

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<sup>1</sup> to acquire Forbes First Financial Corporation (“Forbes”), St. Louis, and its subsidiary bank, Pioneer Bank and Trust Company (“Pioneer Bank”), Maplewood, both in Missouri.

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (71 Federal Register 933 (2006)). 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.

National City, with total consolidated assets of \$142.4 billion, is the 15<sup>th</sup> largest depository organization in the United States and controls deposits of \$76.6 billion, which represent approximately 1.3 percent of total deposits in insured depository institutions in the United States.<sup>2</sup> National City operates subsidiary insured depository institutions in Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, and Pennsylvania. In Missouri, National City is the tenth largest depository organization, controlling deposits of \$1.46 billion, which represent approximately 1.6 percent of total deposits of insured depository institutions in the state (“state deposits”).

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<sup>1</sup> 12 U.S.C. section 1842.

<sup>2</sup> Asset and nationwide deposit and ranking data are as of December 31, 2005. Statewide deposit and ranking data are as of June 30, 2005, and reflect merger activity through February 7, 2006. In this context, insured depository institutions include commercial banks, savings banks, and savings associations.

Forbes, with total consolidated assets of approximately \$529.5 million, operates one depository institution, Pioneer Bank, which has branches only in Missouri. Pioneer Bank is the 32<sup>nd</sup> largest depository institution in Missouri, controlling deposits of \$397 million, which represent less than 1 percent of state deposits.

On consummation of this proposal, National City would remain the 15<sup>th</sup> largest depository organization in the United States, with total consolidated assets of \$142.9 billion. National City would become the seventh largest depository organization in Missouri, controlling deposits of approximately \$1.9 billion, which represent approximately 2 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. For purposes of the BHC Act, the home state of National City is Ohio,<sup>3</sup> and Pioneer Bank is located in Missouri.<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.

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<sup>3</sup> A bank holding company's home state is the state in which the total deposits of all subsidiary banks of the company were largest on July 1, 1966, or the date on which the company became a bank holding company, whichever is later. 12 U.S.C. section 1841(o)(4)(C).

<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. See 12 U.S.C. sections 1841(o)(4)-(7) and 1842(d)(1)(A)-(d)(2)(B).

<sup>5</sup> See 12 U.S.C. sections 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. Pioneer Bank has been in existence and operated for the minimum period

### 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 Forbes compete directly in the St. Louis, Missouri banking market (“St. Louis market”).<sup>7</sup> The Board has reviewed carefully 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 market, the relative shares of total deposits in depository institutions in the market (“market deposits”) controlled by National City and

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of time required by applicable state law (five years). See Mo. Rev. Stat. section 362.077. On consummation of the proposal, National City would control less than 10 percent of the total amount of deposits of insured depository institutions (“total deposits”) in the United States. National City also would comply with the applicable state deposit cap in Missouri by controlling less than 13 percent of state deposits. See Mo. Rev. Stat. section 362.915. All other requirements under section 3(d) of the BHC Act also would be met on consummation of the proposal.

<sup>6</sup> 12 U.S.C. section 1842(c)(1).

<sup>7</sup> The St. Louis market consists of (1) the city of St. Louis; Franklin, Jefferson, Lincoln, St. Charles, St. Louis, Warren, and Washington Counties; the eastern half of Gasconade County, including the cities of Hermann and Owensville; Boone township in Crawford County; Loutre township in Montgomery County, all in Missouri; and (2) Bond, Calhoun, Clinton, Jersey, Macoupin, Madison, Monroe and St. Clair Counties, the western part of Randolph County (bounded by Route 3 to the east and the Kaskaskia River to the south), including the cities of Red Bud, Ruma, and Evansville; and Washington County, excluding Ashley and DuBois townships, and the city of Centralia, all in Illinois.

Forbes,<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 market.

Consummation of the proposal would be consistent with Board precedent and the DOJ Guidelines in the St. Louis market.<sup>10</sup> After consummation of the proposal, the St. Louis market would remain unconcentrated, as measured by the HHI, and numerous competitors would remain in the market.

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<sup>8</sup> Market share data are as of June 30, 2005, 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 unconcentrated if the post-merger HHI is below 1000. 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.

<sup>10</sup> National City is the seventh largest depository organization in the St. Louis market, controlling deposits of \$1.5 billion, which represent 3.1 percent of market deposits. Forbes operates the 18<sup>th</sup> largest depository institution in the market, controlling deposits of \$397.2 million, which represent less than 1 percent of market deposits. After consummation of the proposal, National City would become the sixth largest depository organization in the market, controlling deposits of \$1.8 billion, which represent approximately 3.8 percent of market deposits. The HHI would increase 5 points to 731. One hundred and thirty-nine bank and thrift competitors would remain in the market.

