



Legal Developments: Fourth Quarter, 2011

Orders Issued Under Bank Holding Company Act

Orders Issued Under Section 3 of the Bank Holding Company Act

Banco do Brasil, S.A.
Brasilia, Brazil

Caixa de Previdência dos Funcionarios do Banco do Brasil
Rio de Janiero, Brazil

Order Approving the Acquisition of a Bank

Banco do Brasil, S.A. (“Banco do Brasil”), Brasilia, and Caixa de Previdência dos Funcionarios do Banco do Brasil (“Previ”), Rio de Janiero, both of Brazil (together, “Applicants”), have requested the Board’s approval under section 3 of the Bank Holding Company Act of 1956, as amended (“BHC Act”),¹ to acquire EuroBank, Coral Gables, Florida (“EuroBank”).

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (76 *Federal Register* 36923 (2011)). 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.

Banco do Brasil, with total consolidated assets equivalent to \$520.1 billion, is the largest banking organization in Brazil based on asset size.² Banco do Brasil also operates branches in New York, New York, and Miami, Florida; maintains representative offices in Washington, D.C., Orlando, Florida, and White Plains, New York; and wholly owns indirectly BB Money Transfers, Inc., a licensed money transmitter operating in 14 states. Banco do Brasil also maintains a securities broker-dealer subsidiary in New York, New York, Banco do Brasil Securities LLC, and owns 50 percent of the shares of Banco Votorantim, a Brazilian bank that owns a securities broker-dealer subsidiary in New York, New York, Banco Votorantim Securities, Inc.

Banco do Brasil is and would remain a qualifying foreign banking organization under the Board’s Regulation K and is treated as a financial holding company under section 4(l) of the BHC Act. The Brazilian government owns approximately 59.1 percent of Banco do

¹ 12 U.S.C. § 1842.

² Asset and ranking data are as of September 30, 2011, and are based on the exchange rate as of that date.

Brasil's shares.³ Previ, the pension plan for Banco do Brasil employees, owns approximately 10.4 percent of Banco do Brasil's shares.⁴

EuroBank, with total consolidated assets of \$83 million operates only in Florida and is the 245th largest depository organization in Florida, controlling deposits of approximately \$81 million (less than 1 percent of deposits in the state).⁵ Banco do Brasil does not currently operate an insured depository institution in Florida.

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 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 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.⁶

Banco do Brasil does not currently compete with EuroBank in any relevant banking market.⁷ Accordingly, the Board concludes, based on all the facts of record, that consummation of the proposal would not have a significantly adverse effect on competition or on the concentration of banking resources in any relevant banking market and that competitive considerations are consistent with approval.

Financial, Managerial, and Other 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 supervisory and examination information from the U.S. banking supervisors of the institutions involved, and publicly reported and other financial information, including information provided by Applicants. In addition, the Board has consulted with Banco Central do Brasil ("BCB"), the agency with primary responsibility for the supervision and regulation of Brazilian banking organizations, including Banco do Brasil. The Board also has consulted with the Federal Deposit Insurance Corporation ("FDIC") and the Florida Office of Financial Regulation ("FOFR"), the federal and state agencies, respectively, with primary responsibility for the supervision and regulation of EuroBank.

³ Banco do Brasil share ownership data are as of June 30, 2011.

⁴ Previ is a subsidiary of Banco do Brasil for purposes of the BHC Act because Banco do Brasil selects three of the six Previ directors; a Banco do Brasil appointee on the Previ board is granted tie-breaking voting power; and Banco do Brasil selects three of the six Previ executive board members (and each Previ executive board decision must be approved by at least one Banco do Brasil appointee). Previ is considered to be a parent of Banco do Brasil by virtue of its share ownership in Banco do Brasil and its disproportionate voting power to elect three of the seven directors on the Banco do Brasil board. Consequently, Previ has also applied for approval to acquire EuroBank. Previ is and would remain subject to all activity restrictions applicable to qualifying foreign banking organizations.

⁵ Asset data are as of September 30, 2011. Statewide deposit and ranking data are as of June 30, 2010.

⁶ 12 U.S.C. § 1842(c)(1).

⁷ Banco do Brasil operates a branch office in the Miami banking market that does not offer insured deposits. On consummation of the proposal, Banco do Brasil's home state under the BHC Act would be Florida.

In evaluating the financial factors in proposals involving banking organizations, the Board reviews the financial condition of the applicants and the target depository institution.⁸ In assessing financial resources, the Board consistently has considered capital adequacy to be especially important. The Board also evaluates the financial condition of the combined organization, 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 resources of the organizations involved in the proposal. The capital levels of Banco do Brasil 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 seeking to acquire EuroBank. The proposed transaction is structured as a cash purchase of shares. Banco do Brasil would use existing resources to fund the purchase of shares. In light of the relative size of Banco do Brasil in relation to EuroBank, the transaction would have a minimal impact on Banco do Brasil's financial condition. Banco do Brasil has been profitable and would inject additional capital into EuroBank, causing EuroBank to be well capitalized. Based on its review of the record, the Board finds that Applicants have sufficient financial resources to effect the proposal.

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 Banco do Brasil's U.S. operations and of EuroBank. In addition, the Board has considered its supervisory experience and that of other relevant banking supervisory agencies with the organizations and their records of compliance with applicable banking and anti-money-laundering laws. As noted, the Board has consulted with the BCB. The Board also has considered Banco do Brasil's plans for implementing the acquisition, including the proposed management after consummation.

Section 3 of the BHC Act provides that the Board may not approve an application involving a foreign bank unless the bank is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.⁹ As noted, the BCB is the primary supervisor of Brazilian banks, including Banco do Brasil. The Board previously has determined that Banco do Brasil is subject to comprehensive supervision on a consolidated basis by its home country supervisor.¹⁰ Banco do Brasil continues to be supervised by the BCB on substantially the same terms and conditions. Based on this finding and all the facts of record, including consultation with the BCB, the Board has concluded that Banco do Brasil continues to be subject to comprehensive supervision on a consolidated basis by its home country supervisor.

⁸ A commenter expressed concerns about EuroBank's financial condition and management, including concerns based on a Notice of Charges and of Hearing issued by the FDIC on May 3, 2011. The Board has reviewed the financial and managerial factors in this proposal, including those comments, in the context of the financial and managerial condition of Applicants and the resulting organization. Moreover, as noted above, the Board has consulted with the FDIC and the FOFR.

⁹ 12 U.S.C. § 1842(c)(3)(B). As provided in Regulation Y, the Board determines whether a foreign bank is subject to consolidated home country supervision under the standards set forth in Regulation K. *See* 12 CFR 225.13(a)(4). 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 regular examination reports, audit reports, or otherwise; (iii) obtain information on the dealings with and relationship 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; (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.

¹⁰ *See* Board letter to Kathleen A. Scott, Esq. dated April 13, 2010.

In evaluating this proposal, the Board also considered whether Previ is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country. The Board has previously determined that the system of comprehensive supervision or regulation of a company may vary, depending on the nature of the acquiring company and the proposed investment.¹¹ The Board believes that Previ may be found to be subject to an appropriate type and level of comprehensive regulation on a consolidated basis, given its nature, and structure, and the fact that Banco do Brasil would exercise effective control over and manage the operations of EuroBank. Previ is the pension plan for Banco do Brasil employees and, as such, is subject to regulation by the Superintendência Nacional de Previdência Complementar, the supervisor of pension funds in Brazil (“PREVIC”), and Comissão de Valores Mobiliários, the securities and exchange commission of Brazil (“CVM”). PREVIC and CVM conduct annual and periodic inspections of Previ, respectively, and require Previ to submit reports about its operations. Specifically, Previ files reports with PREVIC concerning its investments, benefits provided, actions taken to prevent and combat money laundering and concealment of assets, internal controls, and updates on new statutes and regulations applicable to Previ. Based on all the facts of record, the Board has determined that Previ is subject to comprehensive supervision on a consolidated basis by its appropriate home country authorities for purposes of this application.

Section 3 of the BHC Act also requires the Board to take into consideration the extent to which the proposed acquisition would result in greater or more concentrated risk to the stability of the U.S. banking or financial system.¹² The Board has carefully considered the proposal’s potential impacts under the financial stability factor. Based on its review of the record, including consideration of the small size and scope of the operations of EuroBank, the Board finds that the proposed acquisition would not result in greater or more concentrated risk to the stability of the U.S. banking or financial system.

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.¹³

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

¹¹ See *Chuo Mitsui Trust Holdings, Inc.*, 97 *Federal Reserve Bulletin* 30 (2011); *China Investment Corporation*, 96 *Federal Reserve Bulletin* B31 (2010).

¹² 12 U.S.C. § 1842(c)(7), as added by section 604(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376.

¹³ Section 3 of the BHC Act also requires the Board to determine that an applicant has provided 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. 12 U.S.C. § 1842(c)(3)(A). The Board has reviewed the restrictions on disclosure in the relevant jurisdictions in which Banco do Brasil operates and has communicated with relevant government authorities concerning access to information. In addition, Banco do Brasil has committed that, to the extent not prohibited by applicable law, it will make available to the Board such information on the operations of its affiliates that the Board deems necessary to determine and enforce compliance with the BHC Act, the International Banking Act, and other applicable federal laws. Banco do Brasil also has committed to cooperate with the Board to obtain any waivers or exemptions that may be necessary to enable its affiliates to make such information available to the Board. Based on all facts of record, including the conditions in this order, the Board has concluded that Banco do Brasil has provided adequate assurances of access to any appropriate information the Board may request.

the Community Reinvestment Act (“CRA”).¹⁴ 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, and requires the appropriate federal financial supervisory agency to take into account a relevant depository institution’s record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, in evaluating bank expansionary proposals.¹⁵

The Board has considered carefully all the facts of record, including evaluations of the CRA performance record of EuroBank,¹⁶ data reported by EuroBank under the Home Mortgage Disclosure Act (“HMDA”),¹⁷ other information provided by Applicants, confidential supervisory information, and public comment received on the proposal. The commenter alleged that EuroBank had engaged in disparate treatment of African American individuals in home mortgage lending.

A. CRA Performance Evaluations

As provided in the CRA, the Board has reviewed the convenience and needs factor in light of the evaluations by the appropriate federal supervisors of the relevant insured depository institution’s CRA performance records. 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.¹⁸

EuroBank received a “Satisfactory” rating at its most recent CRA performance evaluation by the FDIC, as of March 17, 2009. The Board also has consulted with the FDIC regarding the activities of EuroBank since the 2009 CRA performance evaluation.

B. HMDA and Fair Lending Records

The Board has carefully considered the HMDA data for 2009 and 2010 reported by EuroBank in its assessment area and in the Miami metropolitan statistical area of concern to the commenter and has also considered the fair lending records of EuroBank, in light of public comment received on the proposal. Commenter alleged, based on HMDA data reported in 2009, that EuroBank had engaged in disparate treatment of African American individuals in home mortgage lending.

Although the HMDA data might reflect certain disparities in the rates of loan applications, originations, and denials 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 EuroBank is excluding or imposing higher costs on any group on a prohibited basis. The Board recognizes that HMDA data alone, even with the recent addition of pricing information, provide only limited information about the covered loans.¹⁹ HMDA data,

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

¹⁵ 12 U.S.C. § 2903.

¹⁶ Banco do Brasil currently does not operate an insured depository institution in the United States. Accordingly, Banco do Brasil’s U.S. operations are not subject to performance evaluations under the CRA.

¹⁷ 12 U.S.C. § 2801 *et seq.*

¹⁸ See *Interagency Questions and Answers Regarding Community Reinvestment*, 75 *Federal Register* 11642 at 11665 (2010).

¹⁹ 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

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 lending institutions are obligated to ensure that their lending practices are based on criteria that ensure not only safe and sound lending but also equal access to credit by creditworthy applicants, regardless of their race or ethnicity. 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 with fair lending laws by EuroBank.

The record of this proposal, including confidential supervisory information, indicates that EuroBank has taken steps to ensure compliance with fair lending and other consumer protection laws. EuroBank has in place a formal fair lending policy and program that includes its home mortgage and small business lending operations. EuroBank also provides internal compliance training, and the bank's staffs in bank management, line-of-business, and compliance attend outside conferences and seminars and other fair lending and consumer protection training sessions. Banco do Brasil has indicated that the combined institution would continue to have such policies and procedures on consummation of the proposal.

The Board also has considered the HMDA data in light of other information, including the overall performance record of EuroBank under the CRA. EuroBank's established efforts and records of performance demonstrate that the institution is not excluding individuals or geographies on a prohibited basis, contrary to the allegations of the commenter.²⁰ In fact, in the fair lending review conducted at the most recent CRA examination of EuroBank, the FDIC found no evidence of illegal credit discrimination. Moreover, the FDIC determined in the 2009 examination that the geographic distribution of the bank's small business loans reflected a strong performance in the assessment area.

C. Conclusion on Convenience and Needs and CRA Performance

The Board has considered carefully all the facts of record, including reports of examination of the CRA records of the institutions involved, information provided by Applicants, the public comment received on the proposal, and confidential supervisory information. Applicants represent that the proposal would result in increased credit availability and access to a broader array of financial products and services for customers of the combined organization. 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 and the CRA performance records of the relevant insured depository institutions are consistent with approval of the proposal.

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.

²⁰ Banco do Brasil has represented that EuroBank does not engage in extensive marketing of consumer credit products and that EuroBank's loans consist largely of commercial loans, including small business loans. As a result, EuroBank received a small number of HMDA-reportable loan applications, including applications from minority individuals, and made a small number of HMDA-reportable loans. The application and lending volumes were too small to draw any statistically significant conclusions.

