

FEDERAL RESERVE SYSTEM

BNC Bancorp
High Point, North Carolina

Order Approving the Merger of Bank Holding Companies

BNC Bancorp (“BNC”), High Point, North Carolina, a bank holding company, has requested the Board’s approval under section 3 of the Bank Holding Company Act of 1956, as amended (“BHC Act”),¹ to acquire Southcoast Financial Corporation (“Southcoast”), a bank holding company, and thereby indirectly acquire its subsidiary state-chartered bank, Southcoast Community Bank (“Southcoast Bank”), both of Mount Pleasant, South Carolina. Following the proposed acquisition, Southcoast Bank would be merged into BNC’s only subsidiary state-chartered bank, Bank of North Carolina (“BNC Bank”), Thomasville, North Carolina.²

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (80 Federal Register 63224 (October 19, 2015)).³ 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.

BNC, with consolidated assets of approximately \$5.7 billion, is the 225th largest insured depository organization in the United States, controlling

¹ 12 U.S.C. § 1842.

² The merger of Southcoast Bank into BNC Bank is subject to the approval of the Federal Deposit Insurance Corporation (“FDIC”) pursuant to section 18(c) of the Federal Deposit Insurance Act (“Bank Merger Act”). 12 U.S.C. § 1828(c). The FDIC approved the bank merger on April 29, 2016.

³ 12 CFR 262.3(b).

approximately \$4.2 billion in consolidated deposits, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the United States.⁴ BNC controls BNC Bank, which operates in North Carolina, South Carolina, and Virginia. BNC is the 17th largest insured depository organization in South Carolina, controlling approximately \$542 million in deposits, which represent less than 1 percent of the total deposits of insured depository institutions in that state.⁵

Southcoast, with consolidated assets of approximately \$503 million, is the 1,481st largest insured depository organization in the United States, controlling approximately \$366 million in deposits, which represent less than 1 percent of nationwide deposits. Southcoast controls Southcoast Bank, which operates only in South Carolina. Southcoast is the 25th largest insured depository organization in South Carolina, controlling \$366 million in deposits, which represent less than 1 percent of the total deposits of insured depository institutions in that state.

On consummation of this proposal, BNC would become the 219th largest depository organization in the United States, with consolidated assets of approximately \$6.2 billion, which represent less than 1 percent of the total assets of insured depository institutions in the United States. BNC would control total deposits of approximately \$4.5 billion, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the United States. In South Carolina, BNC would become the 11th largest depository organization, controlling deposits of approximately \$908 million, which represent approximately 1 percent of the total deposits of insured depository institutions in that state.

⁴ Nationwide deposit-ranking data are as of June 30, 2015, and asset data are as of December 31, 2015, unless otherwise noted. The deposits for BNC have been adjusted to account for its acquisition of Valley Financial Corporation, which was consummated on July 1, 2015.

⁵ State deposit data are as of June 30, 2015, unless otherwise noted. In this context, insured depository institutions include commercial banks, savings banks, and savings associations.

Interstate and Deposit Cap Analysis

Section 3(d) of the BHC Act generally provides that, if certain conditions are met, the Board may approve an application by a bank holding company to acquire control of a bank in a state other than the home state of the bank holding company without regard to whether the transaction is prohibited under state law.⁶ Under this section, the Board may not approve an application that would permit an out-of-state bank holding company to acquire a bank in a host state if the bank has not been in existence for the lesser of the state statutory minimum period of time or five years.⁷ In addition, the Board may not approve an interstate acquisition if the bank holding company controls or would control more than 10 percent of the total deposits of insured depository institutions in the United States, or 30 percent or more of the total deposits of insured depository institutions in the target bank's home state or in any state in which the acquirer and target have overlapping banking operations.⁸

For purposes of the BHC Act, BNC's home state is North Carolina, and Southcoast's home state is South Carolina.⁹ BNC is well capitalized and well managed under applicable law and has a satisfactory Community Reinvestment Act ("CRA")

⁶ 12 U.S.C. § 1842(d)(1)(A).

