly adverse effect on competition in any relevant banking market. In addition, the appropriate banking agencies have been afforded an opportunity to comment and have not objected to the proposal.

Based on all of the facts of record, the Board concludes that consummation of the proposal would not have a significantly adverse effect on

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<sup>9</sup> Under the DOJ Bank Merger Guidelines, a market is considered unconcentrated if the post-merger HHI is under 1000, moderately concentrated if the post-merger HHI is between 1000 and 1800, and highly concentrated if the post-merger HHI exceeds 1800. The Department of Justice (“DOJ”) has informed the Board that a bank merger or acquisition generally would 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. Although the DOJ and the Federal Trade Commission issued revised Horizontal Merger Guidelines in 2010 (see Press Release, Department of Justice (Aug. 19, 2010), [www.justice.gov/opa/pr/2010/August/10-at-938.html](http://www.justice.gov/opa/pr/2010/August/10-at-938.html)), the DOJ has confirmed that its Bank Merger Guidelines, which were issued in 1995, were not modified.

<sup>10</sup> Old National operates the 24th largest depository institution in the Fort Wayne, Indiana banking market with approximately \$14 million in deposits, which represent less than 1 percent of market deposits. Tower operates the fifth largest depository institution in the market, controlling deposits of approximately \$538 million, which represent approximately 7.8 percent of market deposits. On consummation of the proposed transaction, Old National would become the fifth largest depository institution in the market, controlling deposits of approximately \$552 million, which represent 8 percent of market deposits. The HHI would increase by 3 points to 1280, and 28 competitors would remain in the market.

competition or on the concentration of resources in the banking market in which Old National and Tower compete directly or in any other relevant banking market. Accordingly, the Board has determined that competitive considerations are consistent with approval.

#### Financial, Managerial, and Other Supervisory Considerations

In evaluating financial factors in expansionary 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 depository institutions and the organizations' significant nonbanking operations. In this evaluation, the Board considers a variety of information, including capital adequacy, asset quality, and earnings performance. The Board evaluates the financial condition of the combined organization, including its capital position, asset quality, liquidity, and earnings prospects, and the impact of the proposed funding of the transaction. The Board also considers the ability of the organization to absorb the costs of the proposal and the proposed integration of the operations of the institutions. In assessing financial factors, the Board consistently has considered capital adequacy to be especially important. Further, the Board has considered the future prospects of the organizations involved in the proposal in light of the financial and managerial resources and proposed business plan.

The Board has considered the financial factors of the proposal. Old National and Old National Bank are well capitalized and would remain so on consummation of the proposed transaction. The proposed transaction is a bank holding company merger, structured as a cash and share exchange.<sup>11</sup> The asset

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<sup>11</sup> Each outstanding share of Tower common stock would be exchanged for \$6.75 in cash and 1.2 shares of Old National's common stock. The anticipated aggregate cash consideration to be paid in connection with the merger is

quality, earnings, and liquidity of Old National Bank are consistent with approval, and Old National appears to have adequate resources to absorb the costs of the proposal and to complete the integration of the institutions' operations. Based on its review of the record, the Board finds that the organization has sufficient financial resources to effect the proposal.

The Board also has considered the managerial resources of the organizations involved and of the proposed combined organization. The Board has reviewed the examination records of Old National, Tower, and their subsidiary depository institutions, including assessments of their management, risk-management systems, and operations. In addition, the Board has considered its supervisory experiences and those of other relevant bank supervisory agencies with the organizations and their records of compliance with applicable banking and anti-money-laundering laws.

Old National and its subsidiary depository institution are each considered to be well managed. Old National's existing risk-management program and its directorate and senior management are considered to be satisfactory. The directors and senior executive officers of Old National have substantial knowledge of and experience in the banking and financial services sectors.

The Board also has considered Old National's plans for implementing the proposal. Old National is devoting significant financial and other resources to address all aspects of the post-acquisition integration process for this proposal. Old National would implement its risk-management policies, procedures, and controls at the combined organization, and these are considered acceptable from a supervisory perspective. In addition, Old National's management has the experience and resources to ensure that the combined organization operates in a

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approximately \$31.6 million. Old National has the resources to fund the cash consideration portion of the transaction.

safe and sound manner. Furthermore, Old National has demonstrated a record of successfully integrating other banking organizations into its operations and risk-management systems after acquisitions.