Conclusion

Based on the foregoing, and in light of all the facts of record, the Board has determined that the application should be, and hereby is, approved.²¹ 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 and other applicable statutes.²² Should any restrictions on access to information on the operations or activities of Banco do Brasil or any of its affiliates subsequently interfere with the Board's ability to obtain information to determine and enforce compliance by Banco do Brasil or its affiliates with applicable federal statutes, the Board may require termination of any of Banco do Brasil's or its affiliates' direct or indirect activities in the United States. The Board's approval is specifically conditioned on compliance by Applicants with the conditions in this order and all the commitments made to the Board in connection with the proposal. For purposes of this action, these commitments and conditions are deemed to be conditions imposed in writing by the Board in connection with its findings and decision and, as such, may be enforced in proceedings under applicable law.

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

By order of the Board of Governors, effective December 16, 2011.

Voting for this action: Chairman Bernanke, Vice Chair Yellen, and Governors Duke, Tarullo, and Raskin.

Robert deV. Frierson
Deputy Secretary of the Board

Brookline Bancorp, Inc.
Brookline, Massachusetts

Order Approving the Acquisition of a Bank Holding Company

Brookline Bancorp, Inc. ("Brookline"), Brookline, Massachusetts, has requested the Board's approval under section 3 of the Bank Holding Company Act ("BHC Act")¹ to acquire Bancorp Rhode Island, Inc. ("BancorpRI") and its subsidiary bank, Bank Rhode Island ("BankRI"), both of Providence, Rhode Island.

²¹ Commenter requested that the Board hold a public hearing on the proposal. Section 3(b) of the BHC Act does not require the Board to hold a public hearing on an application unless the appropriate supervisory 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 regulations, the Board also may, in its discretion, hold a public hearing on an application to acquire a bank if necessary or appropriate to clarify factual issues related to the application and to provide an opportunity for testimony. 12 CFR 262.3(e) and 262.25(d). 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 views and, in fact, submitted written comments that the Board has considered carefully in acting on the proposal. The request fails to identify disputed issues of fact that are material to the Board's decision that would be clarified by a public hearing. For these reasons, and based on all the facts of record, the Board has determined that a public hearing or meeting is not required or warranted in this case. Accordingly, the request for a public hearing on the proposal is denied.

²² The commenter also alleged that Banco do Brasil is funding environmentally harmful projects in Brazil. The comments concern matters that are beyond the statutory factors the Board is authorized to consider. See *West-ern Bancshares, Inc. v. Board of Governors*, 480 F.2d 749 (10th Cir. 1973).

¹ 12 U.S.C. § 1842.

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (76 *Federal Register* 35893 (2011)). The time for filing comments has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3 of the BHC Act.

Brookline, with total consolidated assets of approximately \$3.1 billion, is the 227th largest insured depository organization in the United States, controlling \$2.2 billion in deposits.² Brookline controls two subsidiary insured depository institutions, Brookline Bank, Brookline, and The First National Bank of Ipswich (“FNBI”), Ipswich, both of Massachusetts, that operate only in Massachusetts. Brookline is the 15th largest depository organization in Massachusetts, controlling deposits of approximately \$1.7 billion, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the state.

BancorpRI, with total consolidated assets of \$1.6 billion, controls BankRI, which operates only in Rhode Island. BankRI is the sixth largest insured depository institution in Rhode Island, controlling deposits of \$1.1 billion.

On consummation of the proposal, Brookline would become the 165th largest depository organization in the United States, with total consolidated assets of approximately \$4.7 billion. Brookline would control deposits of approximately \$3.3 billion, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the United States.

Interstate Analysis

Section 3(d) of the BHC Act allows the Board to approve an application by a bank holding company to acquire control of a bank located in a state other than the bank holding company’s home state if certain conditions are met. For purposes of the BHC Act, the home state of Brookline is Massachusetts,³ and BancorpRI is located in Rhode Island.⁴

Based on a review of all the facts of record, including relevant state statutes, the Board finds that the conditions for an interstate acquisition enumerated in section 3(d) are met in this case.⁵ In light of all facts of record, the Board is permitted to approve the proposal under section 3(d) of the BHC Act.

² Deposit data are as of June 30, 2011, updated to reflect mergers through that date. In this context, insured depository institutions include commercial banks, savings associations, and savings banks. National deposit data and rankings are as of June 30, 2011.

³ See 12 U.S.C. § 1842(d). 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.

⁴ 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) and 1842(d)(1)(A) and 1842(d)(2)(B).

⁵ 12 U.S.C. §§ 1842(d)(1)(A)–(B) and 1842(d)(2)–(3). Brookline is well capitalized and well managed, as defined by applicable law. BankRI has been in existence and operated for the minimum period of time required by Rhode Island law and for more than five years. See 12 U.S.C. § 1842(d)(1)(B)(i)–(ii). On consummation of the proposal, Brookline would control less than 10 percent of the total amount of deposits of insured depository institutions in the United States. 12 U.S.C. § 1842(d)(2)(A). Brookline also would control less than 30 percent of the total amount of deposits in insured depository institutions in Rhode Island. 12 U.S.C. § 1842(d)(2)(B)–(D). All other requirements of section 3(d) of the BHC Act would be met on consummation of the proposal.

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 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.⁶

Brookline and BancorpRI do not compete directly in any relevant banking market. Based on all the facts of record, the Board has concluded that consummation of the proposal would not have a significantly adverse effect on competition or on the concentration of banking resources in any relevant banking market and that competitive factors are consistent with approval of the proposal.

Financial, Managerial, and Other 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.⁷ The Board has carefully considered those factors in light of all the facts of record, including confidential supervisory and examination information received from the relevant federal and state supervisors of the organizations involved in the proposal, other publicly available financial information, information provided by Brookline, and public comment received on the proposal.

In evaluating financial factors in expansionary proposals by banking organizations, the Board reviews the financial condition of the organizations involved on both a parent-only and consolidated basis, as well as the financial condition of the subsidiary depository institutions and the organizations' significant nonbanking operations. In this evaluation, the Board considers a variety of information, including capital adequacy, asset quality, and earnings performance. 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 considered the proposal carefully under the financial factors. Brookline, Brookline Bank, BancorpRI, and BankRI are well capitalized and will remain so on consummation of the proposal. FNBI is adequately capitalized and also will remain so on consummation of the proposal. The proposed transaction is structured as a partial share exchange and a partial cash purchase of shares. Brookline will fund the cash portion of the acquisition from a special dividend from Brookline Bank, which the Office of the Comptroller of the Currency ("OCC") has approved. Based on its review of the record, the Board finds that Brookline has sufficient financial resources to effect the proposal.

The Board also has considered the managerial resources of the organizations involved and of the proposed combined organization. The Board has reviewed the examination records of Brookline, BancorpRI, and their subsidiary depository institutions, including assessments of their management, risk-management systems, and operations. In addition, the Board has considered its supervisory experiences and those of other relevant bank supervi-

⁶ 12 U.S.C. § 1842(c)(1).

⁷ 12 U.S.C. § 1842(c)(2) and (3).

sory agencies with the organizations and their records of compliance with applicable banking and anti-money-laundering laws. Brookline and its subsidiary depository institutions are considered to be well managed. The Board has carefully considered the comment it received on the proposal.⁸ The Board also has considered Brookline's plans for implementing the proposal, including the proposed management after consummation. In addition, the Board has considered the future prospects of the organizations involved in the proposal in light of financial and managerial resources and Brookline's proposed business plan.

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.

Convenience and Needs Considerations and Financial Stability

In acting on a proposal under section 3 of the BHC Act, the Board must consider the effects of the proposal on the convenience and needs of the communities to be served and take into account the records of the relevant depository institutions under the Community Reinvestment Act ("CRA").⁹ The CRA requires the federal financial supervisory agencies to encourage financial institutions to 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 neighborhoods, in evaluating bank acquisition proposals. Accordingly, the Board has carefully considered the convenience and needs factor and the CRA performance records of Brookline Bank, FNBI, and BankRI in light of all the facts of record.

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.¹⁰ Brookline Bank, FNBI, and BankRI received "satisfactory" ratings at their most recent examinations for CRA performance by the Office of Thrift Supervision, the OCC, and the Federal Deposit Insurance Corporation, as of November 3, 2008, June 2, 2008, and June 25, 2010, respectively. Moreover, the facts of record do not reflect a subsequent decline in the CRA performance of any of the three institutions since those examinations.

⁸ A commenter alleged that management of Brookline Bank is deficient because the bank used commenter's material regarding reverse mortgages in violation of copyright and trademark law. The commenter also alleged that Brookline Bank has not provided reverse mortgage candidates with counseling in violation of state law. Brookline represented that it was not subject to state approval requirements for reverse mortgage loan programs, has not made reverse mortgage loans since 2009, and has no plans to resume originating reverse mortgage loans. Brookline Bank also has replaced its chief executive officer, hired a full-time compliance officer, and added compliance staff since 2009, which should strengthen its monitoring procedures and compliance audit process. Moreover, Brookline noted that with the assistance of an independent compliance company, it is reviewing all relevant loans and will remedy any identified compliance issues to ensure that none of the borrowers has been or will be overcharged because of inadequate disclosure. In evaluating the financial and managerial factors that the Board must consider under section 3 of the BHC Act, the Board has considered these and other facts of record with respect to litigation involving the copyright and trademark matters, information provided by Brookline regarding its reverse mortgage loans, and confidential supervisory information, including records of compliance with consumer laws and regulations.

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

¹⁰ See *Interagency Questions and Answers Regarding Community Reinvestment*, 75 *Federal Register* 11642 at 11665 (2010).

Based on all the facts of record and for the reasons discussed above, the Board concludes that considerations relating to convenience and needs, including the CRA performance records of the relevant depository institutions, are consistent with approval of the proposal.

The Board has also carefully considered information relevant to risks to the stability of the United States banking or financial system. The Board concludes that financial stability considerations in this proposal are consistent with approval.

Conclusion

Based on the foregoing, and in light of 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 the application record in light of the factors that it is required to consider under the BHC Act and other applicable statutes. The Board's approval is specifically conditioned on compliance by Brookline with all the conditions imposed in this order and the commitments made to the Board in connection with the application, including receipt of all required regulatory approvals. 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 proposed transaction may not be consummated before the fifteenth calendar day after the effective date of this order, or later than three months after the effective date of this order, unless such period is extended for good cause by the Board or the Federal Reserve Bank of Boston, acting pursuant to delegated authority.

By order of the Board of Governors, effective December 9, 2011.

Voting for this action: Chairman Bernanke, Vice Chair Yellen, and Governors Duke, Tarullo, and Raskin.

Robert deV. Frierson
Deputy Secretary of the Board

Goering Management Company, LLC
Moundridge, Kansas

Goering Financial Holding Company Partnership, L.P.
Moundridge, Kansas

Bon, Inc.
Moundridge, Kansas

Order Approving the Acquisition of a Bank Holding Company

Goering Management Company, LLC ("Goering Management") and its subsidiaries, Goering Financial Holding Company Partnership, L.P. ("Goering Financial") and Bon, Inc. (collectively, "Bon"), all of Moundridge,¹ have requested the Board's approval under

¹ Goering Management, Goering Financial, and Bon are bank holding companies under the BHC Act that have made effective elections to be financial holding companies. Goering Management and Goering Financial are bank holding companies because they control Bon, Inc., a bank holding company that directly controls one bank, The Citizens State Bank, also of Moundridge.

section 3 of the Bank Holding Company Act (“BHC Act”)² to acquire Home State Bancshares, Inc. (“Home State”) and its subsidiary bank, Home State Bank & Trust Company (“Home State Bank”), both of McPherson, all of Kansas.

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (76 *Federal Register* 56760 (2011)). The time for filing comments has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3 of the BHC Act.

Bon, with total consolidated assets of approximately \$265 million, is the 2612th largest insured depository organization in the United States.³ Bon’s subsidiary bank, The Citizens State Bank, operates only in Kansas. Bon is the 57th largest insured depository organization in Kansas, controlling deposits of approximately \$218.3 million, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the state.

Home State, with total consolidated assets of \$133 million, controls Home State Bank, which also operates only in Kansas. Home State Bank is the 110th largest insured depository institution in Kansas, controlling deposits of \$105.4 million, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the state.

On consummation of the proposal, Bon would become the 1754th largest insured depository organization in the United States, with total consolidated assets of approximately \$398 million. Bon would control deposits of approximately \$323.7 million, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the United States. In Kansas, Bon would become the 38th largest depository organization and control less than 1 percent of deposits of insured depository institutions in the state.

Competitive Considerations

Section 3 of the BHC Act prohibits the Board from approving a proposal that would result in a monopoly or would be in furtherance of any attempt to monopolize the business of banking in any relevant 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 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.⁴

The Citizens State Bank and Home State Bank compete directly in the McPherson, Kansas banking market.⁵ 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 banking market, the relative shares of total deposits in depository institutions in the market (“market deposits”) controlled by Bon and Home State,⁶ the concentration levels of market deposits and the increase in those levels as measured by the Herfindahl-Hirschman Index (“HHI”) under

² 12 U.S.C. § 1842.

³ Asset data are as of September 30, 2011. Deposit data are as of June 30, 2011. In this context, insured depository institutions include commercial banks, savings associations, and savings banks.

⁴ 12 U.S.C. § 1842(c)(1).

⁵ The McPherson market is defined as McPherson County and the towns of Crawford, Little River, and Mitchell in Rice County, all in Kansas.

⁶ Deposit and market share data are as of June 30, 2011.

the Department of Justice Bank Merger Competitive Review guidelines (“DOJ Guidelines”),⁷ and other characteristics of the market.