⁷ 12 U.S.C. § 1842(d)(1)(B).

⁸ 12 U.S.C. § 1842(d)(2)(A) and (B). The acquiring and target institutions have overlapping banking operations in any state in which any bank to be acquired is located and the acquiring bank holding company controls any insured depository institution or a branch. 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 or headquartered or operates a branch. See 12 U.S.C. § 1841(o)(4)–(7).

⁹ See 12 U.S.C. § 1841(o)(4). A bank holding company's home state is the state in which the total deposits of all banking subsidiaries of such company were the largest on July 1, 1966, or the date on which the company became a bank holding company, whichever is later. A state bank's home state is the state in which the bank is chartered.

rating.¹⁰ South Carolina has a five-year minimum age requirement,¹¹ and Southcoast Bank has been in existence for more than five years.

On consummation of the proposed transaction, BNC would control less than 1 percent of the total amount of consolidated deposits in insured depository institutions in the United States. In addition, the combined organization would control less than 1 percent of the total amount of deposits of insured depository institutions in Southcoast's home state of South Carolina, the only state in which BNC and Southcoast have overlapping banking operations. Accordingly, in light of all the facts of record, the Board may 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 an 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 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.¹²

BNC and Southcoast have subsidiary depository institutions that compete directly in the Charleston, South Carolina banking market (the "Charleston banking market").¹³ The Board has considered the competitive effects of the proposal in this

¹⁰ 12 U.S.C. § 2901 et seq. There are no state community reinvestment laws applicable to this case.

¹¹ See S.C. Code Ann. § 34-25-50(c) (imposing a five-year age requirement for interstate acquisitions of South Carolina banks).

¹² 12 U.S.C. § 1842(c)(1).

¹³ The Charleston banking market includes the Charleston Rannally Metro Area ("RMA"); the non-RMA portions of the counties of Charleston and Berkeley, South Carolina; and the southeastern portion of Colleton County, South Carolina, located east of the South Edisto River on Edisto Island.

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 share of total deposits in insured depository institutions in the market (“market deposits”) that BNC would control;¹⁴ the concentration level of market deposits and the increase in that level, as measured by the Herfindahl-Hirschman Index (“HHI”) under the Department of Justice Bank Merger Competitive Review guidelines (“DOJ Bank Merger Guidelines”);¹⁵ 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 the Charleston banking market. On consummation of the proposal, the Charleston banking market would remain moderately concentrated, as measured by the HHI. The HHI change would be minimal, and numerous competitors would remain in the market.¹⁶

¹⁴ Deposit and market share data are as of June 30, 2015, 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 to commercial banks. See, e.g., Midwest Financial Group, 75 Federal Reserve Bulletin 386 (1989); 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).

¹⁵ 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, the DOJ has confirmed that its Bank Merger Guidelines, which were issued in 1995, were not modified. See Press Release, Department of Justice (August 19, 2010), www.justice.gov/opa/pr/2010/August/10-at-938.html.

¹⁶ BNC operates the 12th largest depository institution in the Charleston banking market, controlling approximately \$250 million in deposits, which represent approximately 2.3 percent of market deposits. Southcoast operates the 8th largest depository

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 competition or on the concentration of resources in the Charleston banking market or in any other relevant banking market. Accordingly, the Board determines that competitive considerations are consistent with approval.