Old National's supervisory record, managerial and operational resources, and plans for operating the combined institutions after consummation provide a reasonable basis to conclude that managerial factors are consistent with approval.

Based on all the facts of record, the Board has concluded that considerations relating to the financial and managerial resources and future prospects of the organizations involved in the proposal, and Old National's anti-money-laundering policies, are consistent with approval.<sup>12</sup>

#### Convenience and Needs Considerations

In acting on a proposal under section 3 of the BHC Act, 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 depository institutions under the Community Reinvestment Act ("CRA").<sup>13</sup> The CRA requires the federal financial supervisory agencies to encourage insured depository institutions to help meet the credit needs of the local communities in which they operate, consistent with their safe and sound operation,<sup>14</sup> and requires the appropriate federal financial supervisory agency to take into account a relevant depository institution's record of meeting the credit needs of its entire

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<sup>12</sup> On June 4, 2012, Old National Bank entered into a stipulation and consent order with the OCC relating to its Bank Secrecy Act/anti-money-laundering compliance program. Old National Bank, OCC Order No. 2012-126 (June 4, 2012). On January 14, 2014, the OCC lifted its order after verifying compliance with the order.

<sup>13</sup> 12 U.S.C. § 1842(c)(2); 12 U.S.C. § 2901 et seq.

<sup>14</sup> 12 U.S.C. § 2901(b).

community, including low- and moderate-income (“LMI”) neighborhoods, in evaluating bank expansionary proposals.<sup>15</sup>

The Board has considered all the facts of record, including reports of examination of the CRA performance of Old National Bank and Tower Bank, data reported by Old National Bank and Tower Bank under the Home Mortgage Disclosure Act (“HMDA”),<sup>16</sup> other information provided by Old National, confidential supervisory information, and the public comment received on the proposal. The Board received one comment that objected to the proposal on the basis of Old National’s fair lending record as reflected in 2012 HMDA data.

A. Records of Performance Under the CRA

As provided in the CRA, the Board evaluates the record of performance of an institution in light of examinations by the appropriate federal supervisors of the CRA performance records of the relevant institutions.<sup>17</sup> The CRA requires that the appropriate federal financial supervisor for a depository institution prepare a written evaluation of the institution’s record of meeting the credit needs of its entire community, including LMI neighborhoods.<sup>18</sup> An institution’s most recent CRA performance evaluation is a particularly important consideration in the applications process because it represents a detailed, onsite evaluation of the institution’s overall record of performance under the CRA by its appropriate federal supervisor.

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<sup>15</sup> 12 U.S.C. § 2903.

<sup>16</sup> 12 U.S.C. § 2801 *et seq.*

<sup>17</sup> See Interagency Questions and Answers Regarding Community Reinvestment, 75 Federal Register 11642 at 11665 (2010).

<sup>18</sup> 12 U.S.C. § 2906.

*CRA Performance of Old National Bank*

Old National Bank was assigned an overall “outstanding” rating at its most recent CRA performance evaluation by the OCC in December 2012 (“Old National Bank Evaluation”). Old National Bank received an overall “outstanding” rating for the Lending Test and overall “high satisfactory” ratings for both the Investment and Service Tests.<sup>19</sup> In addition to the overall “outstanding” rating that Old National Bank received, the bank received separate overall “outstanding” or “satisfactory” ratings in each multistate metropolitan area and state reviewed.<sup>20</sup>

As described in the Old National Bank Evaluation, OCC examiners found that the bank’s overall lending activity was excellent. The bank originated a significant majority of loans inside its assessment areas and had an excellent overall record of lending to borrowers of different income levels. Examiners noted that the bank had an excellent record of lending to home mortgage borrowers of different income levels, while its distribution of loans to businesses and farms with different revenue sizes was good. Further, Old National Bank’s overall geographic distribution of loans was adequate. Specifically, the bank’s geographic distribution of small loans to businesses was good, while its geographic distribution of mortgage loans and small loans to farms was adequate. In addition, examiners found no evidence of discriminatory or other illegal credit practices.