The structural effects that consummation of the proposal would have on the McPherson banking market warrant a detailed review because the concentration level on consummation would exceed the threshold levels in the DOJ Guidelines. The Citizens State Bank is the second largest insured depository institution in the McPherson banking market, controlling deposits of approximately \$113.2 million, which represent approximately 16.2 percent of the market deposits. Home State Bank is the third largest insured depository institution in the McPherson banking market, controlling deposits of approximately \$105.4 million, which represent approximately 15.1 percent of the market deposits. On consummation, the HHI in this market would increase by 489 points, from 1577 to 2066, and The Citizens State Bank would become the largest banking firm in the market with a pro forma share of market deposits of approximately 31.3 percent.

The Board has considered carefully whether other factors either mitigate the competitive effects of the proposal or indicate that the proposal would have a significantly adverse effect on competition in the McPherson banking market.⁸ Several factors indicate that the increase in concentration in the McPherson banking market, as measured by the HHI and share of market deposits, overstates the potential competitive effects of the proposal in the market. After consummation of the proposal, 12 other commercial bank competitors would remain, some with a significant presence in the market. The second largest bank competitor in the market would closely approximate the size of Bon on consummation, controlling about 29.5 percent of market deposits. Another bank competitor would control more than 10 percent of market deposits. In addition, the market deposits of six other bank competitors in the market have recently increased at a rate well above the growth rate of market deposits for Bon or Home State.⁹

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

Based on these and other facts of record, the Board has concluded 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, based on all the facts of record, the Board has determined that competitive considerations are consistent with approval.

⁷ Under the DOJ 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 recently issued revised Horizontal Merger Guidelines, the DOJ has confirmed that its guidelines for bank mergers or acquisitions, which were issued in 1995, were not changed. Press Release, Department of Justice (August 19, 2010), available at www.justice.gov/opa/pr/2010/August/10-at-938.html.

⁸ The number and strength of factors necessary to mitigate the competitive effects of a proposal depend on the size of the increase in, and resulting level of, concentration in a banking market. See *NationsBank Corp.*, 84 *Federal Reserve Bulletin* 129 (1998).

⁹ From 2005 to 2010, the market deposits of six banks with market shares smaller than Bon and Home State increased at rates ranging from 28 percent to 113 percent. During the same time period, the market deposits of Bon and Home State increased by 15 percent and 19 percent, respectively.

Financial, Managerial, and Other 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.¹⁰ The Board has carefully considered these factors in light of all the facts of record, including supervisory and examination information received from the relevant federal and state supervisors of the organizations involved in the proposal, and other available financial information, including information provided by Bon.

In evaluating financial factors in expansion proposals by banking organizations, the Board reviews the financial condition of the organizations involved on both a parent-only and consolidated basis, as well as the financial condition of the subsidiary 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. 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 considered the proposal carefully under the financial factors. Bon, Home State, and their subsidiary depository institutions are well capitalized and would remain so on consummation of the proposal. The proposed transaction is structured as a cash purchase of shares. Bon will use existing cash resources and the proceeds of a new debt issuance to fund the purchase. Based on its review of the record, the Board finds that Bon has sufficient financial resources to effect the proposal.

The Board also has considered the managerial resources of the organizations involved and of the proposed combined organization. The Board has reviewed the examination records of Bon, Home State, and their subsidiary depository institutions, including assessments of their management, risk-management systems, and operations. In addition, the Board has considered its supervisory experiences and those of the other relevant bank supervisory agencies with the organizations and their records of compliance with applicable banking law, including anti-money-laundering laws. Bon and its subsidiary depository institution are considered to be well managed. The Board also has considered Bon's plans for implementing the proposal, including the proposed management after consummation of the proposal. In addition, the Board has considered the future prospects of the organizations involved in the proposal in light of the financial and managerial resources and the proposed business plan.

Based on all the facts of record, the Board concludes 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 and Financial Stability

In acting on a proposal under section 3 of the BHC Act, the Board must consider the effects of the proposal on the convenience and needs of the communities to be served and take into account the records of the relevant depository institutions under the Community Reinvestment Act ("CRA").¹¹ The CRA requires the federal financial supervisory agencies

¹⁰ 12 U.S.C. § 1842(c)(2) and (3).

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

to encourage financial institutions to 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 neighborhoods, in evaluating bank acquisition proposals. Accordingly, the Board has carefully considered the convenience and needs factor and the CRA performance records of The Citizens State Bank and Home State Bank in light of all the facts of record.

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.¹² The Citizens State Bank and Home State Bank received "satisfactory" ratings at their most recent examinations for CRA performance by the Federal Deposit Insurance Corporation as of November 3, 2008, and January 11, 2010, respectively.

Based on all the facts of record and for the reasons discussed above, the Board concludes that considerations relating to the convenience and needs, including the CRA performance records of the relevant depository institutions, are consistent with approval of the proposal.

The Board has also carefully considered information relevant to risks to the stability of the United States banking or financial system. The Board concludes that financial stability considerations in this proposal are consistent with approval.

Conclusion

Based on the foregoing and all the facts of record, the Board has determined that the application under section 3 of the BHC Act 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. The Board's approval is specifically conditioned on compliance by Bon with all the conditions imposed in this order and all the commitments made to the Board in connection with the application and on receipt of all other required regulatory approvals for the proposal. These conditions and commitments are deemed to be conditions imposed in writing by the Board in connection with its findings and decision and, as such, may be enforced in proceedings under applicable law.

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

By order of the Board of Governors, effective November 28, 2011.

Voting for this action: Chairman Bernanke, Vice Chair Yellen, and Governors Duke, Tarullo, and Raskin.

Robert deV. Frierson
Deputy Secretary of the Board

¹² See *Interagency Questions and Answers Regarding Community Reinvestment*, 75 *Federal Register* 11642 at 11665 (2010).

The PNC Financial Services Group, Inc.
Pittsburgh, Pennsylvania

PNC Bancorp, Inc.
Wilmington, Delaware

Order Approving Acquisition of a State Member Bank

The PNC Financial Services Group, Inc., a financial holding company within the meaning of the Bank Holding Company Act (“BHC Act”), and its wholly owned subsidiary, PNC Bancorp, Inc., a bank holding company within the meaning of the BHC Act (jointly, “PNC”), have requested the Board’s approval under section 3 of the BHC Act¹ to acquire RBC Bank (USA), Raleigh, North Carolina (“RBC Bank”), a state member bank, from RBC USA Holdco Corporation, a wholly owned subsidiary of the Royal Bank of Canada.²

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (76 *Federal Register* 50480 (2011)). The time for filing comments has expired, and the Board has considered the proposal and all comments received in light of the factors set forth in section 3 of the BHC Act.

PNC, with total consolidated assets of approximately \$263 billion as of June 30, 2011, is the seventh largest depository organization in the United States, controlling deposits of approximately \$180 billion, which represent approximately 2 percent of the total amount of deposits of insured depository institutions in the United States. PNC Bank operates in sixteen states and the District of Columbia³ and engages in numerous nonbanking activities that are permissible under the BHC Act.⁴ PNC Bank is the largest insured depository organization in Pennsylvania, controlling deposits of approximately \$62 billion, which represent 21 percent of the total amount of deposits of insured depository institutions in the state. PNC Bank is the 14th largest insured depository organization in Florida, controlling deposits of approximately \$5 billion, and the 82nd largest insured depository institution in Georgia, controlling deposits of \$237 million, which represent 1.2 percent and less than 1 percent of the total amount of deposits of insured depository institutions in those states, respectively.

RBC Bank, with total consolidated assets of approximately \$27 billion as of June 30, 2011, operates in Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia. In North Carolina, RBC Bank is the fifth largest depository institution, controlling deposits in the state of approximately \$10 billion. RBC Bank is the 20th largest insured depository institution in Florida and the eighth largest insured depository institution in Georgia, controlling deposits of approximately \$3 billion in each of those states.

¹ 12 U.S.C. § 1842.

² After the acquisition, PNC plans to merge RBC Bank with and into its only subsidiary depository institution, PNC Bank, National Association, Pittsburgh (“PNC Bank”).

³ PNC Bank currently operates branches in Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, Wisconsin, and the District of Columbia. PNC Bank also has limited-purpose branches in Toronto, Canada, and Nassau, The Bahamas.

⁴ PNC has a 21 percent financial interest in Blackrock, Inc. (“Blackrock”), New York, New York, and holds almost 24 percent of the voting shares of Blackrock. In addition, PNC selects two members of Blackrock’s seventeen-member board of directors, and PNC and Blackrock have a number of business relationships. For BHC Act purposes, PNC is considered to control Blackrock. For accounting and financial reporting purposes, PNC treats its interest in Blackrock as an equity investment. Blackrock is a publicly traded company and one of the largest asset managers in the world, with approximately \$3.4 trillion in assets under management.

On consummation of the proposal, PNC Bank would become the fifth largest depository organization in the United States, with consolidated deposits of \$201 billion, representing approximately 2.2 percent of the total amount of deposits of insured depository institutions in the United States. In Pennsylvania, PNC Bank would remain the largest depository organization, controlling deposits of approximately \$62 billion (approximately 21 percent of deposits of insured depository institutions in the state). In Florida, PNC Bank would become the ninth largest depository organization, controlling deposits of approximately \$8 billion (approximately 2 percent of deposits of insured depository institutions in the state), and in Georgia, PNC Bank would become the eighth largest depository organization, controlling deposits of approximately \$3.1 billion (approximately 1.7 percent of deposits of insured depository institutions in the state).

Interstate and Deposit Cap Analyses

Section 3 of the BHC Act imposes certain requirements on interstate transactions. Section 3(d) generally provides that the Board may approve an application by a bank holding company (“BHC”) that is well capitalized and well managed⁵ to acquire a bank located in a state other than the home state of the BHC without regard to whether the transaction is prohibited under state law. However, this section further provides that the Board may not approve an application that would permit an out-of-state BHC to acquire a bank in a host state that has not been in existence for the lesser of the state statutory minimum period of time or five years.⁶ In addition, the Board may not approve an application by a BHC to acquire an insured depository institution if the home state of such insured depository institution is a state other than the home state of the BHC, and the applicant controls or would control more than 10 percent of the total amount of deposits of insured depository institutions in the United States (“nationwide deposit cap”).⁷

For purposes of the BHC Act, the home state of PNC is Pennsylvania and RBC Bank’s home state is North Carolina.⁸ PNC is well capitalized and well managed under applicable law. North Carolina law has no minimum age requirement,⁹ and RBC Bank has been in existence for more than five years.

Based on the latest available data reported by all insured depository institutions in the United States, the total amount of deposits of insured depository institutions is \$8.9 trillion. On consummation of the proposed transaction, PNC would control approximately 2.2 percent of the total amount of deposits in insured depository institutions in the United States. Accordingly, in light of all the facts of record, the Board is not required to deny the proposal under section 3(d) of the BHC Act.

⁵ The standard was changed from adequately capitalized and adequately managed to well capitalized and well managed by section 607(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”), Pub. L. No. 111–203, 124 Stat. 1376, codified at 12 U.S.C. § 1842(d)(1)(A).

⁶ 12 U.S.C. § 1842(d)(i)(B).

⁷ 12 U.S.C. § 1842(d)(2)(A). For a detailed discussion of the nationwide deposit cap, see *Bank of America Corporation/LaSalle*, 93 *Federal Reserve Bulletin* 109, 109–110 (2007); *Bank of America Corporation/Fleet*, 90 *Federal Reserve Bulletin* 217, 219–220 (2004).

⁸ A bank holding company’s home state is the state in which the total deposits of all subsidiary banks of the company were the largest on July 1, 1966, or the date on which the company became a bank holding company, whichever is later. 12 U.S.C. § 1841(o)(4)(C). 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. 12 U.S.C. §§ 1841(o)(4)–(7), 1842(d)(1)(A), and 1842(d)(2)(B).

⁹ See N.C.G.S. § 53-224.19 (permitting interstate merger acquisitions but not imposing an age requirement).

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 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.¹⁰

The Board has considered the competitive effects of the proposal in light of all the facts of record. PNC Bank and RBC Bank compete directly in ten local markets: Brevard, Daytona Beach, Fort Pierce, Indian River, Miami-Fort Lauderdale, Naples, Orlando, Tampa Bay, and West Palm Beach, all in Florida; and Atlanta, Georgia. The Board has considered the number of competitors that would remain in the markets, the relative shares of total deposits in depository institutions in the markets controlled by PNC Bank and RBC Bank, the concentration levels of market deposits and the increases in those levels as measured by the Herfindahl-Hirschman Index (“HHI”) under the Department of Justice Bank Merger Competitive Review guidelines (“DOJ Guidelines”),¹¹ and other characteristics of the markets.

Consummation of the proposal would be consistent with Board precedent and within the thresholds in the DOJ Guidelines in each of the ten banking markets. On consummation of the proposal, eight markets would remain moderately concentrated and two markets would remain unconcentrated, as measured by the HHI. Numerous competitors would remain in all ten markets. The change in the HHI’s measure of concentration would be less than 100 points in nine of the ten markets. In Indian River, the change in the HHI’s measure of concentration would be 184 points, and the post-merger HHI would be 1477, which is within the limits of the DOJ Guidelines.

The DOJ has conducted a detailed review of the potential competitive effects of the proposal and has advised the Board that consummation of the transaction 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 the facts of record, the Board has concluded 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 and that competitive considerations are consistent with approval.

¹⁰ 12 U.S.C. § 1842(c)(1).