The Department of Justice also has reviewed the anticipated competitive effects of the proposal and has advised the Board that consummation would not likely have a significantly adverse effect on competition in the St. Louis market or in any other 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 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 resources in the St. Louis market or in any other 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 confidential reports of examination and other supervisory information received from the federal and state supervisors of the organizations involved, publicly reported and other financial information, information provided by National City, and public comments received on the proposal.<sup>11</sup>

In evaluating financial factors in expansion proposals by banking organizations, the Board reviews the financial condition of the organizations

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<sup>11</sup> A commenter expressed concern about National City's relationships with unaffiliated retail check cashers, pawn shops, and other alternative financial services providers. As a general matter, the activities of the consumer finance businesses identified by the commenter are permissible, and the businesses are licensed by the states where they operate. National City has represented that it does not play any role in the lending practices, credit review, or other business practices of these firms.

involved on both a parent-only and consolidated basis, as well as the financial condition of the subsidiary banks and significant nonbanking operations. The Board considers a variety of measures in this evaluation, including capital adequacy, asset quality, and earnings performance.<sup>12</sup> In assessing financial factors, the Board consistently has considered capital adequacy to be especially important. The Board also evaluates the financial condition of the combined organization at consummation, including its capital position, asset quality, and earnings prospects, and the impact of the proposed funding of the transaction.

The Board has carefully considered the financial factors. National City, all its subsidiary banks, and Pioneer Bank are well capitalized and would remain so on consummation of the proposal. Based on its review of the record, the Board finds that National City has sufficient financial resources to effect the proposal. The proposed transaction is structured as a cash purchase, and National City will use available resources to fund the transaction.

The Board also has considered the managerial resources of the organizations involved and the proposed combined organization. The Board has reviewed the examination records of National City, Forbes, and their subsidiary depository institutions, including assessments of their management,

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<sup>12</sup> The commenter also expressed concern about a press report asserting that nontraditional mortgage loans, such as interest-only mortgages, could raise asset-quality issues for institutions holding them. The press report indicated that First Franklin Financial Corporation, San Jose, California, a subsidiary of National City Bank of Indiana (“National City Indiana”), Indianapolis, Indiana, originates many interest-only mortgages. The Board and the Office of the Comptroller of the Currency (“OCC”), the primary regulator of National City Indiana, carefully scrutinize institutions’ lending programs, including the policies and procedures and risk-management processes that they have in place for nontraditional lending products. The Board has consulted with the OCC about the risk-management processes for nontraditional lending activities at National City Indiana and its mortgage subsidiaries.

risk-management systems, and operations. In addition, the Board has considered its supervisory experiences and those of the other relevant banking supervisory agencies with the organizations and their records of compliance with applicable banking law. National City, Forbes, and their subsidiary depository institutions are considered to be well managed. The Board also has considered National City's plans for implementing the proposal, including the proposed management after consummation.

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 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 insured depository institutions under the Community Reinvestment Act ("CRA").<sup>13</sup> The CRA requires the federal financial supervisory agencies to encourage financial institutions to help meet the credit needs of the 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.<sup>14</sup>

The Board has considered carefully all the facts of record, including evaluations of the CRA performance records of National City's subsidiary banks and Pioneer Bank, data reported by National City under the Home Mortgage

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<sup>13</sup> 12 U.S.C. section 2901 *et seq.*

<sup>14</sup> 12 U.S.C. section 2903.

Disclosure Act (“HMDA”),<sup>15</sup> other information provided by National City, confidential supervisory information, and public comment received on the proposal. A commenter opposed the proposal and alleged, based on 2004 HMDA data, that National City engaged in discriminatory treatment of minority individuals in its home mortgage lending operations.

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>16</sup>

National City’s largest subsidiary bank, as measured by total deposits, is its Cleveland subsidiary, National City Bank (“National City Cleveland”).<sup>17</sup> The bank received an “outstanding” rating by the OCC, as of February 22, 2000. National City’s remaining subsidiary banks all received either “outstanding” or “satisfactory” ratings at their most recent CRA evaluations.<sup>18</sup> Pioneer Bank received a “satisfactory” rating at its most recent CRA performance evaluation by the Federal Deposit Insurance Corporation, as of June 12, 2003. National

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

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

<sup>17</sup> As of December 31, 2005, National City Cleveland accounted for more than 42 percent of the total domestic deposits of National City’s six subsidiary banks.

<sup>18</sup> The appendix lists the most recent CRA ratings of National City’s other subsidiary banks.

City has indicated that its CRA and consumer compliance programs would be implemented at Pioneer Bank on consummation of the proposal.