Financial, Managerial, and Other Supervisory Considerations

In reviewing a proposal under the BHC Act, the Board considers the financial and managerial resources and the future prospects of the institutions involved. In its evaluation of financial factors, the Board reviews information on the financial condition of the organizations involved on both parent-only and consolidated bases, as well as information on 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, as well as public comments on the proposal. The Board evaluates the financial condition of the combined organization, including its capital position, asset quality, liquidity, 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 to complete fully the proposed integration of the operations of the institutions. In assessing financial factors, the Board considers capital adequacy to be

organization in the same market, controlling deposits of approximately \$366 million, which represent 3.3 percent of market deposits. On consummation of the proposed transaction, BNC would become the 7th largest depository institution in the market, controlling deposits of approximately \$616 million, which represent approximately 5.6 percent of market deposits. The HHI for the Charleston banking market would increase by 15 points to 1224, and 32 other competitors would remain in the market.

especially important. The Board considers the future prospects of the organizations involved in the proposal in light of their financial and managerial resources and the proposed business plan.

BNC and BNC Bank are both well capitalized and would remain so on consummation of the proposal. The proposed transaction is a bank holding company merger that is structured as a share exchange, with a subsequent merger of the subsidiary depository institutions.¹⁷ The asset quality, earnings, and liquidity of BNC Bank and Southcoast Bank are consistent with approval, and BNC appears to have adequate resources to absorb the costs of the proposal and to complete integration of the institutions' operations. In addition, future prospects are considered consistent with approval.

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 BNC, Southcoast, and their subsidiary depository institutions, including assessments of their management, risk-management systems, and operations. In addition, the Board has considered information provided by BNC; the Board's supervisory experiences with BNC and Southcoast and those of other relevant bank supervisory agencies with the organizations; and the organizations' records of compliance with applicable banking, consumer protection, and anti-money-laundering laws.

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

¹⁷ As part of the proposed transaction, each share of Southcoast common stock would be converted into a right to receive BNC common stock based on a certain exchange ratio.

The Board also has considered BNC's plans for implementing the proposal. BNC has conducted comprehensive due diligence and is devoting sufficient financial and other resources to address all aspects of the post-acquisition integration process for this proposal. BNC would implement its risk-management policies, procedures, and controls at the combined organization, and these are considered acceptable from a supervisory perspective. In addition, BNC's and Southcoast's managements have the experience and resources to ensure that the combined organization operates in a safe and sound manner, and BNC plans to integrate Southcoast's existing management and personnel in a manner that augments BNC's management.

Based on all the facts of record, including BNC's supervisory record, managerial and operational resources, and plans for operating the combined institution after consummation, the Board concludes that considerations relating to the financial and managerial resources and future prospects of the organizations involved in the proposal, as well as the records of effectiveness of BNC and Southcoast in combatting money-laundering activities, are consistent with approval.

Convenience and Needs Considerations

In acting on a proposal under section 3 of the BHC Act, the Board considers the effects of the proposal on the convenience and needs of the communities to be served. In its evaluation of the effect of the proposal on the convenience and needs of the communities to be served, the Board considers whether the relevant institutions are helping to meet the credit needs of the communities they serve, as well as other potential effects of the proposal on the convenience and needs of the communities to be served. In this evaluation, the Board places particular emphasis on the records of the relevant depository institutions under the CRA.¹⁸ 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

¹⁸ 12 U.S.C. § 1842(c)(2); 12 U.S.C. § 2901 et seq.

sound operation,¹⁹ and requires the appropriate federal financial supervisory agency to assess a depository institution's record of helping to meet the credit needs of its entire community, including low- and moderate-income ("LMI") neighborhoods.²⁰

In addition, the Board considers the banks' overall compliance record and recent fair lending examinations. Fair lending laws require all lending institutions to provide loan applicants with equal access to credit, regardless of their race, ethnicity, or certain other characteristics. The Board also considers the assessments of other relevant supervisors, the supervisory views of examiners, other supervisory information, information provided by the applicant, and comments received on the proposal. The Board also may consider the applicant institution's business model, its marketing and outreach plans, the organization's plans after consummation, and any other information the Board deems relevant.

In assessing the convenience and needs factor in this case, the Board has considered all the facts of record, including reports of examination of the CRA performance of BNC Bank and Southcoast Bank, the fair lending compliance records of both banks, supervisory views of the FDIC, confidential supervisory information, information provided by BNC, and the public comments received on the proposal.