¹¹ Under the DOJ 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 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 DOJ has stated that the higher-than-normal HHI thresholds for screening bank mergers and acquisitions for anticompetitive effects implicitly recognize the competitive effects of limited-purpose and other nondepository financial entities. Although the DOJ and the Federal Trade Commission issued revised Horizontal Merger Guidelines in 2010, the DOJ has confirmed that its guidelines for bank mergers or acquisitions, which were issued in 1995, were not changed. Press Release, Department of Justice (August 19, 2010), available at www.justice.gov/opa/pr/2010/August/10-at-938.html.

Other Section 3(c) Considerations

Section 3(c) of the BHC Act requires the Board to take into consideration a number of other factors in acting on bank acquisition applications. These are: the financial and managerial resources (including consideration of the competence, experience, and integrity of officers, directors, and principal shareholders) and future prospects of the company and banks concerned; effectiveness of the company in combatting money laundering; the convenience and needs of the community to be served; and the extent to which the proposal would result in greater or more concentrated risks to the stability of the United States banking or financial system. The Board has considered all these factors and, as described below, has determined that all considerations are consistent with approval of the application.¹² The review was conducted in light of all the facts of record, including supervisory and examination information from various U.S. banking supervisors of the institutions involved, publicly reported and other financial information, and information provided by PNC.

A. Financial, Managerial, and Other Supervisory Considerations

In evaluating financial factors in expansionary proposals by banking organizations, the Board reviews the financial condition of the organizations involved on both a parent-only and consolidated basis, as well as the financial condition of the subsidiary banks and significant nonbanking operations. In this evaluation, the Board considers a variety of information, including capital adequacy, asset quality, and earnings performance. The Board evaluates the financial condition of the pro forma organization, including its capital position, asset quality, and earnings prospects, and the impact of the proposed funding on the transaction. The Board also considers the ability of the organization to absorb the costs of the proposal and the proposed integration of the operations of the institutions. In assessing financial factors, the Board consistently has considered capital adequacy to be especially important.

The Board has considered the financial factors of the proposal. PNC and PNC Bank are well capitalized and would remain so on consummation of the proposed acquisition. The proposed transaction is structured as a stock purchase of all the shares of RBC Bank (and the related credit card portfolio of RBC's Georgia bank affiliate), for a total payment of \$3.6 billion. The purchase would be financed with the proceeds from \$1.0 billion of noncumulative preferred stock, \$1.25 billion of five-year subordinated debt that was issued in the third quarter of 2011, and other available cash resources. Although capital ratios would decline upon consummation, PNC and PNC Bank would have capital ratios well above the established regulatory minimums. In addition, PNC has been performing capital stress testing since the second quarter of 2009. Under its most recent testing, PNC Bank projected that it would be able to maintain a baseline tier 1 common equity ratio at a level acceptable to the Board. Asset quality and earnings prospects are consistent with approval, and PNC appears to have adequate resources to absorb the costs of the proposal and the proposed integration of the institutions' operations. Based on its review of the record, the Board finds that PNC has sufficient financial resources to effect the proposal.

The Board also has considered the managerial resources of the organizations involved. The Board has reviewed the examination records of PNC, PNC Bank, and RBC Bank, including assessments of their management, risk-management systems, and operations. In addi-

¹² Because each factor under section 3(c) was independently consistent with approval in this case, there was no need for the Board to consider weighing one factor against others. The Board notes that section 4, which deals with acquisitions of nonbanks including insured depository institutions that are not banks, specifically requires a weighing of public benefits against adverse effects.

tion, the Board has considered its supervisory experiences and those of other relevant banking supervisory agencies with the organizations and their records of compliance with applicable banking law, including anti-money-laundering laws.

PNC and PNC Bank are each considered to be well managed. PNC has a demonstrated record of successfully integrating large organizations into its operations and risk-management systems following acquisitions, including its integrations of Riggs National Corporation in 2005, Mercantile Bancshares Corporation in 2007, Sterling Financial Corporation in 2008, and National City Corporation, an institution of roughly equal size to PNC at the time of its acquisition, in 2009. PNC is devoting significant financial and other resources to address all aspects of the post-acquisition integration process for this proposal. PNC would implement its risk-management policies, procedures, and controls at the combined organization that are acceptable from a supervisory perspective. In addition, PNC's management has the experience and resources to ensure that the combined organization operates in a safe and sound manner, and PNC is proposing to integrate RBC Bank's existing management and personnel in a manner that augments PNC's management.

PNC's integration record, managerial and operational resources, and plans for operating the combined institutions after consummation provide a reasonable basis to conclude that managerial factors are consistent with approval. Based on all the facts of record, the Board has concluded that considerations relating to the financial and managerial resources and future prospects of the organizations involved are consistent with approval.

B. Convenience and Needs Considerations

Under section 3, the Board must consider the effects of the proposal on the convenience and needs of the communities to be served and take into account the records of the relevant depository institutions under the Community Reinvestment Act ("CRA").¹³ 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,¹⁴ and requires the appropriate federal financial supervisory agency to take into account a relevant depository institution's record of meeting the credit needs of its entire community, including low- and moderate-income ("LMI") neighborhoods, in evaluating bank expansionary proposals.¹⁵

The Board has considered the convenience and needs factor and the CRA performance records of the relevant insured depository institutions. As provided in the CRA, the Board evaluates the record of performance of an institution in light of examinations by the appropriate federal supervisors of the CRA performance records of the relevant institutions.¹⁶ 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. PNC Bank received an "outstanding" rating at its most recent CRA performance evaluation by the Office of the Comptroller of the Currency, as of September 30, 2009, and RBC Bank received a "satisfactory" rating at its most recent CRA performance evaluation by the Federal Reserve, as of June 21, 2010. Moreover, the facts of record do not reflect a subsequent decline in the CRA performance of the two institutions since those

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

¹⁴ 12 U.S.C. § 2901(b).

¹⁵ 12 U.S.C. § 2903.

¹⁶ See *Interagency Questions and Answers Regarding Community Reinvestment*, 75 *Federal Register* 11642 at 11665 (2010).

examinations. The Board has also received 121 comments on the proposal, all in support of the transaction, including 104 comments from community groups.

The Board has considered all the facts of record, including reports of examination of the CRA records of the institutions involved, information provided by PNC, and confidential supervisory information. PNC represents that the proposal will benefit the convenience and needs of the communities currently served by RBC Bank in several ways. PNC intends to offer its treasury management, capital markets, and other corporate services to RBC Bank's corporate clients and to enhance RBC Bank's consumer products with PNC home mortgage loans, including loans designed for the credit needs of LMI borrowers. Consummation of the proposal would provide access to a larger ATM network to current customers of PNC Bank and RBC Bank. PNC also plans to extend its community development activities to the communities currently served by RBC Bank, offering deposit and lending products designed to address the banking needs of LMI families and communities, community-based organizations, and small businesses. PNC intends to deploy teams from its community development banking group into areas currently served by RBC Bank to ensure the promotion of community development lending, investment, and outreach. These efforts would include monetary grants and volunteer services supporting school readiness and Head Start programs in communities served by PNC Bank; a dedicated team focusing on small business lending in certain LMI areas; and strategic investments through a community development subsidiary and specialized New Market Tax Credit and Low-Income-Housing Tax Credit programs designed to foster small business job growth and affordable-housing development. The proposal would result in increased geographic diversification that could reduce the combined company's exposure to regional economic downturns and that could increase administrative efficiency, thereby providing indirect benefits to customers. Based on all the facts of record, the Board has concluded that considerations relating to the convenience and needs of the communities to be served and the CRA performance records of the relevant depository institutions are consistent with approval.

C. Financial Stability

The Dodd-Frank Act amended section 3 of the BHC Act to require the Board also 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."¹⁷ In analyzing this factor, the Board has considered whether the proposal would result in a material increase in risks to financial stability due to the increase in size of the combining firms, a reduction in the availability of substitute providers for the services offered by the combining firms, the extent of interconnectedness among the combining firms and the rest of the financial system, the extent to which the combining firms contribute to the complexity of the financial system, and the extent of cross-border activities of the combining firms.¹⁸ The Board has also considered the relative degree of difficulty of

¹⁷ Section 604(d) of the Dodd-Frank Act, Pub. L. No. 111–203, 124 Stat. 1376, codified at 12 U.S.C. § 1842(c)(7). Other provisions of the Dodd-Frank Act impose a similar requirement that the Board consider or weigh the risks to financial stability posed by a merger, acquisition, or expansionary proposal by a financial institution. See sections 163, 173, and 604(e) and (f) of the Dodd-Frank Act. A special process was established by the Dodd-Frank Act for requiring the divestiture of a business by a financial firm. Section 121 of the act provides that the Board shall require a financial firm to divest or terminate a business only if the Board determines that the company "poses a grave threat to the financial stability of the United States," the Financial Stability Oversight Council ("FSOC") by a vote of two-thirds of its members approves the requirement to divest or terminate the business, and the Board has determined that actions other than divestiture or termination of the business are inadequate to mitigate the grave threat. 12 U.S.C. § 5331.

¹⁸ These categories correspond to those used by the Basel Committee to assess the systemic importance of globally active banking organizations. See Basel Committee of Banking Supervision, "Global systemically important banks: assessment methodology and the additional loss absorbency requirement. Rules text." November 2011. These categories are not exhaustive, and additional categories could inform the Board's decision. The

resolving the combined firm.¹⁹ The Board has assessed these factors individually and in combination and has based its assessment on quantitative analysis,²⁰ using publicly available data, data compiled through the supervisory process, and data obtained through information requests to the institutions involved in the proposal, as well as on qualitative judgments.²¹

Size. An organization's size is one important indicator of the risk the organization poses to the financial system. Congress has imposed a specific 10 percent nationwide deposit limit and a 10 percent nationwide liabilities limit on potential combinations by banking organizations.²² Other provisions of the Dodd-Frank Act impose special or enhanced supervisory requirements on large banking organizations.²³

The Board has considered measures of PNC's size relative to the USFS, including PNC's consolidated assets, its total leverage ratio exposures,²⁴ and its U.S. deposits. As a result of the proposed acquisition, PNC would become the 19th largest USFI based on assets, with \$291 billion or 1.1 percent of USFS assets. PNC would become the 16th largest USFI based on leverage exposures, with \$420 billion or 1.2 percent of USFS leverage exposures. PNC also would become the fifth largest USFI based on U.S. deposits, with \$201 billion or 2.2 percent of total U.S. deposits.

Board expects to issue a notice of proposed rulemaking implementing the provisions of the Dodd-Frank Act that require the Board to take into account a proposal's impact on the risks to the stability of the U.S. financial or banking system. The public would have an opportunity through the rulemaking process to provide the Board with views on how it should take the financial stability factor into account when reviewing applications and notices.

¹⁹ Blackrock is considered to be a subsidiary of PNC for purposes of the BHC Act. However, PNC owns only a minority of the shares of Blackrock, and neither GAAP nor public reporting rules require Blackrock to be consolidated into PNC's balance sheet. PNC's financial operations are not integrated with those of Blackrock, and other operational ties between the two are relatively limited. Based on these and other facts of record, the Board has treated Blackrock as an equity investment of PNC for purposes of the financial stability analysis. This analysis might change if facts regarding their relationship change; for example, if PNC were to increase its stake in Blackrock or establish more significant operational linkages with Blackrock. PNC would require Board approval under section 163(b) of the Dodd-Frank Act to increase its investment in Blackrock, which would require a review of whether the transaction would result in "greater or more concentrated risks to the stability of the United States banking or financial system." Section 163(b) of the Dodd-Frank Act, Pub. L. No. 111-203, 124 Stat. 1376, codified at 12 U.S.C. § 5363.

²⁰ Much of the data considered by the Board represent measures of an institution's activities relative to the U.S. financial system ("USFS"). For this purpose, the USFS comprises all U.S. financial institutions ("USFIs") used in computing total liabilities for purposes of calculating the limitation on liabilities of a financial company required under section 622 of the Dodd-Frank Act and includes U.S.-based bank and nonbank affiliates of foreign banking organizations. In connection with its supervision of nonbank financial institutions that the FSOC determines could pose a threat to the financial stability of the United States, the Board may require financial and other reporting by these institutions, which would increase the pool of available data for financial stability analyses. See sections 113 and 151 of the Dodd-Frank Act, codified at 12 U.S.C. §§ 5323 and 5341, respectively.

²¹ In developing the financial stability analysis used in this proposal, the Board has taken into consideration related Board initiatives on financial stability to the extent appropriate, such as proposals to set capital surcharges for global systemically important financial institutions and to identify nonbank systemically important financial institutions. The Board recognizes that a merger analysis is unique in financial stability reviews because it focuses on preventing the formation of an institution that poses significant risks to financial stability rather than regulating an existing institution that poses similar risks. Accordingly, the stability framework for a merger analysis may overlap with, but not be identical to, the framework associated with the other stability initiatives.

²² 12 U.S.C. §§ 1842(d) and 1852. See also section 623 of the Dodd-Frank Act, codified at 12 U.S.C. § 1852.

²³ Section 165 of the Dodd-Frank Act, codified at 12 U.S.C. § 5365, requires the Board to subject all bank holding companies with total consolidated assets of \$50 billion or more and any nonbank financial company designated by the FSOC for supervision by the Board to enhanced prudential standards, in order to prevent or mitigate risks to the financial stability of the United States that could arise from the material distress or failure of these firms.

²⁴ Total leverage exposure is calculated in a manner roughly equivalent to the methodology set out in "Basel III: A global regulatory framework for more resilient banks and banking systems" and takes into account both on- and off-balance-sheet assets.