In evaluating the Investment Test, OCC examiners found that Old National Bank had an overall good level of qualified community development

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<sup>19</sup> The evaluation period for the Old National Bank Evaluation was July 1, 2008, through December 31, 2012.

<sup>20</sup> The Old National Bank Evaluation included full-scope reviews of at least one assessment area within each state where Old National Bank had an office and of multistate metropolitan areas where Old National Bank operated branches in at least two states. The states reviewed were Illinois, Indiana, Kentucky, and Ohio, and the multistate metropolitan areas reviewed were the Evansville (Indiana-Kentucky) and Louisville (Kentucky-Indiana) metropolitan areas.

investments that were highly responsive to community needs. Examiners highlighted numerous CRA-qualified investments that the bank made, including donations to organizations with a community development focus. The bank also participated in various CRA-qualified investment vehicles. For the current CRA examination cycle, which began January 1, 2013, Old National has indicated that Old National Bank increased its corporate community development investment goal from \$37.5 million to \$87.5 million, an increase of 133 percent.

In evaluating the Service Test, examiners noted that branches were accessible to geographies and individuals of different income levels. Examiners also noted that Old National Bank's opening and closing of branches had not adversely affected the accessibility of its delivery systems to LMI geographies or LMI individuals. Further, examiners highlighted that the institution provided a relatively high level of community development services.

#### *CRA Performance of Tower Bank*

Tower Bank was assigned a "satisfactory" rating at its most recent CRA performance evaluation by the Federal Reserve Bank of Chicago, as of April 29, 2013 ("Tower Bank Evaluation"), with ratings of "satisfactory" for the Lending and Community Development Tests.<sup>21</sup> For the Lending Test, examiners concluded that Tower Bank's loan-to-deposit ratio was reasonable. Further, the majority of the bank's HMDA reportable and small business loans were made in its assessment areas, and the geographic distribution of its loans reflected reasonable

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<sup>21</sup> The Tower Bank Evaluation was conducted using examination procedures for small institutions with assets of less than \$1.2 billion and greater than \$296 million as of January 1, 2013. Institutions in this asset size category are referred to as intermediate small banks and are subject to CRA examinations based on performance in the following areas: loan-to-deposit ratio, lending in the assessment area, geographic distribution of lending in the assessment area, lending to borrowers of different incomes and to businesses of different sizes, responses to substantiated complaints, and community development activities.

penetration among borrowers of different income levels and businesses of different sizes. Examiners also noted that Tower Bank's level of community development activities represented adequate responsiveness to community credit needs in its assessment areas.

B. Fair Lending and Other Consumer Protection Laws

The Board has considered the records of Old National Bank and Tower Bank in complying with fair lending and other consumer protection laws. As part of this consideration, the Board reviewed the Old National Bank and Tower Bank Evaluations, assessed Old National Bank's HMDA data, and considered the comment on the application and other agencies' views on Old National Bank's record of performance under fair lending laws. The Board also considered Old National Bank's fair lending policies and procedures.

*Analysis of HMDA Data and Branch Closings*

The Board analyzed Old National Bank's 2012 HMDA data, the most recent publicly available, as well as preliminary 2013 HMDA data. The Board analyzed data related to all HMDA-reportable loans to develop a view of the bank's overall lending patterns, as well as the subset of that data related specifically to the loan products that composed the subject of the public comment received on the proposal, including conventional home purchase loans, Federal Housing Administration ("FHA"), Farm Service Agency/Rural Housing Service ("FSA/RHS") and Veteran Affairs ("VA") home purchase loans, home improvement loans and refinance loans. The Board analyzed the bank's combined assessment areas and the specific market areas addressed in the public comment (Indianapolis, Evansville, and Fort Wayne, Indiana MSAs). Within those data sets, the Board focused its review on data related to loans made or denied to borrowers of the races and ethnicities highlighted by the public comment, *i.e.*, African Americans and Hispanics.