Public Comments Regarding the Proposal

In this case, the Board received comments from a commenter who objects to the proposal on the basis of alleged disparities in the number of conventional home purchase loans made to African Americans and Hispanics, as compared to whites, by BNC Bank in the Charleston-North Charleston-Summerville, South Carolina ("Charleston") Metropolitan Statistical Area ("MSA"), and the number of refinance loans made to African Americans, as compared to whites, by BNC Bank in the Charleston MSA, as reflected in data reported under the Home Mortgage Disclosure Act

¹⁹ 12 U.S.C. § 2901(b).

²⁰ 12 U.S.C. § 2903.

(“HMDA”)²¹ for 2014. The commenter also objected to the proposal on the basis of alleged disparities in the number of conventional home purchase loans and refinance loans made to African Americans, as compared to whites, by Southcoast Bank in the Charleston MSA, as reflected in HMDA data for 2014. With respect to the Greenville Mauldin-Easley, South Carolina (“Greenville”) MSA, the commenter alleged that there were disparities in the number of conventional home purchase loans and refinance loans made to African Americans and Hispanics, as compared to whites, by BNC Bank, as reflected in HMDA data reported for 2013.

Businesses of the Involved Institutions and Response to Comments

BNC Bank is a state-chartered, commercial bank, headquartered in Thomasville, North Carolina. It offers a full range of banking and financial services that include deposit accounts; commercial, real estate, and consumer loan products; mortgage brokerage services; and a full line of commercial and consumer insurance and investment products and services. The bank’s main loan focus is small and medium-sized businesses.

Southcoast Bank is a commercial bank, headquartered in Mount Pleasant, South Carolina. It offers a full array of consumer and commercial deposit products, as well as commercial, real estate, and consumer loan products. The bank’s primary focus is residential lending followed by commercial lending.

BNC asserts that BNC Bank’s lending record to minorities in the Charleston MSA, as reflected in HMDA data, is attributable to its recent entry in the MSA in mid-2012. BNC further asserts that although the bank did not originate many mortgage applications to minorities in the Charleston MSA, the bank’s approval rates for minorities were very favorable. BNC represents that for conventional home purchase applications, minority applicants were approved more often than white applicants and that since its entry into the Charleston MSA, BNC Bank has made efforts to increase its lending to African Americans and Hispanics, as reflected in HMDA data for 2014. BNC

²¹ 12 U.S.C. § 2801 et seq.

expects that the acquisition of Southcoast and Southcoast Bank will significantly expand BNC Bank's Charleston branch network and provide the bank with greater ability to serve the communities within the Charleston MSA. BNC also maintains that Southcoast Bank's approval percentages for applications received from minority applicants are comparable to or better than its approval percentage for white applicants in the Charleston MSA.

BNC contends that BNC Bank's lending record to minorities in the Greenville MSA, as reflected in HMDA data for 2013, is also related to the bank's recent entry in the market in late 2011. BNC asserts that the bank is making progress in providing greater banking services to those in the community by expanding its banking network in the Greenville MSA through branch acquisitions and employing additional mortgage loan originators. BNC further asserts that, although the bank did not originate many mortgage applications for minorities, including African Americans and Hispanics, in the Greenville MSA, its approval rates for minorities were very favorable. BNC represents that in 2014, all home purchase and refinance applications for minority applicants were approved. BNC further represents that BNC Bank is committed to continually improving its performance in the Greenville and Charleston MSAs and to meeting the needs of all members of the communities. BNC notes that the commenter filed similar comments with the FDIC on an application for an unrelated acquisition, which was approved on the condition that BNC Bank develop and submit a supplement to its existing compliance plan that would strengthen the bank's fair lending compliance program. BNC asserts that the supplement to BNC Bank's compliance plan, which has been approved by the FDIC and implemented by the bank, adequately addresses the concerns raised by the commenter on this proposal.