These measures suggest that, although the combined organization would be large on an absolute basis, PNC would have only a modest share of USFS assets, leverage exposures, and U.S. deposits. PNC also is significantly smaller than the largest USFIs. Three USFIs each would have between six and eight times the assets of PNC, and seven other institutions would have at least twice the assets of PNC. PNC's share of and rank in U.S. deposits, 2.2 percent and fifth, respectively, are higher than the other measures of its size because PNC is primarily engaged in commercial banking activities, which is not the case with many of the largest USFIs. PNC's deposit share would nonetheless be relatively modest. There are three USFIs that would each have between 3.5 and 5 times the U.S. deposits of PNC and three institutions that would each have between 0.9 and 1.5 times the U.S. deposits of PNC. PNC's overall national market share for deposits of approximately 2.2 percent and its market share of national liabilities of approximately 1.4 percent are both well below the 10 percent limits set by Congress.²⁵

Both PNC and RBC Bank engage in a relatively traditional set of commercial banking activities, and the increased size of the combined organization would not increase the difficulty of resolving the organization's activities. Accordingly, although the proposed transactions would increase PNC's overall size, and its ranking to the fifth largest bank in the United States based on U.S. deposits, its larger size alone would not result in materially greater or more concentrated risks to the stability of the United States banking or financial system.

Measures of a financial institution's size on a pro forma basis could either understate or overstate risks to financial stability posed by the financial institution. For instance, a relatively small institution that operates in a critical market for which there is no substitute provider or that could transmit its financial distress to other financial organizations through multiple channels, could present material risks to the stability of the USFS. Conversely, an institution that is relatively large could engage in activities that are not complex for which there are several substitute providers in the event of failure or severe financial distress and, accordingly, may present only limited risks to U.S. financial stability.

PNC's size does not rise to the level when the Board would be inclined, solely on that basis, to restrict its ability to make a \$27 billion acquisition. Accordingly, the Board has considered other factors, both individually and in combination with size, to evaluate the likely impact of this transaction on financial stability.

Substitutability. The Board has examined whether PNC or RBC Bank engages in any activities that are critical to the functioning of the USFS and whether substitute providers would remain that could quickly step in to perform such activities should the combined entity suddenly be unable to do so as a result of severe financial distress.

PNC and RBC Bank both provide business and consumer credit. RBC Bank has a de minimis market share (less than 1 percent) in a variety of business- and consumer credit-related activities that the Board has considered. Although PNC has a larger share in some of these markets, numerous other USFIs provide business and consumer credit, and the transaction does not create, solidify, or maintain the position of a single entity that is likely to pose an unacceptable risk to U.S. financial stability. The Board also considered a number of critical activities that are performed either by PNC or RBC Bank (but not by both) and in no case would the combined entity provide a service for which many substitute providers could not be readily identified.

²⁵ In this context, liabilities have been computed under the limitations on consolidated liabilities of section 622 of the Dodd-Frank Act, codified at 12 U.S.C. § 1852.

Interconnectedness. The Board has examined data to determine whether financial distress experienced by the merged entity could create financial instability by being transmitted to other institutions or markets within the U.S. financial or banking system. In particular, the Board has considered whether the combined entity's relationships to other market participants and the similarity of product offerings could transmit material financial distress experienced by the combined entity to its counterparties directly, transmit such distress indirectly through a fire sale of assets or erosion of asset prices, or trigger contagion resulting in the withdrawal of liquidity from other financial institutions.²⁶

PNC does not currently engage, and as a result of this transaction would not engage in the future, in business activities or participate in markets to a degree that in the event of financial distress of the combined entity, would pose material risk to other institutions. The pro forma merged entity's expected use of wholesale funding is lower relative to all USFIs than is its corresponding share of consolidated assets. On a pro forma basis, the transaction also would not concentrate exposure to any single counterparty that was among the top three counterparties of either PNC or RBC Bank before the merger. The record does not show other evidence that the pro forma combined entity would be so interconnected with markets and institutions in the U.S. financial or banking system as to make it likely that the combined entity would transmit financial distress to other market participants or to the market generally in a manner or to a degree that would cause material risks to the U.S. financial or banking system. Although distress in a large institution such as PNC could clearly have an effect on other market participants, that effect would not appear to be so adverse as to have a material impact on market stability.

Complexity. The Board has considered the extent to which the pro forma entity contributes to the overall complexity of the USFS. The pro forma entity's share of complex assets in the aggregate USFS appears to be largely consistent with its corresponding share of consolidated assets. The Board also has considered whether the complexity of the pro forma entity's assets and liabilities would hinder its timely and efficient resolution in the event it were to experience financial distress. PNC and RBC Bank do not engage in complex activities, such as serving as a core clearing and settlement organization for critical financial markets, that might complicate the resolution process by increasing the complexity, costs, or timeframes involved in a resolution. Under these circumstances, resolving the pro forma organization would not appear to involve a level of cost, time, or difficulty such that it would cause a material increase in risks to the stability of the USFS.²⁷

Cross-border activity. The Board has examined the cross-border activities of PNC and RBC Bank to determine whether the cross-border presence of the combined organization would create difficulties in coordinating a resolution, thereby materially increasing the risks to U.S. financial stability. PNC has several indirect subsidiaries outside the United States, and PNC Bank operates branches in Toronto, Canada, and Nassau, The Bahamas. RBC Bank's cross-border activities are limited to a branch in Georgetown, Cayman Islands.²⁸ The combined organization is not expected to engage in any additional activities outside the United States as a result of the proposed transaction. In addition, the combined organization would not engage in critical services whose disruption would impact the macroeco-

²⁶ The source of the contagion could include a belief on the part of market participants that a particular institution is related to the merged entity because it has a similar business model or risk profile, or because the institution is thought to have counterparty exposures to the merged entity.

²⁷ As noted previously, the Dodd-Frank Act requires bank holding companies like PNC that hold more than \$50 billion in total consolidated assets to submit resolution plans, which are intended to assist an institution in managing its risks and plan for a rapid and orderly resolution in the event of material distress or failure and to enable the regulators to understand an institution's complexity. See 12 U.S.C. § 5365.

²⁸ On consummation of the merger of PNC Bank and RBC Bank, PNC intends to transfer all assets and liabilities of the Cayman Branch to PNC Bank's branch in Nassau, The Bahamas, and to close the Cayman Branch.

conomic condition of the United States by disrupting trade or resulting in increased difficulties for the resolution process. Based on this review, the Board considers that the cross-border presence of the consolidated organization would not result in a material increase in risks to the stability of the U.S. financial or banking system.

Financial stability factors in combination. The Board has assessed the foregoing factors in combination to determine whether interactions among them might mitigate or exacerbate risks suggested by looking at them individually. The Board also has considered whether the proposed transaction would provide any stability benefits and whether enhanced prudential standards applicable to the combined organization would tend to offset any potential risks.²⁹

For instance, concerns regarding PNC's size would be greater if PNC were also highly interconnected to many different segments of the USFS through its counterparty relationships, participation in short-term funding and capital markets, or other channels. The Board's level of concern about its size would also be greater if the structure and activities of PNC were sufficiently complex that, if PNC were to fail, it would be difficult to resolve its failure quickly without causing significant disruptions to other financial institutions or markets.

As discussed above, the combined entity would not be highly interconnected. Furthermore, the organizational structure and operational regime of the combined organization would be centered on a commercial banking business, and the resolution process would be handled in a predictable manner by the Federal Deposit Insurance Corporation. The Board has also considered other measures that are suggestive of the degree of difficulty with which PNC could be resolved in the event of a failure. These measures suggest that PNC would be significantly more straightforward to resolve than large universal banks or large investment banks.

Based on these and all the other facts of record, the Board has concluded that the proposal would not materially increase risks to the stability of the U.S. financial or banking system. Accordingly, the Board has determined that considerations relating to financial stability are consistent with approval.

D. Conclusion on Section 3(c) Factors

As described above, the Board has considered the financial and managerial resources and future prospects of the companies and banks concerned; effectiveness of the companies in combatting money laundering; the convenience and needs of the community to be served; and the extent to which the proposal would result in greater or more concentrated risks to the stability of the United States banking or financial system. Based on all the facts of record, including those described above, the Board has determined that all of the factors are consistent with approval.

Conclusion

Based on the foregoing and all the facts of record, the Board approved the proposal effective December 19, 2011. 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 and other applicable statutes. The Board's approval is specifically conditioned on compliance by PNC, PNC Bancorp, and PNC Bank with all the commitments made to and relied on by

²⁹ Section 165 of the Dodd-Frank Act, Pub. L. No. 111-203, 124 Stat. 1376, codified at 12 U.S.C. § 5365.

the Board in connection with the application and on receipt of all other regulatory approvals. 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 December 19, 2011, or later than three months thereafter, unless such period is extended for good cause by the Board or the Federal Reserve Bank of Cleveland, acting pursuant to delegated authority.

Voting for this action: Chairman Bernanke, Vice Chair Yellen, and Governors Duke, Tarullo, and Raskin.

December 23, 2011

Robert deV. Frierson
Deputy Secretary of the Board

Order Issued Under Section 4 of the Bank Holding Company Act

Westpac Banking Corporation
Sydney, Australia

Order Approving Notice to Engage in Nonbanking Activities

Westpac Banking Corporation (“Westpac”), Sydney, Australia, a foreign banking organization subject to the provisions of the Bank Holding Company Act (“BHC Act”), has requested the Board’s approval under sections 4(c)(8) and 4(j) of the BHC Act and section 225.24 of the Board’s Regulation Y¹ to engage in certain nonbanking activities through the acquisition of all the voting shares of JOHCM (USA) General Partner Inc. (“JOHCM USA”), Wilmington, Delaware, and its foreign parent company, J O Hambro Capital Management Limited (“JOHCM”), London, England. JOHCM and JOHCM USA would be acquired through Westpac’s subsidiary, BT Investment Management Limited (“BTIM”), Sydney, and BTIM’s wholly owned subsidiary, BTIM UK Limited, London. As a result of the acquisition, Westpac and its subsidiaries would engage in the United States in the following activities:

1. providing financial and investment advisory services, in accordance with section 225.28(b)(6) of Regulation Y;²
2. providing private placement services, in accordance with section 225.28(b)(7) of Regulation Y;³ and
3. acting as the general partner for private investment limited partnerships that invest in assets in which a bank holding company is permitted to invest.

Notice of the proposal, affording interested persons an opportunity to comment, has been published in the *Federal Register* (76 *Federal Register* 46,808 (2011)). 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 4 of the BHC Act.

Westpac, with total assets of approximately \$644 billion, is the third largest bank in Australia by asset size and engages in a broad range of banking and financial services throughout

¹ 12 U.S.C. §§ 1843(c)(8) and (j); 12 CFR 225.24.

² 12 CFR 225.28(b)(6).

³ 12 CFR 225.28(b)(7).

Australia, New Zealand, and the South Pacific region.⁴ Westpac operates a federal branch, with total consolidated assets of \$25.5 billion, in New York, New York, and engages in investment advisory activities in the United States through its subsidiary, Hastings Funds Management (USA), San Antonio, Texas.

JOHCM, with approximately \$11 billion in assets under management, is an equity investment management firm registered with the Securities and Exchange Commission (“SEC”) under the Investment Advisors Act of 1940. JOHCM USA serves as the general partner to a private fund, the JOHCM International Select Fund (“the Fund”), Wilmington, Delaware, a limited partnership that invests in a portfolio of publicly traded international equity securities.⁵ JOHCM USA privately places limited partnership interests in the Fund with accredited investors, as defined under SEC rules.⁶ In addition, JOHCM USA has retained JOHCM to provide investment advice to the Fund.⁷

The Board previously has determined by regulation that financial and investment advisory activities and private placement activities are closely related to banking for purposes of section 4(c)(8) of the BHC Act.⁸ In addition, the Board previously has determined by order that private investment limited partnership activities are permissible for bank holding companies when conducted within certain limits.⁹ Westpac has committed that it will conduct the activities of JOHCM and JOHCM USA in accordance with the limitations set forth in Regulation Y and the Board’s orders and interpretations relating to each of the proposed activities.

Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”), which prohibits a banking entity from “acquir[ing] or retain[ing] any equity, partnership, or other ownership interest in or sponsor[ing] a hedge fund or private equity fund,”¹⁰ may restrict the activities in which Westpac proposes to engage. The Board and other federal regulatory agencies recently requested public comment on a proposed regulation to implement section 619 of the Dodd-Frank Act.¹¹ The regulation has not been finalized and, accordingly, the Board expresses no view on whether the proposed activities would be permissible for Westpac to conduct after the effective date of any final rule the Board may adopt. Westpac has committed that it will conform its activities to comply with the final rule within the deadline established for compliance with section 619 of the Dodd-Frank Act.

To approve the proposal, the Board is required by section 4(j)(2)(A) of the BHC Act to determine that the proposed acquisition of JOHCM USA and the conduct of activities in the United States by JOHCM “can reasonably be expected to produce benefits to the public that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, unsound banking practices, or risk to the stability of the United States banking or financial system.”¹² As part of its evalua-

⁴ Asset and ranking data are as of March 31, 2011.

⁵ The Fund is exempt from registration with the SEC under section 3(c)(1) of the Investment Company Act of 1940. 15 U.S.C. § 80a-3(c)(1).

⁶ SEC Regulation D, 17 CFR 230.501.

⁷ Currently, the Fund is the only U.S. limited partnership for which JOHCM USA serves as the general partner and places limited partnership interests. Westpac proposes to conduct these activities for similar limited partnerships that might be established in the future.

⁸ 12 CFR 225.28(b)(6), (7).