B. HMDA Data, Subprime Lending, and Fair Lending Record

The Board has carefully considered the lending record and HMDA data of National City in light of public comment about its record of lending to minorities. A commenter alleged, based on 2004 HMDA data, that National City disproportionately denied applications for HMDA-reportable loans by African-American and Latino applicants in certain Metropolitan Statistical Areas (“MSAs”). The commenter also asserted that National City made higher-cost loans to African Americans and Latinos more frequently than to nonminorities.<sup>19</sup> The Board reviewed HMDA data reported by all of National City’s subsidiary banks, and National City’s nonbank lending subsidiary, National City Mortgage Services, Kalamazoo, Michigan, (collectively, “National City Lenders”), in the MSAs identified by the commenter and focused its analysis on the MSAs that comprise the assessment areas of the National City Lenders in Illinois, Indiana, Kentucky, Michigan, and Ohio.

Although the HMDA data might reflect certain disparities in the rates of loan applications, originations, denials, or pricing among members of different racial or ethnic groups in certain local areas, they provide an insufficient basis by themselves on which to conclude whether or not National City is excluding or imposing higher credit costs on any racial or ethnic group on a prohibited basis. The Board recognizes that HMDA data alone, even with the recent addition of

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<sup>19</sup> Beginning January 1, 2004, the HMDA data required to be reported by lenders were expanded to include pricing information for loans on which the annual percentage rate (APR) exceeds the yield for U.S. Treasury securities of comparable maturity by 3 or more percentage points for first-lien mortgages and by 5 or more percentage points for second-lien mortgages. 12 CFR 203.4.

pricing information, provide only limited information about the covered loans.<sup>20</sup> HMDA data, therefore, have limitations that make them an inadequate basis, absent other information, for concluding that an institution has engaged in illegal lending discrimination.

The Board is nevertheless 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. Because of the limitations of HMDA data, the Board has considered these data carefully and taken into account other information, including examination reports that provide on-site evaluations of compliance by National City with fair lending laws. In the fair lending reviews that were conducted in conjunction with the most recent CRA performance evaluations of National City's subsidiary banks, examiners noted no substantive violations of applicable fair lending laws. The Board has also consulted with the OCC about the fair lending compliance records of those institutions.

National City has represented that it has a comprehensive fair lending program consisting of lending policies, annual training and testing of lending personnel, fair lending analyses, and oversight and monitoring. In addition,

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<sup>20</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. In addition, credit history problems, excessive debt levels relative to income, and high loan amounts relative to the value of the real estate collateral (reasons most frequently cited for a credit denial or higher credit cost) are not available from HMDA data.

National City represented that it performs fair lending analysis using regression modeling and benchmarking and monitors adherence to credit policy using monthly reporting and quality control reviews. National City also represented that its fair lending policy includes a second-review program for its residential lending and that its corporate underwriting department conducts a third review of denied applications from minority applicants or for loans used to finance properties in LMI areas. National City has indicated that its consumer compliance program will be implemented at Pioneer Bank after consummation of the proposal.<sup>21</sup>

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

#### C. 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, comments received on the proposal, and confidential supervisory information. National City represented that the proposal would provide customers of Forbes with access to a broader array of financial products, including trust, foreign exchange, and brokerage services. 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.

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<sup>21</sup> A commenter expressed concern about a press report that National City had imposed a prepayment penalty on a customer who used insurance proceeds to pay off a mortgage on her home, which was damaged by Hurricane Katrina. The Board has referred this individual complaint to National City and to the OCC for their review and has considered National City's response.

## Conclusion

Based on the foregoing and all the facts of record, the Board has determined that the application should be, and hereby is, approved. 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.<sup>22</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. 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 decisions herein and, as such, may be enforced in proceedings under applicable law.

The proposed transaction may not be consummated before the fifteenth calendar day after the effective date of this order, or later than three months after

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<sup>22</sup> A commenter requested that the Board hold a public meeting or hearing on the proposal. Section 3 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 CFR 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 had ample opportunity to submit its views and, in fact, submitted written comments that the Board has considered carefully in acting on the proposal. The commenter's request fails to demonstrate why the written comments do not present its views adequately or why a meeting or 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 meeting or hearing is not required or warranted in this case. Accordingly, the request for a public meeting or hearing on the proposal is denied.

the 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>23</sup> effective March 23, 2006.

*(signed)*

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Robert deV. Frierson  
Deputy Secretary of the Board

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<sup>23</sup> Voting for this action: Chairman Bernanke and Governors Bies, Olson, Kohn, Warsh, and Kroszner. Absent and not voting: Vice Chairman Ferguson.

APPENDIX

CRA Performance Evaluations of National City's Banks

<u>Bank</u>	<u>CRA Rating</u>	<u>Date</u>	<u>Supervisor</u>
1. National City Bank of Indiana, Indianapolis, Indiana	Satisfactory	February 2000	OCC
2. National City Bank of Kentucky, Louisville, Kentucky	Satisfactory	February 2000	OCC
3. National City Bank of the Midwest, Bannockburn, Illinois	Outstanding	February 2000	OCC
4. National City Bank of Pennsylvania, Pittsburgh, Pennsylvania	Outstanding	February 2000	OCC
5. National City Bank of Southern Indiana, New Albany, Indiana	Satisfactory	February 2000	OCC