Records of Performance Under the CRA

In evaluating the convenience and needs factor and CRA performance, the Board considers substantial information in addition to information provided by public commenters and the response to comments by the applicant. In particular, the Board evaluates an institution's performance record in light of examinations by the appropriate

federal supervisors of the CRA performance records of the relevant institutions, as well as information and views provided by the appropriate federal supervisors.²² In this case, the Board considered the supervisory views of and information provided by the FDIC.

The CRA requires that the appropriate federal financial supervisor for a depository institution prepare a written evaluation of the institution's record of helping to meet the credit needs of its entire community, including LMI neighborhoods.²³ 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 by the institution's primary federal supervisor of the institution's overall record of lending in its communities.

In general, federal financial supervisors apply lending, investment, and service tests to evaluate the performance of a large insured depository institution in helping to meet the credit needs of the communities it serves. The lending test specifically evaluates the institution's home mortgage, small business, small farm, and community development lending to determine whether the institution is helping to meet the credit needs of individuals and geographies of all income levels. As part of the lending test, examiners review and analyze an institution's HMDA data in addition to small business, small farm, and community development loan data collected and reported under the CRA regulations to assess an institution's lending activities with respect to borrowers and geographies of different income levels. The institution's lending performance is based on (1) the number and amount of home mortgage, small business, small farm, and consumer loans (as applicable) in the institution's assessment areas; (2) the geographic distribution of such loans, including the proportion and dispersion of the institution's lending in its assessment areas and the number and amount of loans in

²² See Interagency Questions and Answers Regarding Community Reinvestment, 75 Federal Register 11642 at 11665 (2010).

²³ 12 U.S.C. § 2906.

low-, moderate-, middle-, and upper-income geographies; (3) the distribution of such loans based on borrower characteristics, including the number and amount of home mortgage loans made to low-, moderate-, middle-, and upper-income individuals;²⁴ (4) the institution's community development lending, including the number and amount of community development loans and their complexity and innovativeness; and (5) the institution's use of innovative or flexible lending practices to address the credit needs of LMI individuals and geographies.

The Board is concerned when HMDA data reflect disparities in the rates of loan applications, originations, and denials among members of different racial or ethnic groups in local areas. These types of disparities may indicate weaknesses in the adequacy of policies and programs at an institution for meeting its obligations to extend credit fairly. However, other information critical to an institution's credit decisions is not available from HMDA data.²⁵ Consequently, HMDA data disparities must be evaluated in the context of other information regarding the lending record of an institution.

CRA Performance of BNC Bank

BNC Bank was assigned an overall "Satisfactory" rating by the FDIC at its most recent CRA performance evaluation ("BNC Bank Evaluation"), as of April 28, 2014.²⁶ BNC Bank received a "High Satisfactory" rating for both the Lending Test and

²⁴ Examiners also consider the number and amount of small business and small farm loans made to businesses and farms with gross annual revenues of \$1 million or less, small business and small farm loans by loan amount at origination, and consumer loans, if applicable, to low-, moderate-, middle-, and upper-income individuals. See, e.g., 12 CFR 228.22(b)(3).

²⁵ Other data relevant to credit decisions could include credit history problems, debt-to-income ratios, and loan-to-value ratios. Accordingly, when conducting fair lending examinations, examiners analyze such additional information before reaching a determination regarding an institution's compliance with fair lending laws.

²⁶ The BNC Bank Evaluation was conducted using the CRA Large Bank Examination Procedures and covered the time period from June 27, 2011, to April 28, 2014. For the Lending Test, the evaluation included a review of loans reportable under HMDA and CRA data collection requirements for 2012 and 2013, focusing on home purchase and home

the Service Test, and a “Low Satisfactory” rating for the Investment Test.²⁷ The Board has consulted with the FDIC regarding the BNC Bank Evaluation.