⁹ See *Dresdner Bank AG*, 84 *Federal Reserve Bulletin* 361 (1998); *Meridian Bancorp, Inc.*, 80 *Federal Reserve Bulletin* 736 (1994).

¹⁰ Pub. L. No. 111–203, 124 Stat. 1376, 1620 (2010).

¹¹ See www.federalreserve.gov/newsevents/press/bcreg/20111011a.htm.

¹² 12 U.S.C. § 1843(j)(2)(A)

tion of a proposal under these public interest factors, the Board reviews the financial and managerial resources of the companies involved, the effect of the proposal on competition in the relevant markets, and the public benefits of the proposal.¹³

Financial and Managerial Resources

In reviewing the proposal under section 4 of the BHC Act, the Board has considered the financial and managerial resources of the companies involved and the effect of the proposal on those resources. The Board has considered, among other things, confidential reports of examination, information provided by Westpac, and publicly reported and other financial information in assessing the financial and managerial strength of Westpac.

In evaluating the financial factors of this proposal, the Board has considered a number of factors, including capital adequacy and earnings performance. Westpac's capital ratios exceed the minimum levels that would be required by the Basel Capital Accord and are considered equivalent to the capital that would be required of a U.S. banking organization. Moreover, consummation of this proposal would not have a significant impact on the financial condition of Westpac. Based on its review, the Board finds that Westpac has sufficient financial resources to effect the proposal.

In addition, the Board has carefully considered the managerial resources of Westpac, the supervisory experiences of other banking supervisory agencies with Westpac, and Westpac's record of compliance with applicable U.S. banking laws. The Board has also reviewed reports of examination from the appropriate federal supervisors of the U.S. operations of Westpac that assessed its managerial resources. Based on all the facts of record, the Board has concluded that the financial and managerial resources of the organizations involved in the proposal are consistent with approval.

Competitive Considerations and Financial Stability

The Board has carefully considered the competitive effects of the proposal. There are numerous existing and potential competitors in the industries for the relevant nonbanking activities. In addition, the markets for the proposed services are regional or national in scope. Based on all the facts of record, the Board concludes that consummation of the proposal would have no significantly adverse competitive effects in any relevant market.

The Board has also carefully considered information relevant to risks to the stability of the United States banking and financial systems. Specifically, the Board has considered whether the proposal would result in a material increase in risks to financial stability due to an increase in the size of the acquirer, a reduction in the availability of substitute providers of critical financial products or services, or an increase in the extent of the interconnectedness of the financial system. Consummation of this proposal would not result in a significant decrease in the availability of substitute providers of critical financial services or a significant increase in the size of Westpac and would not result in a significant increase in the interconnectedness of the financial system. Based on these and other factors, the Board concludes that financial stability considerations in this proposal are consistent with approval.

¹³ See 12 CFR 225.26; see, e.g., *BancOne Corporation*, 83 *Federal Reserve Bulletin* 602 (1997).

Public Benefits

As part of its evaluation of the public interest factors under section 4 of the BHC Act, the Board has reviewed carefully the public benefits and possible adverse effects of the proposal. The record indicates that consummation of the proposal would result in benefits to the public by enhancing Westpac's ability to serve its customers.

For the reasons discussed above and based on all the facts of record, the Board has determined that the conduct of the proposed nonbanking activities within the framework of Regulation Y and Board precedent is not likely to result in significantly adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, unsound banking practices, or risk to the stability of the United States banking or financial system. Based on all the facts of record, the Board has concluded that consummation of the proposal can reasonably be expected to produce public benefits that would outweigh any likely adverse effects. Accordingly, the Board has determined that the balance of the public benefits under the standard of section 4(j)(2) of the BHC Act is consistent with approval.

Conclusion

Based on the foregoing and all the facts of record, the Board has determined that the notice 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. The Board's approval is specifically conditioned on compliance by Westpac with the conditions imposed in this order and the commitments made to the Board in connection with the notice. The Board's approval is also subject to the conditions set forth in Regulation Y, including those in sections 225.7 and 225.25(c),¹⁴ and to the Board's authority to require such modification or termination of the activities of Westpac or any of its subsidiaries as the Board finds necessary to ensure compliance with, and to prevent evasion of, the provisions of the BHC Act and the Board's regulations and orders issued thereunder. For purposes of this action, these 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.

By order of the Board of Governors, effective October 24, 2011.

Voting for this action: Chairman Bernanke, Vice Chair Yellen, and Governors Duke and Tarullo. Absent and not voting: Governor Raskin.

Robert deV. Frierson
Deputy Secretary of the Board

Order Issued Under Sections 3 and 4 of the Bank Holding Company Act

Green Dot Corporation
Monrovia, California

Order Approving the Formation of a Bank Holding Company

Green Dot Corporation ("Green Dot"), Monrovia, California, has requested the Board's approval under section 3 of the Bank Holding Company Act of 1956, as amended ("BHC

¹⁴ 12 CFR 225.7 and 225.25(c)

Act”),¹ to acquire Bonneville Bancorp (“Bonneville”) and thereby indirectly acquire Bonneville’s wholly owned subsidiary bank, Bonneville Bank (“Bank”), both of Provo, Utah.² Green Dot and Bonneville also have filed with the Board elections to become financial holding companies on consummation of the proposal pursuant to sections 4(k) and (l) of the BHC Act and section 225.82 of the Board’s Regulation Y.³

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (*75 Federal Register* 7598 (February 22, 2010)). The time for filing comments has expired, and the Board has considered the proposal in light of the factors set forth in section 3 of the BHC Act.

Green Dot, with total consolidated assets of approximately \$322 million, provides bank-issued, general-purpose reloadable prepaid debit cards (“GPR cards”)⁴ and provides settlement services for prepaid debit cards. Green Dot’s GPR cards are network branded and are linked to pooled accounts that are held at depository institutions and insured by the Federal Deposit Insurance Corporation (“FDIC”). Green Dot sells its GPR cards through national retail chains and on the Internet.⁵ Green Dot’s GPR cards currently are issued by third-party banks that maintain accounts on behalf of Green Dot’s customers.

Green Dot proposes that Green Dot Bank issue Green Dot GPR cards linked to FDIC-insured accounts and provide settlement services.⁶ Green Dot Bank’s settlement services would include collecting funds generated from sales of Green Dot GPR cards and related products, distributing funds to issuing banks for cards serviced by Green Dot, and distributing funds to other banks for Green Dot Network⁷ acceptance partners. Green Dot would provide administrative services to Green Dot Bank, such as human resources, accounting and tax, marketing, and information technology, and infrastructure services under an inter-company service agreement.⁸ Green Dot does not propose to engage in other activities to any significant extent.

Bank, with total assets of approximately \$35.7 million, is the 60th largest insured depository institution in Utah, controlling deposits of approximately \$29.6 million, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the state.⁹ On consummation of the proposal, no company would own 10 percent or more of Green Dot’s shares.

¹ 12 U.S.C. § 1842.

² Bonneville and Bank would be renamed Green Dot Bancorp and Green Dot Bank on consummation of the proposal.

³ 12 U.S.C. §§ 1843(k) and (l); 12 CFR 225.82.

⁴ Green Dot also offers private-label programs to retailers.

⁵ A large majority of Green Dot’s GPR cards are sold through a single retail chain. The structure of the current agreement between the retail chain and Green Dot appears designed to encourage the parties to continue their business relationship and more closely align the financial interests of the two companies.

⁶ Green Dot expects to complete the transfer of its GPR card operations within twelve to eighteen months after consummation of the proposed transaction. Bank would retain its existing assets and liabilities and would continue to engage in current lending activities as well as prepaid card activities.

⁷ Green Dot Network is a scalable technology platform and payments network that supports card sales, purchases, and reloading services to cardholders, retailers, and issuing banks.

⁸ The provision of such services must comply with the restrictions of sections 23A and 23B of the Federal Reserve Act and the Board’s Regulation W on affiliate transactions. 12 U.S.C. §§ 371c, 371c-1; 12 CFR part 223.

⁹ Asset data are as of June 30, 2011. Deposit and ranking data are as of June 30, 2011, and reflect merger activity through that date. In this context, insured depository institutions include commercial banks, savings banks, and savings associations.

Competitive Considerations

The Board has considered carefully the competitive effects of the proposal in light of all the facts of the record. 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 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.¹⁰

Green Dot does not currently control a depository institution. Based on all the facts of record, the Board has concluded that consummation of the proposal would not have a significantly adverse effect on competition or on the concentration of banking resources in any relevant banking market and that competitive considerations are consistent with approval.

Financial, Managerial, and Supervisory Considerations and Future Prospects

Section 3 of the BHC Act requires the Board to consider the financial and managerial resources and future prospects of the companies and depository institutions involved in the proposal and certain other supervisory factors.¹¹ The Board has considered those factors in light of all the facts of record, including supervisory and examination information received from the relevant federal and state supervisors of the organizations involved, and publicly reported and other available financial information, including information provided by Green Dot. In addition, the Board has consulted with the state and primary federal supervisors of Bank. The Utah Department of Financial Institutions (“Utah DFI”) and FDIC have not objected to Green Dot’s proposal. The Board has considered the BHC Act factors and related information in light of Green Dot’s proposal that Green Dot Bank’s operations would be substantially focused on the prepaid card business.

In evaluating financial factors, the Board consistently has considered capital adequacy to be an especially important aspect. Green Dot, Bonneville, and Bank are well capitalized. In addition, Green Dot would make an initial cash injection of \$13.6 million in Bank from cash on hand and would maintain a tier 1 leverage ratio of at least 15 percent at Green Dot Bank for five years after consummation. Green Dot has no long-term debt. The Board has consulted with the FDIC and Utah DFI regarding these required capital levels. Green Dot would remain well capitalized on consummation of the proposal. In connection with the proposal to issue its GPR cards through and settle its GPR card transactions at Green Dot Bank, Green Dot has committed to maintain, at Green Dot and/or Green Dot Bank, cash and/or cash equivalents equal to the amount of insured deposits at Green Dot Bank generated through its GPR card operations. The Board also has taken into account Green Dot’s record of offering GPR cards to the public, the company’s financial strength, and the company’s ability to serve as a source of strength to Green Dot Bank. The Board has reviewed Green Dot’s operating plan for Green Dot Bank and Green Dot’s projections that Green Dot and Green Dot Bank would be able to remain well-capitalized and profitable even under certain stress scenarios that could negatively affect the prepaid card operations that would be conducted at Green Dot and Green Dot Bank.

¹⁰ 12 U.S.C. § 1842(c)(1).

¹¹ 12 U.S.C. § 1842(c)(2) and (3).

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 Bonneville and Bank and has conducted inspections of Green Dot,¹² including assessments of its current management, risk-management systems, and operations. The Board also has considered the supervisory experience of the other relevant banking agencies with the organizations, including their records of compliance with applicable banking and anti-money-laundering laws.¹³ In addition, the Board has considered Green Dot's plans for implementing the proposal and for the proposed management of the organizations involved after consummation. Moreover, the Board has considered information regarding Green Dot's enterprise-wide risk-management program collected by examiners with the Federal Reserve, FDIC, and Utah DFI. The Board has also considered that Green Dot has retained management with significant experience in the prepaid card industry as well as management experienced in commercial and community banking.

In addition, the Board has considered the future prospects of Green Dot, Bonneville, and Bank in light of the financial and managerial resources and the proposed business plan. As noted, Green Dot Bank's business activity would be focused narrowly on the issuance of GPR cards. A business plan that focuses on a narrow business activity¹⁴ and depends on a limited number of key business partners carries significantly greater risks than a business plan that employs broad diversification of activities and counterparties. The Board expects banking organizations with a narrow focus to address these increased risks with financial resources, managerial systems, and expertise commensurate with that additional level of risk. In this case, the Board has relied on the significant level of capital that Green Dot and its bank will have on consummation and Green Dot's commitment to maintain Green Dot Bank as well capitalized with a tier 1 leverage ratio of at least 15 percent for five years after consummation. This capital level is well in excess of the tier 1 leverage ratio needed to be considered well capitalized but is appropriate in light of the single focus of Green Dot and Green Dot Bank's activity. Green Dot has committed that Green Dot Bank will not pay dividends for three years after consummation of the proposal. The Board has also considered that Green Dot Bank's primary source of deposits would be the funds associated with GPR cards purchased by individuals, which Green Dot has committed to balance with equal levels of cash or cash equivalents. In addition, the Board has considered Green Dot's enterprise-wide risk-management program and Green Dot's retention of management with significant experience in the prepaid card industry as well as management experienced in commercial and community banking.

On this basis, including the commitments made by Green Dot to the Board, the Board has concluded that considerations relating to the financial and managerial resources and future prospects involved in the proposal are consistent with approval, as are the other supervisory factors.

Convenience and Needs Considerations

In acting on a proposal under section 3 of the BHC Act, the Board also must consider the effects of the proposal on the convenience and needs of the communities to be served and

¹² The Federal Reserve Bank of San Francisco, FDIC, and Utah DFI conducted on-site reviews of Green Dot's operations in connection with the proposal.

¹³ Green Dot is currently registered with the United States Treasury Department's Financial Crimes Enforcement Network as a Money Service Business and files Suspicious Activity Reports and Currency Transaction Reports.