The commenter expressed concerns that Old National Bank was not meeting the credit needs of minority individuals in several communities served by the bank, based on 2012 HMDA data. In particular, the commenter alleged that Old National Bank originated more loans to whites than to African Americans or Hispanics across a range of loan products, including conventional home purchase loans, FHA, FSA/RHS and VA home purchase loans, refinance loans and home improvement loans in the Indianapolis, Evansville, and Fort Wayne, Indiana MSAs. The commenter also asserted that Old National Bank disproportionately denied applications by Hispanic applicants in each of these MSAs, suggesting a pattern of denial rate disparities.

The Board's review confirmed the levels of lending by Old National Bank to African American and Hispanic borrowers and denial disparity ratios noted by the commenter. However, the Board's analysis of HMDA data for conventional home purchase loans, FHA, FSA/RHS and VA home purchase loans, refinance loans and home improvement loans by Old National Bank in its combined assessment areas, as well as in the Indianapolis, Evansville, and Fort Wayne MSAs individually, did not show any significant differences between Old National Bank's lending and the aggregate lending for 2012 and 2013.<sup>22</sup>

The Board is concerned when HMDA data for an institution indicate lending disparities and believes that all lending institutions are obligated to ensure that their lending practices are based on criteria that are consistent with safe and sound lending but also provide equal access to credit by creditworthy applicants, regardless of their race or ethnicity. Although the HMDA data may reflect certain disparities in the rates of loan applications, originations, and denials among

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<sup>22</sup> Aggregate lending is defined as the number of loans originated and purchased by all reporting lenders in specified income categories as a percentage of the aggregate number of loans originated and purchased by all reporting lenders in the metropolitan or assessment area.

members of different racial or ethnic groups in certain local areas, HMDA data alone do not provide a sufficient basis on which to conclude whether Old National Bank excluded or denied credit to any group on a prohibited basis.<sup>23</sup> Fully evaluating Old National Bank's compliance with fair lending laws and regulations would require a thorough review of the bank's application and underwriting policies and procedures, as well as access to information contained in the application files, to determine whether the observed lending disparities persist after taking into account legitimate underwriting factors.

With respect to the specific HMDA data on home purchase, home improvement and refinance loans cited by the commenter, Old National provided information reflecting nondiscriminatory reasons for individual lending decisions (*i.e.*, credit history, inadequate collateral, and debt-to-income ratio). Old National also provided the Board with detailed information on Old National Bank's training, marketing, advertising, and underwriting guidelines reflecting its stated commitment to the prevention of prescreening, discouragement, and exclusion of credit applications on a prohibited basis.

The Board has consulted with the OCC regarding its evaluation of Old National Bank's compliance with fair lending laws and regulations. In its recent Old National Bank CRA Performance Evaluation, the OCC reported that it did not find evidence of discriminatory or other illegal credit practices. In addition, an OCC March 2013 consumer compliance examination and a November 2013 targeted examination of Old National Bank's risk management program for fair

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<sup>23</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 any applicant's creditworthiness. In addition, credit history problems, excessive debt levels relative to income, and high loan amounts relative to the value of the real estate collateral (the reasons most frequently cited for a credit denial or higher credit cost) are not always available from HMDA data.

lending compliance did not result in any findings of discrimination relating to Old National Bank's fair lending policies and procedures or to underwriting decisions by the bank's management.

The commenter also alleged that Old National has a business strategy of closing branches and reducing financial services, resulting in inconvenience to local communities.<sup>24</sup> The Board analyzed Old National Bank's current branch distribution and believes it is readily accessible to LMI geographies and individuals in the bank's assessment areas. Twenty-eight percent of Old National Bank's branches are located in LMI census tracts. According to 2010 census data, the percentage of the population in LMI geographies within Old National Bank's assessment areas was 27 percent. As such, the percentage of Old National Bank branches in LMI geographies slightly exceeds the percentage of the population in LMI geographies within the Old National Bank assessment areas.