Examiners found that the bank’s overall lending activity reflected good responsiveness to the assessment areas’ credit needs. Examiners noted that the bank originated a significant majority of home mortgage loans and small business loans within its combined assessment areas and that the geographic distribution of the loans reflected good penetration throughout the assessment areas. Examiners also noted that the bank originated a relatively high level of community development loans in its assessment areas and made good use of flexible lending practices in order to serve the assessment areas’ credit needs. BNC Bank is qualified as a U.S. Small Business Administration (“SBA”) lender, and examiners highlighted that the bank was one of the most active SBA lenders in North Carolina over the evaluation period and that it ranked among the top ten of all lenders, with the banks ranked ahead of BNC Bank having larger asset sizes and national or regional presences. The bank also offered flexible mortgage loan products through the Federal Housing Administration, the SBA, the U.S. Department of Veterans Affairs, the U.S. Department of Agriculture, and the North Carolina Housing Finance Agency.

refinance loans only. For the Investment and Service Tests, the evaluation also covered the period from June 27, 2011, to April 28, 2014. The Investment Test also included investments prior to June 27, 2011, that were still outstanding as of April 28, 2014.

²⁷ During the BNC Bank Evaluation, examiners reviewed eight assessment areas of the bank in North Carolina and four assessment areas of the bank in South Carolina. Examiners placed greater weight on the bank’s performance in North Carolina in assigning the overall CRA rating, because 35 of the bank’s 45 branches were located in North Carolina, and over 86 percent of the bank’s lending occurred within the state. Three of the bank’s eight assessment areas in North Carolina received full-scope reviews. Examiners assigned the most weight to the Charlotte-Gastonia-Rock Hill MSA assessment area in North Carolina and to the Myrtle Beach-North Myrtle Beach-Conway MSA assessment area in South Carolina, based on the significant volume of lending, deposits, and number of branches in those areas, to arrive at the individual state ratings. Examiners also considered the timing of BNC Bank’s entry into the Charleston MSA in June 2012, the Burlington, NC MSA in 2013, and the Durham-Chapel Hill, NC MSA in September 2012, along with other extenuating factors in performing limited-scope reviews of these assessment areas.

Examiners found that BNC Bank had an adequate level of qualified community development investments and grants and that it exhibited adequate responsiveness to the credit needs of the assessment areas. Examiners noted that the bank's level of qualified equity investments and charitable donations had significantly improved from the last examination. Examiners highlighted that nearly all of the bank's qualified CRA grants and donations were made directly to community development-related organizations located within the bank's assessment areas. The remainder of the bank's CRA grants and donations were made to qualified individuals and community development-related organizations in the broader regional area that included the bank's assessment areas. Examiners noted that the grants and donations provided much needed financial assistance to organizations with the primary purpose of economic development, community revitalization, affordable housing, financial education, scholarships for low- and moderate-income students, and basic human services to low- and moderate-income individuals.

Examiners noted that the bank's overall "High Satisfactory" rating under the Service Test was based primarily on the community development services, but examiners also considered the bank's retail account services. Examiners highlighted that BNC Bank's management, directorate, and other personnel provided a relatively high level of community development services in the bank's assessment areas. Examiners also noted that the bank offered a full array of financial services throughout its assessment areas to ensure that the needs of the communities were met through several delivery methods and that the bank's delivery systems were reasonably accessible to essentially all portions of the institution's assessment areas. In addition, examiners noted that the quantity, quality, and accessibility of service-delivery systems to all segments of its assessment areas supported a "High Satisfactory" rating.

BNC Bank's Efforts Since the BNC Bank Evaluation

BNC asserts that, since the BNC Bank Evaluation, BNC Bank has initiated a number of efforts to enhance its support of all the communities in which the bank operates. For example, BNC represents that BNC Bank has created a new deposit

account targeted to individuals working to establish or reestablish a banking relationship with the institution. BNC believes that this product will be particularly beneficial or attractive to younger individuals and to the unbanked or underbanked population in the communities the bank serves.