¹⁴ Green Dot has committed to balance Green Dot Bank's GPR card deposits with equal levels of cash or cash equivalents at Green Dot or Green Dot Bank. Accordingly, the proposal does not appear to present increased credit risk associated with narrowly focused business plans that are dependent on one asset category, such as a particular type of lending. As discussed below, the Board has considered the risks posed by Green Dot's business plan in light of its proposal to mitigate such risks, including its commitments.

take into account the records of the relevant insured depository institutions under the Community Reinvestment Act (“CRA”).¹⁵ 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, and requires the appropriate federal financial supervisory agency to take into account a relevant depository institution’s record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, in evaluating banking proposals.¹⁶

The Board has considered carefully all the facts of record, including evaluations of the CRA performance record of Bank, information provided by Green Dot, and confidential supervisory information. Bank has received a “satisfactory” rating at its most recent CRA performance evaluation by the FDIC, as of May 21, 2007. To ensure that Bank will continue to meet its CRA obligation in the Provo community, Green Dot has committed to submit a proposed strategic plan for Green Dot Bank to its primary federal regulator within six months of consummation of the proposal.¹⁷ Green Dot also has stated that Bank would maintain its current level of lending to its local community.

On May 19, 2011, the Office of the Attorney General of Florida (“Florida AG’s Office”) announced that it is investigating five prepaid debit card companies, including Green Dot, for possible deceptive and unfair practices. The Board has consulted with the Florida AG’s Office regarding this matter and has been advised by that office that Green Dot is fully cooperating with the investigation.¹⁸ Green Dot has also represented that it is developing and will issue GPR cards with improved disclosures that are designed to address the matters raised by the Florida AG’s Office and to comply with Florida law.

Based on a review of the entire record, the Board has concluded that convenience and needs considerations and the CRA performance record of Bank are consistent with approval of the proposal.

Financial Holding Company Elections

As noted, Green Dot and Bonneville have filed elections to become financial holding companies pursuant to sections 4(k) and (l) of the BHC Act and section 225.82 of the Board’s Regulation Y. Green Dot and Bonneville have certified that Bank is well capitalized and well managed and have provided all the information required under Regulation Y. Green Dot and Bonneville have also certified that they are well capitalized and well managed, pursuant to section 4(l) of the BHC Act, as amended by section 606 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.¹⁹ Based on all the facts of record, the Board has determined that the elections of Green Dot and Bonneville to become financial holding companies will become effective on consummation of the proposal, if on that date Green Dot, Bonneville, and Bank remain well capitalized and well managed and if Bank has received a rating of at least “satisfactory” at its most recent performance evaluation under the CRA.

¹⁵ 12 U.S.C. §§ 2901–2908; 12 U.S.C. § 1842(c)(2).

¹⁶ 12 U.S.C. § 2903.

¹⁷ Under the strategic plan alternative, a bank is required to develop a plan, using input from members of the public in the bank’s assessment area(s), that provides measurable goals for meeting the credit needs of the bank’s assessment area(s). *See, e.g.*, 12 CFR 228.27. The bank’s primary federal regulator is responsible for evaluating the plan and, if approved, the bank’s success in achieving the goals of the approved plan.

¹⁸ The Board’s action on this application does not limit in any manner the authority of the State of Florida to take any action that it considers appropriate with respect to Green Dot.

¹⁹ Pub. L. No. 111–203, 124 Stat. 1376, codified at 12 U.S.C. § 1843(j)(1).

Financial Stability

As required by section 3 of the BHC Act, the Board has considered the effects of the proposal on the stability of the United States banking or financial system.²⁰ Based on a review of the entire record, the Board has concluded that the proposal would not result in greater or more concentrated risks to the stability of the United States banking or financial system.

Conclusion

Based on the foregoing, and in light of all facts of record, the Board has determined that the application should be, and hereby is, approved. In reaching its conclusion, the Board has considered the application record in light of the factors that it is required to consider under the BHC Act and other applicable statutes. The Board's approval is specifically conditioned on compliance by Green Dot with all the conditions imposed in this order and the commitments made to the Board in connection with the application. For purposes of this action, those 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 proposed transaction may not be consummated before the fifteenth calendar day after the effective date of this order, or later than three months after the effective date of this order, unless such period is extended for good cause by the Board or the Federal Reserve Bank of San Francisco, acting pursuant to delegated authority.

By order of the Board of Governors, effective November 23, 2011.

Voting for this action: Chairman Bernanke, Vice Chair Yellen, and Governors Tarullo and Raskin. Voting against this action: Governor Duke.

Robert deV. Frierson
Deputy Secretary of the Board

Dissenting Statement of Governor Duke

I am not in favor of approving this application. As a general matter, I have concerns about business plans that focus narrowly on one or a few products. Companies with narrow business plans face risks that are different than those faced by more diversified companies and are more vulnerable to unexpected shocks. In this case, I have specific concerns about the risks presented by Green Dot's proposal to implement a business plan at Green Dot Bank focused on the issuance of general-purpose, reloadable prepaid debit cards ("GPR cards").

Green Dot's proposal to implement a business plan at Green Dot Bank predominantly focused on issuing GPR cards would directly tie the future prospects of Green Dot to success in the specialized market for prepaid debit cards. The prepaid debit card industry is subject to various risks, including the possibility that the technology currently employed by industry participants could become obsolete, that consumers' demand for prepaid debit cards as an alternative to more traditional banking products and services could decline, that potential legislative or regulatory changes could reduce or eliminate the profitability of issuing prepaid debit cards, and that competition in the prepaid debit card industry may increase as a result of full-service banking organizations entering the market. In addition, the business model employed by prepaid debit card providers, including the model

²⁰ Section 604 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111–203, 124 Stat. 1376, codified at 12 U.S.C. § 1842(c)(7).

employed by Green Dot, involves significant exposure to operational, concentration, consumer, counterparty, settlement, and compliance risks. Moreover, in addition to the increased risks presented by a business plan focused on a narrow business activity, Green Dot currently relies on a single retail partner for a large majority of its revenues, and a loss of the relationship would have a materially adverse impact on Green Dot's revenues.

Furthermore, I do not believe that the steps Green Dot proposed to mitigate risk, including its commitments that Bank would maintain increased capital levels for five years and refrain from paying dividends for three years and its commitment to maintain certain levels of cash and cash equivalents, adequately address the risks posed by Green Dot's proposal to operate Green Dot Bank primarily as a GPR card issuer. These commitments may increase the ability of Green Dot to absorb losses, but they do not address the fundamental source of the risk posed by Green Dot's narrow business plan and, consequently, do not actually reduce the risks associated with that business plan.

For these reasons, in my view the considerations related to the future prospects of Green Dot and Green Dot Bank are not consistent with approval.

Accordingly, I would deny this proposal.

November 23, 2011

Order Issued Under Bank Merger Act

The Croghan Colonial Bank

Fremont, Ohio

Order Approving the Acquisition of Branches

The Croghan Colonial Bank ("Bank"), a state member bank and a subsidiary of Croghan Bancshares, Inc., both of Fremont, Ohio, has applied under section 18(c) of the Federal Deposit Insurance Act¹ ("Bank Merger Act") to acquire four branches from The Home Savings and Loan Company of Youngstown, Ohio ("Home Savings"), Youngstown, in Tiffin, Fremont, and Clyde, all in Ohio.² Bank has also applied under section 9 of the Federal Reserve Act³ ("FRA") to establish branches at three of those locations.

Notice of the proposal, affording interested persons an opportunity to submit comments, has been given in accordance with the Bank Merger Act and the Board's Rules of Procedure.⁴ As required by the Bank Merger Act, reports on the competitive effects of the merger were requested from the United States Attorney General and the Federal Deposit Insurance Corporation ("FDIC"). The time for filing comments has expired, and the Board has considered the application and all comments received in light of the factors set forth in the Bank Merger Act and section 9 of the FRA.

¹ 12 U.S.C. § 1828(c).

² The four branches to be acquired are listed in the appendix.

³ 12 U.S.C. § 321.

⁴ 12 CFR 262.3(b).

Bank is the 44th largest insured depository institution in Ohio, with less than 1 percent of all deposits in Ohio banks and thrift institutions.⁵ Home Savings is the 16th largest insured depository institution in Ohio, with less than 1 percent of deposits in the state.

Competitive Considerations

The Bank Merger Act prohibits the Board from approving an application if the proposal would result in a monopoly or would be in furtherance of any attempt to monopolize the business of banking.⁶ The Bank Merger Act also prohibits the Board from approving a proposal that would substantially lessen competition or tend to create a monopoly in any relevant market, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effects of the transaction in meeting the convenience and needs of the communities to be served.⁷

The proposal would affect competition in the Fremont, Ohio banking market, where Bank and Home Savings directly compete.⁸ The Board has reviewed carefully the competitive effects of the proposal on the banking market in light of all the facts of record, including the number of competitors that would remain in the market, the relative share of the total deposits in insured depository institutions in the market (“market deposits”) that Bank would control,⁹ 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 Bank Merger Competitive Review guidelines (“DOJ Bank Merger Guidelines”),¹⁰ and other characteristics of the markets.

Bank has the largest share of market deposits in the Fremont banking market with 37.6 percent, and Home Savings has the ninth largest share of market deposits with 2.7 percent. On consummation of the proposal, Bank’s share of market deposits would increase to 41.9 percent, and the HHI would increase 302 points, from 1971 to 2273.

In addition to banks and thrift institutions, there are two credit unions that operate in the Fremont banking market: Fremont Federal Credit Union and Clyde-Fremont Area Credit Union. Both credit unions have broad membership criteria that include all the residents in the banking market. In addition, both credit unions compete actively with area banks for retail customers and offer services such as street-level offices, drive-up lanes, and ATMs.

⁵ Data are as of June 30, 2011. In this context, insured depository institutions include insured commercial banks, savings banks, and savings associations.

⁶ 12 U.S.C. § 1828(c)(5)(A).

⁷ 12 U.S.C. § 1828(c)(5)(B).

⁸ The Fremont banking market is defined as Sandusky County, excluding the city of Bellevue, all in Ohio.

⁹ Data are based on calculations in which the pre-acquisition deposits of Home Savings 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 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). The post-acquisition deposits of Home Savings are weighted at 100 percent because the deposits will be owned by a commercial banking organization. *See, e.g., Norwest Corporation*, 78 *Federal Reserve Bulletin* 452 (1992).

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

The Board finds that these circumstances warrant including the deposits of these credit unions on a 50 percent weighted basis.¹¹

If both credit unions are included on a weighted basis, Bank's pro forma share of market deposits would be 36 percent, and the HHI would increase by 231 points, from 1554 to 1785. The Board has concluded that the activities of these credit unions exert a competitive influence that mitigates, in part, the potential effects of the proposal in the Fremont banking market. In addition, numerous competitors would remain in the banking market. Four banks would each have shares of market deposits ranging from 8 percent and 11 percent.

The DOJ has reviewed the anticipated competitive effects of the proposal and has advised the Board that consummation of the proposal would not likely have a significantly adverse effect on competition in the relevant banking market. The FDIC has been afforded an opportunity to comment and has not objected to the proposal.

The Board has reviewed carefully all the facts of record and, for the reasons discussed in this order, has concluded that consummation of the proposal is not likely to affect competition or the concentration of resources in a significantly adverse manner in the relevant banking market. Accordingly, based on all the facts of record, the Board has determined that competitive factors are consistent with approval of the proposal.

Financial, Managerial, and Other Supervisory Factors

In reviewing this proposal under the Bank Merger Act and section 9 of the FRA, the Board has considered the financial and managerial resources and future prospects of the institutions involved. The Board has reviewed these factors in light of all the facts of record, including supervisory reports of examination assessing the financial and managerial resources of Bank and information provided by the bank. The Board notes that Bank would remain well capitalized on consummation of the proposal. Based on all the facts of record, the Board concludes that the financial and managerial resources and future prospects of the institutions involved and other supervisory factors are consistent with approval of the proposal.

Convenience and Needs Considerations and Financial Stability

The Bank Merger Act also requires the Board to consider the convenience and needs of the communities to be served and to take into account the records of the relevant depository institutions under the Community Reinvestment Act ("CRA").¹² The CRA requires the federal financial supervisory agencies to encourage financial institutions to 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 neighborhoods, in evaluating bank acquisition proposals. Accordingly, the Board has carefully considered the convenience and needs factor and the CRA performance records of Bank and Home Savings in light of all the facts of record.

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

¹¹ The Board previously has considered the competitiveness of certain active credit unions as a mitigating factor. See, e.g., *The PNC Financial Services Group, Inc.*, 93 *Federal Reserve Bulletin* C65 (2007); *Regions Financial Corporation*, 93 *Federal Reserve Bulletin* C16 (2007); *Wachovia Corporation*, 92 *Federal Reserve Bulletin* C183 (2006); and *F.N.B. Corporation*, 90 *Federal Reserve Bulletin* 481 (2004).

¹² 12 U.S.C. § 2901 *et seq.*

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.¹³

Bank received an overall rating of "satisfactory" at its most recent CRA performance examination by the Federal Reserve Bank of Cleveland, as of June 2011. Home Savings received an overall rating of "satisfactory" from the FDIC at its most recent evaluation for CRA performance, as of July 2008.

Based on all the facts of record and for the reasons discussed above, the Board concludes that considerations relating to the convenience and needs, including the CRA performance records of the relevant depository institutions, are consistent with approval of the proposal.

The Board has also carefully considered information relevant to risks to the stability of the United States banking or financial system. The Board concludes that financial stability considerations in this proposal are consistent with approval.

Establishment of Branches

As noted above, Bank has also applied under section 9 of the FRA to establish branches at three of the acquired offices of Home Savings. Bank has indicated that it intends to close the branch in Clyde, Ohio, that it would acquire from Home Savings and to consolidate its operations into a branch that Bank currently operates that is less than one-tenth of a mile away.¹⁴ The Board has considered the factors it is required to consider when reviewing an application for establishing branches pursuant to section 9 of the FRA¹⁵ and for the reasons discussed in this order, finds those factors are consistent with approval.

