

FEDERAL RESERVE SYSTEM

Canadian Imperial Bank of Commerce  
Toronto, Canada

CIBC Holdco Inc.  
New York, New York

Order Approving the Formation of a Bank Holding Company and the Acquisition of a  
Bank Holding Company

Canadian Imperial Bank of Commerce (“CIBC”), Toronto, Canada, a foreign banking organization that has elected to be treated as a financial holding company within the meaning of the Bank Holding Company Act of 1956 (“BHC Act”),<sup>1</sup> and its subsidiary, CIBC Holdco Inc. (“CIBC Holdco,” and together with CIBC, “Applicants”), New York, New York, have requested the Board’s approval under section 3 of the BHC Act<sup>2</sup> to acquire PrivateBancorp, Inc. (“PrivateBancorp”), and thereby indirectly acquire The PrivateBank and Trust Company (“PrivateBank”), both of Chicago, Illinois. As part of the proposal, CIBC Holdco would become a bank holding company.

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (81 Federal Register 60355 (September 1, 2016)).<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.

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<sup>1</sup> 12 U.S.C. § 1841 et seq.

<sup>2</sup> 12 U.S.C. § 1842.

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

CIBC, with consolidated assets of approximately \$381 billion, is the fifth largest insured depository organization in Canada.<sup>4</sup> CIBC provides retail and commercial banking, wealth management, insurance, and investment banking products and services, and it operates in North America (including the United States), Europe, and Asia. In the United States, CIBC also operates branches in New York and Illinois and representative offices in Texas and California. CIBC does not control a bank within the United States.<sup>5</sup> CIBC is a qualifying foreign banking organization and, upon consummation of the proposal, would continue to meet the requirements for a qualifying foreign banking organization under the Board's Regulation K.<sup>6</sup>

PrivateBancorp, with consolidated assets of approximately \$20.1 billion, is the 82nd largest insured depository organization in the United States, controlling approximately \$16.1 billion in deposits, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the United States.<sup>7</sup>

PrivateBancorp controls PrivateBank, which operates in Illinois, Michigan, Missouri, and Wisconsin.

On consummation of this proposal, CIBC's U.S. operations would have assets that represent less than 1 percent of the total assets of insured depository institutions in the United States.<sup>8</sup>

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<sup>4</sup> Asset and ranking data for CIBC on a consolidated basis are as of April 30, 2016, and are based on the exchange rate as of that date.

<sup>5</sup> CIBC also controls Atlantic Trust Company, National Association, Atlanta, Georgia, a nondepository trust company that is not a "bank" for purposes of the BHC Act. See 12 U.S.C. § 1841(c)(2)(D).

<sup>6</sup> 12 CFR 211.23(a).

<sup>7</sup> U.S. asset and deposit data are as of December 31, 2016, unless otherwise noted.

<sup>8</sup> Under the Board's Regulation YY, a foreign banking organization with U.S. non-branch assets of \$50 billion or more is required to establish a U.S. intermediate holding company ("IHC"). 12 CFR 252.153. On consummation of this proposal, CIBC would have less than \$50 billion in U.S. non-branch assets and therefore would not be required to establish a U.S. IHC.

### 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.<sup>9</sup> The BHC Act also prohibits the Board from approving a proposal that would substantially lessen competition or tend to create a monopoly in any banking market, unless the Board finds that 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>10</sup>

CIBC does not currently control a commercial bank in the United States, and CIBC and PrivateBancorp do not directly compete in any retail banking market. The Department of Justice 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 any 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 section 3 of the BHC Act, the Board considers the financial and managerial resources and the future prospects of the institutions involved.<sup>11</sup> In its evaluation of financial factors, the Board reviews information regarding the financial condition of the organizations involved on both parent-only and consolidated bases, as well as information regarding the financial condition of the subsidiary depository institutions and the organizations' significant

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<sup>9</sup> 12 U.S.C. § 1842(c)(1)(A).

<sup>10</sup> 12 U.S.C. § 1842(c)(1)(B).

<sup>11</sup> 12 U.S.C. § 1842(c)(2), (5), and (6).

nonbanking operations. In this evaluation, the Board considers a variety of public and supervisory information regarding 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 effectively the proposed integration of the operations of the institutions. In assessing financial factors, the Board considers capital adequacy to be 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. The Board also has consulted with the Office of the Superintendent of Financial Institutions (“OSFI”), the agency with primary responsibility for the supervision and regulation of federally registered Canadian banking organizations, including CIBC.