BNC represents that BNC Bank is developing initiatives and programs focused on lending, investment, and service activities in its communities, with emphasis on developing programs for lower- to moderate- income residents. BNC further represents that the bank has formed a Fair Banking Team responsible for compliance with fair lending, CRA, HMDA, and Unfair, Deceptive, Abusive Acts and Practices laws. Additionally, the bank has formed a CRA Committee, which consists of a number of senior officers of the bank, including the director of mortgage banking, chief credit officer, and the bank's CRA officer. BNC also represents that the bank has created a new director position that will be directly responsible for helping to increase interaction with the communities the bank serves.

CRA Performance of Southcoast Bank

Southcoast Bank was assigned an overall "Satisfactory" rating by the FDIC at its most recent CRA performance evaluation ("Southcoast Bank Evaluation"), as of January 3, 2014.²⁸ Southcoast Bank received a "Satisfactory" rating for both the Lending Test²⁹ and the Community Development Test.

²⁸ The Southcoast Bank Evaluation was conducted by the FDIC using the Intermediate Small Bank CRA Examination Procedures, which include the Lending and Community Development Tests. Under the Lending Test, examiners evaluated the bank's home mortgage loans from 2011 through September 30, 2013, and its small business loans between October 25, 2012, and October 24, 2013. As part of the Community Development Test, qualified community development loans, investments, and services that were originated, invested, or participated in, respectively, from September 8, 2010, to January 3, 2014, were reviewed. Examiners reviewed all of the Charleston MSA.

²⁹ The Lending Test applicable to intermediate small banks specifically evaluates the institution's loan-to-deposit ratio and other lending-related activities, such as loan originations for sale to the secondary markets, community development loans, or qualified investments; the percentage of loans and other lending-related activities located

Examiners noted that Southcoast Bank's average net loan-to-deposit ratio reflected an excellent responsiveness to area credit needs, considering the institution's size, financial condition, and assessment area credit needs. Examiners found that the bank's lending levels reflected that a substantial majority of its loans, in terms of number and dollar amount, were originated inside the assessment area. Examiners also found that the bank's geographic distribution of borrowers reflected an excellent dispersion for home mortgage loans and a reasonable penetration for small businesses, given the demographics of the assessment area.

Examiners noted that Southcoast Bank demonstrated an adequate responsiveness to the community development needs of the bank's assessment area through community development loans, investments, and services.

Views of FDIC

The Board has consulted with the FDIC, the primary supervisor of both BNC Bank and Southcoast Bank, in connection with the FDIC's review of the bank merger underlying this proposal. Although the FDIC did not directly receive any comments on the bank merger application, it was provided with the comments received by the Board that opposed the transaction on the basis of the lending records of Southcoast Bank and BNC Bank in the Charleston and Greenville MSAs. The FDIC considered the comments in connection with its review of the bank merger application.

In its review, the FDIC considered both institutions' records of compliance with respect to consumer protection laws and regulations; the institutions' performance under the CRA; the lending records of both institutions in the Charleston MSA; HMDA data for the institutions; and the lending record of BNC Bank both in the Greenville MSA and on an enterprise-wide basis.

in the bank's assessment areas; the bank's record of lending to and engaging in other lending-related activities for borrowers of different income levels and for businesses and farms of different sizes; the geographic distribution of the bank's loans; and the bank's record of taking action in response to written complaints about its performance in helping to meet credit needs in its assessment areas. See, e.g., 12 CFR 228.26(b).

The FDIC indicated that BNC Bank currently operates under a compliance plan that has been approved by BNC Bank's board of directors and includes provisions for managing its fair lending risk, and an FDIC-approved supplement to the plan that includes provisions that ensure that the bank will continue its efforts to implement strategies to further strengthen its fair lending compliance program. The FDIC also indicated that the supplement to the compliance plan includes specific provisions pertaining to the bank's enterprise-wide branching strategies and marketing plans that consider available aggregate data, demographics, and safe and sound lending considerations. The FDIC-approved supplement requires periodic reviews of the bank's lending distributions and marketing efforts in order to measure and assess the bank's progress under the compliance plan. According to the FDIC, the supplement to the compliance plan requires the bank to provide quarterly written reports to the bank's board of directors and the FDIC.