Old National has stated that Old National Bank does not intend to close any branches in connection with the proposed transaction. Although the bank closed several branches in recent years, the bank has represented that the decisions were based on profitability analysis and proximity to other branches and that community impact was assessed prior to all closings. Further, the Board has considered that federal banking law provides a specific mechanism for addressing branch closings. Federal law requires an insured depository institution to provide notice to the public and to the appropriate federal supervisory agency before

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<sup>24</sup> The commenter further alleged that Old National has been closing branches for the purpose of keeping its assets slightly below \$10 billion to avoid increased regulatory burden under the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). The Board notes that after consummation of this transaction, Old National would have more than \$10 billion in assets.

closing a branch.<sup>25</sup> The Board has reviewed Old National Bank's branch closing policy and notes that the OCC will continue to review Old National Bank's branch closing record in the course of conducting CRA performance evaluations.

*Old National's Fair Lending Program*

Old National has instituted policies and procedures to help ensure compliance with all fair lending and other consumer protection laws and regulations. The company's legal and compliance risk-management program includes written policies outlining the bank's responsibility for compliance with fair lending laws and regulations, fair lending officers serving within each of the bank's lending departments, and required annual fair lending training for applicable staff and the board of directors. Old National also has a centralized underwriting procedure, an automated application process, a second review process, a documented exception process, and a standard pricing sheet.

In addition, fair lending reviews are conducted quarterly of individual business units, and comprehensive corporate reviews are performed annually to ensure compliance with the bank's underwriting and pricing procedures and fair lending laws. The reviews utilize HMDA and non-HMDA data and analyze any fair lending complaints the institution receive. Further, the Compliance Department conducts quarterly fair lending testing and monitoring, including analysis of policies and procedures, reviews of loan and application data, monitoring of exceptions and overrides, and reviews of new products and initiatives. Old National's risk-management systems and its policies and

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<sup>25</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 34844 (1999)), requires that a bank provide the public with at least 30 days' notice, and the appropriate federal supervisory agency with at least 90 days' notice, before the date of a 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.

procedures for assuring compliance with fair lending laws would be implemented at the combined organization.

Old National Bank represents that it provides annual fair lending training to all employees involved in any aspect of the bank's credit transactions. Old National also states that it conducts ongoing monitoring and analysis of loan data, policies, and consumer complaints to ensure compliance with fair lending regulations.

C. Additional Information on Convenience and Needs of Communities to Be Served by the Combined Organization

In assessing the effects of a proposal on the convenience and needs of the communities to be served, the Board also considers the extent to which the proposal would result in public benefits. The commenter generally questioned whether the proposal would result in the public benefits that the applicant asserts.

Old National represents that the proposal would provide opportunities to achieve various operational efficiencies and economies of scale, which would benefit current and future customers of the combined organization through more efficient and cost-effective banking services. Old National asserts that the transaction has the potential to benefit all aspects of Tower's operations, particularly its lending functions, asset and liability management, and data processing capabilities. Old National also states that the combined organization's larger lending limit would allow Old National to better meet the lending needs of its corporate customers and more effectively compete for larger corporate customers.

Old National states that the proposal would provide customers with an expanded network of almost 170 branches in Indiana, Michigan, Illinois, Kentucky, and Ohio. Old National notes that the combined organization would provide Tower Bank's customers with an expanded and more sophisticated range

of products and services than Tower Bank currently offers, including an enhanced range of consumer services and deposit accounts. Further, insurance products will be made available to Tower Bank's customers through Old National Insurance, which offers a broad array of insurance products to individuals and businesses across the United States.

D. Conclusion on Convenience and Needs Considerations

The Board has considered all the facts of record, including reports of examination of the CRA records of the institutions involved, information provided by Old National, confidential supervisory information, and the public comment on the proposal. Based on the Board's analysis of the HMDA data, evaluation of the mortgage lending operations and compliance programs of Old National Bank and Tower Bank, and review of examination reports, the Board concludes that the convenience and needs factor, including the CRA record of the insured depository institutions involved in this transaction, is consistent with approval of the application.