The capital levels of CIBC exceed the minimum levels that would be required under the Basel Capital Accord and are considered to be equivalent to the capital levels that would be required of a U.S. banking organization.<sup>12</sup> The proposed transaction is a merger that is structured as a cash and share exchange.<sup>13</sup> The asset quality, earnings, and liquidity of both CIBC and PrivateBancorp are consistent with approval, and CIBC appears to have adequate resources to absorb the costs of the proposal and to complete the integration of the institutions’ operations. In addition, future prospects are considered consistent with approval.

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<sup>12</sup> The Board considered the total risk-based capital ratio, tier 1 risk-based capital ratio, common equity tier 1 risk-based capital ratio, and the ratio of tier 1 to total assets of CIBC and CIBC Holdco.

<sup>13</sup> Applicants would effect the acquisition by merging PrivateBancorp with and into CIBC Holdco (with CIBC Holdco as the survivor). At the time of the merger, each share of PrivateBancorp common stock would be converted into a right to receive CIBC common stock and cash, based on an exchange ratio. CIBC has the financial resources to fund the cash portion of the exchange.

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 CIBC's U.S. operations, PrivateBancorp, and PrivateBank, including assessments of their management, risk-management systems, and operations. In addition, the Board has considered information provided by CIBC, the Board's supervisory experiences 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, as well as information provided by commenters. As noted, the Board also has consulted with the OSFI.

CIBC, PrivateBancorp, and PrivateBank are each considered to be well managed. CIBC's directors and senior executive officers have knowledge of and experience in the banking and financial services sectors, and its risk-management program appears consistent with approval of this expansionary proposal.

The Board also has considered CIBC's plans for implementing the proposal. CIBC has conducted comprehensive due diligence and is devoting significant financial and other resources to address all aspects of the post-integration process for this proposal. CIBC would implement its risk-management policies, procedures, and controls at the combined organization, and these are considered acceptable from a supervisory perspective. In addition, the management of CIBC and PrivateBancorp have the experience and resources to operate the combined organization in a safe and sound manner, and CIBC plans to integrate PrivateBancorp's existing management and personnel in a manner that augments CIBC's management.<sup>14</sup>

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<sup>14</sup> On consummation, CIBC will add one director, nominated by PrivateBancorp, to its board. The board of CIBC Holdco will be composed of nine directors, of which three independent directors and one nonindependent director will be selected by PrivateBancorp and the other five directors selected by CIBC. Similarly, the board of PrivateBank will be composed of nine directors, of which three independent directors and one nonindependent director will be selected by PrivateBancorp and the other five directors selected by CIBC. In addition, certain key executives of PrivateBancorp and

Section 3 of the BHC Act also prohibits the Board from approving a proposal unless the applicant provides adequate assurances that it will make available to the Board such information on its operations and activities and those of its affiliates that the Board deems appropriate to determine and enforce compliance with the BHC Act.<sup>15</sup> The Board has reviewed the restrictions on disclosure of information in the relevant jurisdictions in which CIBC operates and has communicated with relevant government authorities concerning access to information. In addition, CIBC has committed that, to the extent not prohibited by applicable law, it will make available to the Board such information on its operations and the operations of its affiliates that the Board deems necessary to determine and enforce compliance with the BHC Act, the International Banking Act of 1978,<sup>16</sup> and other applicable federal laws. CIBC also has committed to cooperate with the Board to obtain any waivers or exemptions that may be necessary to enable it or its affiliates to make such information available to the Board.

Based on all the facts of record, including CIBC'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 CIBC and PrivateBancorp in combatting money-laundering activities, are consistent with approval.

#### Supervision or Regulation on a Consolidated Basis

As required by section 3 of the BHC Act, the Board considers whether CIBC is subject to comprehensive supervision or regulation on a consolidated basis by

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PrivateBank will be employed by CIBC and CIBC Holdco after consummation of the proposal.

<sup>15</sup> 12 U.S.C. § 1842(c)(3)(A).

<sup>16</sup> 12 U.S.C. § 3101 et seq.

appropriate authorities in its home country.<sup>17</sup> The Board previously has determined that CIBC is subject to comprehensive supervision on a consolidated basis by its home country supervisor, the OSFI.<sup>18</sup> CIBC remains supervised by the OSFI on substantially the same terms and conditions. Based on this finding and all the facts of record, the Board concludes that CIBC continues to be subject to comprehensive supervision on a consolidated basis by its home country supervisor.