After a full review of the proposal for BNC Bank to merge with Southcoast Bank, the FDIC determined that the proposal met the standards of the Bank Merger Act and approved the proposal applying the same standards as must be reviewed by the Board under the BHC Act. In addition, the FDIC has indicated no-objection to the proposal before the Board. The Board expects BNC to ensure that BNC Bank complies with its compliance plan and the supplement approved by the FDIC.

Additional Convenience and Needs Considerations

The Board also considers other potential effects of a proposal on the convenience and needs of the communities to be served. BNC represents that the proposal would provide customers of the combined organization with access to additional or expanded services, due to an expanded network of branch locations in the Charleston MSA. In addition, BNC expects that the merger would enable it to compete more effectively with other financial institutions in its market areas and to improve its ability to meet the needs of its customers and the communities in its market areas. BNC also represents that no significant reductions in products or services would be expected as a result of the proposal. Moreover, BNC has also indicated that BNC Bank staff is

currently developing initiatives and programs focused on lending, investment, and service activities in its communities, with an emphasis on developing programs for LMI individuals and communities, and that these programs would be beneficial to BNC Bank customers and former Southcoast Bank customers upon consummation of the proposal.

Conclusion on Convenience and Needs Considerations

The Board has considered all the facts of record, including the records of the relevant depository institutions involved under the CRA, the institutions' records of compliance with fair lending and other consumer protection laws, consultations with the FDIC, confidential supervisory information, information provided by BNC, the public comments on the proposal, and other potential effects of the proposal on the convenience and needs of the communities to be served. Based on that review, the Board concludes that the convenience and needs factor is consistent with approval.

Financial Stability

The Dodd-Frank Wall Street Reform and Consumer Protection Act ("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."³⁰

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 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

³⁰ Section 604(d) of the Dodd-Frank Act, Pub. L. No. 111-203, 123 Stat. 1376, 1601 (2010), codified at 12 U.S.C. § 1842(c)(7).

resulting firm.³¹ 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, that 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.³²

In this case, the Board has considered information relevant to risks to the stability of the U.S. banking or financial system. After consummation, BNC would have approximately \$6.2 billion in consolidated assets and, by any of a number of alternative measures of firm size, BNC would not be likely to pose systemic risks. The Board generally presumes that a merger that involves an acquisition of less than \$2 billion in assets, or that results in a firm with less than \$25 billion in total consolidated assets, will 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.

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 determines that considerations relating to financial stability are consistent with approval.

Conclusion

Based on the foregoing and all the facts of record, the Board determines that the application should be, and hereby is, approved.³³ In reaching its conclusion, the

³¹ Many of the metrics considered by the Board measure an institution's activities relative to the U.S. financial system.

³² For further discussion of the financial stability standard, see Capital One Financial Corporation, FRB Order 2012-2 (February 14, 2012).

³³ The commenter requested that the Board hold a public hearing on the proposal. Section 3(b) of the BHC Act does not require that the Board hold a public hearing on an

Board has considered all the facts of record in light of the factors that it is required to consider under the BHC Act. The Board's approval is specifically conditioned on compliance by BNC 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 Federal Reserve Bank of Richmond, acting pursuant to delegated authority.

By order of the Board of Governors,³⁴ effective June 2, 2016.

Robert deV. Frierson (signed)

Robert deV. Frierson
Secretary of the Board

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 represent their views. The Board has considered the 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 written comments 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 comments do not present the commenter's views adequately or why a hearing would otherwise 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.

³⁴ Voting for this action: Chair Yellen, Vice Chairman Fischer, and Governors Tarullo, Powell, and Brainard.