Financial Stability

The Dodd-Frank Act amended section 3 of the BHC Act to require the Board to consider "the extent to which a proposed acquisition, merger, or consolidation would result in greater or more concentrated risk to the stability of the United States banking or financial system."<sup>26</sup>

To assess the likely effect of a proposed transaction on the stability of the U.S. banking or financial system, the Board considers a variety of metrics that capture the systemic "footprint" of the resulting firm and the incremental effect of the transaction on the systemic footprint of the acquiring firm. These metrics

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<sup>26</sup> Section 604(d) of the Dodd-Frank Act, Pub. L. No. 111-203, 124 Stat. 1376, codified at 12 U.S.C. § 1842(c)(7).

include measures of the size of the resulting firm, the availability of substitute providers for any critical products and services offered by the resulting firm, the interconnectedness of the resulting firm with the banking or financial system, the extent to which the resulting firm contributes to the complexity of the financial system, and the extent of the cross-border activities of the resulting firm.<sup>27</sup> These categories are not exhaustive, and additional categories could inform the Board's decision. In addition to these quantitative measures, the Board considers qualitative factors, such as the opaqueness and complexity of an institution's internal organization, which are indicative of the relative degree of difficulty of resolving the resulting firm. A financial institution that can be resolved in an orderly manner is less likely to inflict material damage to the broader economy.<sup>28</sup>

The Board has considered information relevant to risks to the stability of the U.S. banking or financial system. After consummation of the proposed transaction, Old National would have approximately \$10.3 billion in consolidated assets and would be the 101st largest financial institution in the United States. The Board generally presumes that a merger resulting in a firm with less than \$25 billion in total consolidated assets would not pose significant risks to the financial stability of the United States absent evidence that the transaction would result in a significant increase in interconnectedness, complexity, cross-border activities, or other risk factors. Such additional risk factors are not present in this transaction. The companies engage and would continue to engage in traditional commercial banking activities. The resulting organization would experience small increases in the metrics that the Board considers to measure an institution's

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<sup>27</sup> Many of the metrics considered by the Board measure an institution's activities relative to the U.S. financial system.

<sup>28</sup> For further discussion of the financial stability standard, see Capital One Financial Corporation, FRB Order No. 2012-2 (Feb. 14, 2012).

complexity and interconnectedness, with the resulting firm generally ranking outside of the top 100 U.S. financial institutions in terms of those metrics. For example, Old National's intrafinancial assets and liabilities would comprise a negligible share of the systemwide total, both before and after the transaction. The resulting organization would not engage in complex activities, nor would it provide critical services in such volume that disruption in those services would have a significant impact on the macroeconomic condition of the United States by disrupting trade or resulting in increased resolution difficulties.

In light of all the facts and circumstances, this transaction would not appear to result in meaningfully greater or more concentrated risks to the stability of the U.S. banking or financial system. Based on these and all other facts of record, the Board has determined that considerations relating to financial stability 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>29</sup> In reaching

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<sup>29</sup> The commenter requested that the Board hold public hearings 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 authorities for the bank to be acquired make a timely written recommendation of denial of the application. 12 CFR 225.16(e). The Board has not received such a recommendation from the appropriate supervisory authorities. Under its rules, the Board also may, in its discretion, hold a public hearing if appropriate to allow interested persons an opportunity to provide relevant testimony when written comments would not adequately present their views. The Board has considered 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 comments on the proposal and, in fact, submitted a written comment that the Board has considered in acting on the proposal. The commenter's request does not identify disputed issues of fact that are material to the Board's decision and that would be clarified by a public hearing. In addition, the request does not demonstrate why the written comment does not present the

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 Old National with all the conditions imposed in this order, including receipt of all required regulatory approvals, and on the commitments made to the Board in connection with the application. For purposes of this action, the conditions and commitments are deemed to be conditions imposed in writing by the Board in connection with its findings and decision herein and, as such, may be enforced in proceedings under applicable law.

The proposal may not be consummated before the 15th calendar day after the effective date of this Order, or later than three months thereafter, unless such period is extended for good cause by the Board or the Reserve Bank, acting pursuant to delegated authority.

By order of the Board of Governors,<sup>30</sup> effective April 7, 2014.

*Margaret McCloskey Shanks (signed)*

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Margaret McCloskey Shanks  
Deputy Secretary of the Board

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commenter's views adequately or why a hearing otherwise would be necessary or appropriate. For these reasons, and based on all the facts of record, the Board has determined that a public hearing is not required or warranted in this case. Accordingly, the request for a public hearing on the proposal is denied.

<sup>30</sup> Voting for this action: Chair Yellen, and Governors Tarullo, Stein, and Powell.