#### 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

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<sup>17</sup> 12 U.S.C. § 1842(c)(3)(B). As provided in Regulation Y, the Board determines whether a foreign banking organization is subject to consolidated home country supervision under the standards set forth for foreign banks and parent foreign banks in the Board's Regulation K. See 12 CFR 225.13(a)(4). Regulation K provides that a foreign bank is subject to consolidated home country supervision if the foreign bank is supervised or regulated in such a manner that its home country supervisor receives sufficient information on the worldwide operations of the foreign bank (including the relationships of the bank to any affiliate) to assess the foreign bank's overall financial condition and compliance with law and regulation. 12 CFR 211.24(c)(1)(ii). In assessing this standard under section 211.24 of Regulation K, the Board considers, among other indicia of comprehensive, consolidated supervision, the extent to which the home country supervisors (i) ensure that the bank has adequate procedures for monitoring and controlling its activities worldwide; (ii) obtain information on the condition of the bank and its subsidiaries and offices through regulation examination reports, audit reports, or otherwise; (iii) obtain information on the dealings with and relationships between the bank and its affiliates, both foreign and domestic; (iv) receive from the bank financial reports that are consolidated on a worldwide basis, or comparable information that permits analysis of the bank's financial condition on a worldwide, consolidated basis; and (v) evaluate prudential standards, such as capital adequacy and risk asset exposure, on a worldwide basis. No single factor is essential, and other elements may inform the Board's determination.

<sup>18</sup> Canadian Imperial Bank of Commerce, 87 Federal Reserve Bulletin 678 (2001); Canadian Imperial Bank of Commerce, 85 Federal Reserve Bulletin 733 (1999). In addition, in 2009 and 2013, it was determined that CIBC was subject to comprehensive supervision on a consolidated basis by the OSFI. Board letter to David R. Sahr, Esq., Mayer Brown LLP (March 26, 2013); Canadian Imperial Bank of Commerce, 95 Federal Reserve Bulletin B101 (2009).

be served.<sup>19</sup> 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 Community Reinvestment Act of 1977 (“CRA”).<sup>20</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>21</sup> 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, in evaluating bank expansionary proposals.<sup>22</sup>

In addition, the Board considers the banks’ overall compliance records and their recent fair lending examinations. Fair lending laws require all lending institutions to provide applicants with equal access to credit, regardless of their race, ethnicity, or certain other characteristics. The Board also considers 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 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

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<sup>19</sup> 12 U.S.C. § 1842(c)(2).

<sup>20</sup> 12 U.S.C. § 2901 et seq.

<sup>21</sup> 12 U.S.C. § 2901(b).

<sup>22</sup> 12 U.S.C. § 2903.

performance of PrivateBank and Juniper Bank, Wilmington, Delaware;<sup>23</sup> the fair lending and compliance records of PrivateBank; the supervisory views of the Federal Deposit Insurance Corporation (“FDIC”); confidential supervisory information; information provided by CIBC; and the public comments received on the proposal.

The Board placed additional emphasis on PrivateBank’s record in meeting the convenience and needs of the communities it serves because PrivateBank will remain a separate entity and continue its existing CRA program after consummation of the proposed transaction.

*Public Comments Regarding the Proposal*

In this case, the Board received comments from two commenters expressing concerns about the proposal. One commenter criticized PrivateBank’s record of lending to small businesses in LMI communities within the St. Louis, Missouri, area. The commenter also alleged that PrivateBank’s bank services are not sufficiently accessible to LMI communities in the St. Louis area, as well as throughout the bank’s footprint in Illinois and other areas.

One commenter expressed concerns regarding whether PrivateBank’s lending to LMI borrowers and communities would continue to increase at its prior rate after consummation of the proposal. Two commenters urged CIBC to develop a community reinvestment plan,<sup>24</sup> and these commenters urged the Board to approve the application on the condition that CIBC successfully implement such a plan.<sup>25</sup>

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<sup>23</sup> CIBC controlled Juniper Bank from 2001 until 2004.

<sup>24</sup> Following CIBC’s submission of the applications, PrivateBank developed a community benefits plan in consultation with commenters and other organizations.

<sup>25</sup> The Board has consistently found that neither the CRA nor the federal banking agencies’ CRA regulations require depository institutions to make pledges or enter into commitments or agreements with any organization. See, e.g., CIT Group, Inc., FRB Order No. 2015-20 at 24 n.54 (July 19, 2015); Citigroup Inc., 88 Federal Reserve Bulletin 485 (2002); Fifth Third Bancorp, 80 Federal Reserve Bulletin 838, 8412 (1994). In its evaluation, the Board reviews the existing CRA performance record of an applicant and the programs that the applicant has in place to serve the credit needs of its CRA assessment areas.

*Businesses of the Involved Institutions and Response to Comments*

CIBC provides retail and commercial banking, wealth management, insurance, and investment banking products and services, and it operates in North America, Europe, and Asia. In the United States, many of CIBC's activities are conducted through Atlantic Trust Group, LLC, Atlanta, Georgia, which provides wealth management services; CIBC Inc., New York, New York, a commercial finance company; and CIBC World Markets Corp., New York, New York, a registered broker-dealer providing capital markets and investment banking services. CIBC maintains two branches in New York, New York, which provide corporate banking products and services, and a branch in Chicago, Illinois, which engages in the origination and servicing of real estate credit facilities. CIBC Holdco does not currently engage in any activities.

PrivateBank's primary focus is on commercial lending, including to medium-sized companies with annual revenues between \$10 million and \$2 billion. PrivateBank also provides private banking, residential mortgage banking, financial advisory, wealth management, and asset-management services to its customers. Although PrivateBank does offer traditional retail deposit and credit products, the majority of the bank's business is generated from commercial clients.

In response to the commenters' allegations, CIBC states that it will be committed to continuing to support the communities within the CRA assessment areas of PrivateBank. CIBC represents that, in recent years, PrivateBank has significantly increased its lending to small businesses in LMI census tracts in the St. Louis area as a percentage of its total small business lending in that area. CIBC also represents that, in recent years, PrivateBank has increased the percentage of its home mortgage lending in the St. Louis area that was originated in LMI census tracts, as well as the percentage that was originated to LMI borrowers. With regard to the accessibility of PrivateBank's services to LMI communities in the St. Louis area, CIBC represents that, although PrivateBank does not have a branch presence in LMI census tracts in the St. Louis area, PrivateBank leases office space in a low-income census tract that provides client meeting space for the bank's Community Development Lender team in St. Louis.

*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.<sup>26</sup>

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.<sup>27</sup> 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 data reported under the Home Mortgage Disclosure Act of 1975,<sup>28</sup> 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

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<sup>26</sup> See Interagency Questions and Answers Regarding Community Reinvestment, 81 Fed. Reg. 48506, 48548 (July 25, 2016).

<sup>27</sup> 12 U.S.C. § 2906.

<sup>28</sup> 12 U.S.C. § 2801 et seq.

different income levels. The institution's lending performance is based on a variety of factors, including (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 the institution's lending, including the proportion and dispersion of the institution's lending in its assessment areas and the number and amounts of loans in low-, moderate-, middle-, and upper-income geographies; (3) the distribution of such loans based on borrower characteristics, including, for home mortgage loans, the number and amounts of loans to low-, moderate-, middle-, and upper-income individuals;<sup>29</sup> (4) the institution's community development lending, including the number and amounts 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.

*CRA Performance of PrivateBank*

PrivateBank was assigned an overall rating of "Satisfactory" at its most recent CRA performance evaluation by the FDIC, as of August 17, 2015 ("PrivateBank Evaluation"),<sup>30</sup> with ratings of "High Satisfactory" for the Lending Test, Investment Test, and Service Test.

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<sup>29</sup> Examiners also consider the number and amount of small business and small farm loans 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).

<sup>30</sup> The PrivateBank Evaluation was conducted using Large Institution CRA Examination Procedures. The evaluation period for the Lending Test, Investment Test, and Service Test was from April 8, 2013, through August 17, 2015. The PrivateBank Evaluation included a full-scope review of the bank's assessment areas within the following areas: the Chicago–Naperville–Elgin, Illinois–Indiana–Wisconsin, Metropolitan Statistical Area ("MSA"); the Detroit–Warren–Dearborn, Michigan, MSA; the St. Louis, Missouri–Illinois, MSA ("St. Louis assessment area"); and the Milwaukee–Waukesha–West Allis, Wisconsin, MSA.

Examiners found that PrivateBank's lending levels reflected good responsiveness to credit needs in its assessment areas, and that the bank exhibited a good record of serving the credit needs of LMI geographies and individuals within its assessment areas. Examiners also found the bank's geographic distribution of loans reflected good penetration of small business and home mortgage loans throughout the assessment areas. Further, examiners noted that PrivateBank was a leader in making community development loans and that the bank made extensive use of innovative and flexible lending practices in order to serve credit needs in its assessment areas.

In the St. Louis assessment area, an area of concern for commenters, examiners found that PrivateBank's lending levels reflected good responsiveness to assessment area credit needs. Examiners also noted that the geographic distribution of PrivateBank's loans reflected good penetration throughout the St. Louis assessment area, and that the distribution of loans reflected adequate penetration among borrowers of different income levels. However, examiners found that the distribution of loans reflected poor penetration among businesses of different sizes within the assessment area. Examiners noted that the bank made a relatively high level of community development loans in the St. Louis assessment area during the review period.

Examiners found that PrivateBank made a significant level of qualified community development investments and grants, occasionally in a leadership position. Examiners noted that PrivateBank exhibited good responsiveness to the credit and community economic development needs of its assessment areas. Additionally, examiners noted that PrivateBank made significant use of innovative and complex investments to support community development initiatives. In the St. Louis assessment area, examiners noted that the bank had an excellent level of qualified community development investments and grants, often in a leadership position, particularly those that are not provided by private investors.

Examiners found that the bank's retail delivery systems were accessible to limited portions of its assessment areas, but that its opening and closing of branches had not adversely affected the accessibility of its delivery systems, particularly in LMI

geographies and to LMI individuals. Examiners noted that the bank was a leader in providing community development services. Additionally, examiners noted that PrivateBank's services did not vary in a way that inconvenienced portions of its assessment areas, particularly LMI geographies and individuals.

In the St. Louis assessment area, examiners found that PrivateBank's delivery systems were accessible to limited portions of the assessment area. Examiners noted that the bank's branches in the assessment area were located in upper-income census tracts, but that the bank's loan production office in the assessment area was located in a low-income census tract. Additionally, examiners found that PrivateBank's services did not vary in a way that inconvenienced portions of the assessment area, particularly LMI geographies and individuals.

In Illinois, another area of concern for commenters, examiners found that PrivateBank's delivery systems were accessible to limited portions of the assessment area, including one moderate-income geography, and did not arbitrarily inconvenience any portions of the assessment area. Examiners also noted that PrivateBank was a leader in providing community development services.

*PrivateBank's Efforts since the 2015 CRA Evaluation*

CIBC represents that PrivateBank has taken steps to improve its identification of and responsiveness to community needs. CIBC represents that PrivateBank has begun offering a new suite of small business loan products designated for small businesses located in LMI geographies. Additionally, CIBC represents that PrivateBank has made additional investments in low-income housing tax credit funds and job-creation projects in LMI geographies and has made additional community development loans.

In the St. Louis assessment area, CIBC represents that PrivateBank has continued to increase the percentage of its home mortgage lending that is originated in LMI census tracts and the percentage that is originated to LMI borrowers. CIBC represents that PrivateBank has continued to increase the percentage of the bank's small business lending in the St. Louis area that is originated to small businesses in LMI census

tracts. Additionally, CIBC represents that PrivateBank's ability to lend to small businesses in LMI census tracts in the St. Louis area was strengthened by the introduction in 2016 of a suite of proprietary affordable small business loan programs. CIBC represents that PrivateBank has taken steps to expand the marketing and outreach for its home mortgage and small business lending programs in the St. Louis area, including through newspaper advertisements and community business events. CIBC also represents that PrivateBank has continued to support the credit needs of the St. Louis assessment area through community development loans, investments, and donations.

*CRA Performance of Juniper Bank*

CIBC does not currently control a bank in the United States. The most recent CRA performance evaluation of a U.S. bank controlled by CIBC was the evaluation of Juniper Bank by the FDIC, as of May 13, 2003 ("Juniper Bank Evaluation"), in which Juniper Bank was assigned an overall "Satisfactory" rating.<sup>31</sup> Examiners noted that the bank originated an adequate amount of community development loans and qualified community development investments. Examiners also found that Juniper Bank employees provided a high level of community development services that demonstrated an excellent responsiveness to available opportunities. While CIBC no longer controls Juniper Bank, CIBC's record of maintaining satisfactory CRA ratings and performance at Juniper Bank indicates that CIBC has experience and resources to ensure that PrivateBank is operated in a manner that helps serve the credit and other banking needs of its communities in a satisfactory manner.

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<sup>31</sup> Juniper Bank was a limited purpose bank for purposes of the Juniper Bank Evaluation and was evaluated under the Community Development Test. The evaluation period for the Juniper Bank Evaluation was from May 24, 2001, through May 12, 2003. Examiners reviewed the level of Juniper Bank's qualified community development loans, investments, grants, and services in the bank's designated assessment area of New Castle County, Delaware.

*Views of the FDIC*

In its review of the proposal, the Board consulted with the FDIC regarding PrivateBank's CRA, consumer compliance, and fair lending records. The Board has considered the results of a recent consumer compliance examination of PrivateBank conducted by FDIC examiners, which included a review of the bank's compliance risk-management program and the bank's compliance with consumer laws and regulations. The Board also has considered the results of a recent examination of PrivateBank's compliance with the Fair Housing Act ("FHA"),<sup>32</sup> which included a review of the bank's lending data and its policies and procedures to ensure compliance with the FHA.

The Board has taken these consultations with the FDIC and the information discussed above into account when evaluating this proposal, including in considering whether CIBC has the experience and resources to ensure that the organization effectively implements policies and programs that would allow the combined organization to serve effectively the credit needs of all the communities within the firm's assessment areas.

*Additional Convenience and Needs Considerations*

The Board also has considered other potential effects of the proposal on the convenience and needs of the communities to be served. CIBC represents that the proposal would provide customers of the combined organization access to additional or expanded services, including retail banking services not currently offered to customers of CIBC's U.S. subsidiaries and an expanded range of wealth management and advisory services not offered to current PrivateBank customers. In addition, CIBC states that the combined organization will be strengthened by the complementary aspects of the two entities' businesses, as well as the combined experience and expertise of their respective management and employees, resulting in a stronger and more diversified financial institution.

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<sup>32</sup> 42 U.S.C. § 3601 et seq.

*Conclusion on Convenience and Needs Considerations*

The Board has considered all the facts of record, including the CRA records of the relevant depository institutions involved, the institutions' records of compliance with fair lending and other consumer protection laws, confidential supervisory information, information provided by CIBC, 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 risks to the stability of the United States banking or financial system.”<sup>33</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 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>34</sup> These categories are not exhaustive, and additional categories could inform the Board’s decision. In addition to these quantitative measures, the Board

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<sup>33</sup> Dodd-Frank Act § 604(d), Pub. L. No. 111-203, 124 Stat. 1376, 1601 (2010), codified at 12 U.S.C. § 1842(c)(7).

<sup>34</sup> Many of the metrics considered by the Board measure an institution’s activities relative to the U.S. financial system.

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.<sup>35</sup>

In this case, the Board has considered information relevant to risks to the stability of the U.S. banking or financial system. In the United States, CIBC primarily engages in securities brokerage and wealth management through various entities under CIBC USA Holdings, Inc., and in corporate banking through its U.S. branches. PrivateBancorp primarily engages in commercial banking and wealth management. In each of its activities, CIBC has, and as a result of the proposal would continue to have, a small market share on a nationwide basis, and numerous competitors would remain. The combined organization would not exhibit an organizational structure, complex interrelationships, or unique characteristics that would pose a significant risk to the financial system in the event of financial distress. There is little evidence that this proposal would materially increase the extent of CIBC's cross-border linkages. In addition, the organization would not be a critical services provider or be so interconnected with other firms or markets that it would pose a significant risk to the financial system in the event of financial distress.

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 applications should be, and hereby are, approved. In reaching its conclusion, the Board has considered all the facts of record in light of the factors that it is required to

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<sup>35</sup> For further discussion of the financial stability standard, see Capital One Financial Corporation, FRB Order 2012-2 (February 14, 2012).

consider under the BHC Act and other applicable statutes. The Board's approval is specifically conditioned on compliance by Applicants 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 applications. 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 fifteenth 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 Chicago, acting under delegated authority.

By order of the Board of Governors,<sup>36</sup> effective June 7, 2017.

*Ann E. Misback (signed)*

Ann E. Misback  
Secretary of the Board

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<sup>36</sup> Voting for this action: Chair Yellen, Vice Chairman Fischer, and Governors Powell and Brainard.