Conclusion

Based on the foregoing and all the facts of record, the Board has determined 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 consider under the Bank Merger Act and the FRA. Approval of the applications is specifically conditioned on compliance by Bank with all the commitments made in connection with this proposal and the conditions set forth in this order. The commitments and conditions are deemed to be conditions imposed in writing by the Board and, as such, may be enforced in proceedings under applicable law.

The acquisition may not be consummated before the fifteenth calendar day after the effective date of this order, or later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Cleveland, acting pursuant to delegated authority.

By order of the Board of Governors, effective November 28, 2011.

¹³ See *Interagency Questions and Answers Regarding Community Reinvestment*, 75 *Federal Register* 11642 at 11665 (2010).

¹⁴ Both branches are in the Fremont banking market. The proposed branch closure qualifies as a "short distance" consolidation. See *Joint Policy Statement Regarding Branch Closings*, 64 *Federal Register* 34844 at 34846. Accordingly, the closure is not subject to the notice requirements of section 42 of the Federal Deposit Insurance Act. 12 U.S.C. § 1831r-1(e); 64 *Federal Register* 34844 at 34846.

¹⁵ See 12 U.S.C. § 322.

Voting for this action: Chairman Bernanke, Vice Chair Yellen, and Governors Duke, Tarullo, and Raskin.

Robert deV. Frierson
Deputy Secretary of the Board

Appendix

Branches in Ohio to be Acquired from Home Savings

1. 48 E. Market Street, Tiffin 44883
2. 796 W. Market Street, Tiffin 44883
3. 910 Sean Drive, Fremont 43420
4. 225 N. Main Street, Clyde 43410 (to be closed)

Orders Issued Under International Banking Act

Banco do Estado do Rio Grande do Sul S.A.
Port Alegre, Brazil

Order Approving Establishment of a Branch

Banco do Estado do Rio Grande do Sul S.A. (“Bank”), Port Alegre, Brazil, a foreign bank within the meaning of the International Banking Act (“IBA”), has applied under section 7(d) of the IBA¹ to establish a limited federal branch in Miami, Florida. The Foreign Bank Supervision Enhancement Act of 1991, which amended the IBA, provides that a foreign bank must obtain the approval of the Board to establish a branch in the United States.

Notice of the application, affording interested persons an opportunity to comment, has been published in a newspaper of general circulation in Miami (*Miami Daily Business Review*, March 12, 2010). The time for filing comments has expired, and the Board has considered all comments received.

Bank, with total assets of approximately \$19.0 billion,² is the eleventh largest bank in Brazil. The State of Rio Grande do Sul owns approximately 99.6 percent of Bank’s voting stock. Bank provides a range of banking services and financial products to retail customers, small- and medium-sized companies, and public-sector entities. Bank currently operates a branch in New York, New York, and this branch will be closed soon after the proposed limited federal branch in Miami is established. Bank also operates a branch in the Cayman Islands. Bank meets the requirements for a qualifying foreign banking organization under Regulation K.³

Bank proposes to relocate the operations of its existing branch in New York to Miami in order to better serve the needs of its customers in the United States. Consistent with the restrictions on a limited branch, the proposed branch would not take any deposits other than those permitted for a corporation organized under section 25A of the Federal Reserve Act.⁴

¹ 12 U.S.C. § 3105(d).

² Asset and ranking data are as of June 30, 2011.

³ 12 CFR 211.23(a).

⁴ To convert the limited branch into a branch, Bank must apply pursuant to section 7 of the IBA. 12 U.S.C. § 3105(d). Under section 25A of the Federal Reserve Act, an Edge corporation may receive deposits outside the United States and only such deposits within the United States that are incidental to or for the purpose of carry-

Under the IBA and Regulation K, in acting on an application by a foreign bank to establish a branch, the Board must consider whether the foreign bank (1) engages directly in the business of banking outside the United States; (2) has furnished the Board with the information it needs to assess the application adequately; and (3) is subject to comprehensive supervision on a consolidated basis by its home country supervisors.⁵ The Board also considers additional standards as set forth in the IBA and Regulation K.⁶

As noted above, Bank engages directly in the business of banking outside the United States. Bank also has provided the Board with information necessary to assess the application through submissions that address the relevant issues.

With respect to supervision by home country authorities, the Board previously has determined that other banks in Brazil are subject to home country supervision on a consolidated basis by the Central Bank of Brazil (“Central Bank”), which has primary responsibility for the regulation of financial institutions in Brazil.⁷ Bank is supervised by the Central Bank on substantially the same terms and conditions as these other banks. Based on all the facts of record, it has been determined that Bank is subject to comprehensive supervision on a consolidated basis by its home country supervisor.

The additional standards set forth in section 7 of the IBA and Regulation K have also been taken into account.⁸ The Central Bank has no objection to the establishment of the proposed branch.

With respect to the financial and managerial resources of Bank, taking into consideration the bank’s record of operations in its home country, its overall financial resources, and its standing with its home country supervisors, financial and managerial factors are consistent with approval of the proposed limited branch. Brazil has adopted risk-based capital stan-

ing out transactions in foreign countries. 12 U.S.C. § 615(a). Regulation K defines the extent of permissible deposit-taking activities of Edge corporations. 12 CFR 211.6(a)(1). Under section 5 of the IBA, a foreign bank may establish a branch outside its home state if the branch limits its deposit-taking to that of an Edge corporation operating under section 25A of the Federal Reserve Act. 12 U.S.C. § 3103(a)(7)(A). Currently, Bank’s home state is New York. Regulations implementing the IBA allow foreign banks to change their home state one time with prior notice to the Federal Reserve. 12 CFR 211.22(b). With the closure of the New York branch, Bank will change its IBA home state from New York to Florida.

⁵ 12 U.S.C. § 3105(d)(2); 12 CFR 211.24. In assessing this standard, 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 regular examination reports, audit reports, or otherwise; (iii) obtain information on the dealings with and relationship 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; (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.

⁶ 12 U.S.C. § 3105(d)(3)–(4); 12 CFR 211.24(c)(2)–(3). The additional standards set forth in section 7 of the IBA and Regulation K include the following: whether the bank’s home country supervisor has consented to the establishment of the office; the financial and managerial resources of the bank; whether the bank has procedures to combat money laundering, whether there is a legal regime in place in the home country to address money laundering, and whether the home country is participating in multilateral efforts to combat money laundering; whether the appropriate supervisors in the home country may share information on the bank’s operations with the Board; whether the bank and its U.S. affiliates are in compliance with U.S. law; the needs of the community; the bank’s record of operation. The Board may also take into account, in the case of a foreign bank that presents a risk to the stability of the United States, whether the home country of the foreign bank has adopted, or is making demonstrable progress toward adopting, an appropriate system of financial regulation for the financial system of such home country to mitigate such risk. 12 U.S.C. § 3105(d)(3)(E).

⁷ The Board has determined that three Brazilian banks, Banco Itaú S.A., Banco Bradesco S.A., and Banco do Brasil S.A., were subject to comprehensive consolidated supervision by the Central Bank in connection with each bank’s election to be treated as a financial holding company (effective in February 2002 for Banco Itaú, in January 2004 for Banco Bradesco S.A., and in April 2010 for Banco do Brasil).

⁸ See, *supra*, note 6.

dards that are consistent with those established by the Basel Capital Accord (“Accord”). Bank’s capital is in excess of the minimum levels that would be required by the Accord and is considered equivalent to capital that would be required of a U.S. banking organization. Managerial and other financial resources of Bank also are consistent with approval, and Bank appears to have the experience and capacity to support the proposed branch. In addition, Bank has established controls and procedures for the proposed branch to ensure compliance with U.S. law and for its operations in general.

Brazil is a member of the Financial Action Task Force and subscribes to its recommendations on measures to combat money laundering. In accordance with these recommendations, Brazil has enacted laws and created legislative and regulatory standards to deter money laundering, terrorist financing, and other illicit activities. Money laundering is a criminal offense in Brazil, and financial institutions are required to establish internal policies, procedures, and systems for the detection and prevention of money laundering throughout their worldwide operations. Bank has policies and procedures to comply with these laws and regulations, and Bank’s compliance with applicable laws and regulations is monitored by governmental entities responsible for anti-money-laundering compliance.

With respect to access to information about Bank’s operations, the Board has reviewed the restrictions on disclosure in relevant jurisdictions in which Bank operates and has communicated with relevant government authorities regarding access to information. Bank has committed to make available to the Board such information on the operations of Bank and any of its affiliates that the Board deems necessary to determine and enforce compliance with the IBA, the Bank Holding Company Act, and other applicable federal law. To the extent that the provision of such information to the Board may be prohibited by law or otherwise, Bank has committed to cooperate with the Board to obtain any necessary consents or waivers that might be required from third parties for disclosure of such information. In light of these commitments and other facts of record, and subject to the condition described below, the Board has determined that Bank has provided adequate assurances of access to any necessary information that the Board may request.

Information relevant to the standard regarding risk to the stability of the United States financial system has also been reviewed. In particular, consideration has been given to the absolute and relative size of Bank in its home country, the scope of Bank’s activities, including the type of activities it proposes to conduct in the United States and the potential for those activities to increase or transmit financial instability, and the framework in place for supervising Bank in its home country. Based on these and other factors, financial stability considerations in this proposal are consistent with approval.

On the basis of all the facts of record, and subject to the commitments made by Bank, as well as the terms and conditions set forth in this order, Bank’s application to establish a limited federal branch is hereby approved by the Director of the Division of Banking Supervision and Regulation, with the concurrence of the General Counsel, pursuant to authority delegated by the Board.⁹ Should any restrictions on access to information on the operations or activities of Bank and its affiliates subsequently interfere with the Board’s ability to obtain information to determine and enforce compliance by Bank or its affiliates with applicable federal statutes, the Board may require termination of any of Bank’s direct or indirect activities in the United States, or in the case of any such operation licensed by the Office of the Comptroller of the Currency (“OCC”), recommend termination of such operation. Approval of this application also is specifically conditioned on compliance by Bank with the commitments made in connection with this application and with the condi-

⁹ 12 CFR 265.7(d)(12).

tions in this order.¹⁰ The commitments and conditions referred to above are conditions imposed in writing by the Board in connection with this decision and may be enforced in proceedings under 12 U.S.C. § 1818 against Bank and its affiliates.

By order, approved pursuant to authority delegated by the Board, effective October 6, 2011.

Robert deV. Frierson
Deputy Secretary of the Board

Bankia, S.A.
Valencia, Spain

Order Approving Establishment of a Branch

Bankia, S.A. (“Bankia”), a foreign bank within the meaning of the International Banking Act (“IBA”), has applied under section 7(d) of the IBA¹ to establish a branch in Miami, Florida. The Foreign Bank Supervision Enhancement Act of 1991, which amended the IBA, provides that a foreign bank must obtain the approval of the Board to establish a branch in the United States.²

Notice of the application, affording interested persons an opportunity to comment, has been published in a newspaper of general circulation (*Miami Herald*, June 14, 2011). The time for filing comments has expired, and the Board has considered all comments received.

Bankia, with total assets of approximately \$406.3 billion,³ is the fourth largest bank in Spain. Banco Financiero y de Ahorros, S.A. (“BFA”), Madrid, Spain, owns 52.4 percent of Bankia.⁴ No other shareholder owns more than 5 percent of the shares of Bankia. Bankia is a commercial bank that offers services and products in retail banking, corporate banking and finance, capital markets, asset management, and personal banking. Bankia intends to take over the international operations previously conducted by the savings banks that own BFA. Bankia’s indirect parents, Caja Madrid and Bancaja, maintain an agency and

¹⁰ The Board’s authority to approve the establishment of the proposed branch parallels the continuing authority of the OCC to license offices of a foreign bank. The Board’s approval of this application does not supplant the authority of the OCC to license the proposed office of Bank in accordance with any terms or conditions that it may impose.

¹ 12 U.S.C. § 3105(d).

² *Id.*

³ Asset and ranking data are as of September 30, 2011.

⁴ BFA was created through a Sistema Institucional de Protección (Integration Agreement), an integration transaction supported by the Bank of Spain to address the effects of the global financial crisis on Spanish financial institutions by consolidating a number of Spanish savings banks, or cajas de ahorros, operating in Spain. BFA was established by seven Spanish savings banks, including Caja de Ahorros y Monte de Piedad de Madrid, Caja Madrid (“Caja Madrid”), which owns 52.1 percent of BFA, and Caja de Ahorros de Valencia, Castellón y Alicante, Bancaja (“Bancaja”), which owns 37.7 percent. Each of the remaining five savings banks owns less than 3 percent of the issued shares of BFA. The Board approved BFA’s application to become a bank holding company on December 16, 2010. See *Caja de Ahorros de Valencia, Castellón y Alicante, Bancaja*, 97 *Federal Reserve Bulletin* 4 (2011). BFA received €4.465 billion from the Fondo de Reestructuración Ordenada Bancaria (“FROB”) in exchange for perpetual convertible preference shares of BFA. FROB was created by the Spanish government to support and facilitate integrations transactions among Spanish financial institutions. FROB is a bank holding company by virtue of its ownership interest in BFA. See *Caja de Ahorros de Valencia, Castellón y Alicante, Bancaja*, *supra*. FROB’s investment in BFA represents approximately 17 percent of the total equity and, if converted to voting shares, would represent 17 percent of BFA’s voting shares. The current proposal would not increase FROB’s indirect ownership of any bank in the United States.

branch, respectively, in Miami, Florida. Bankia meets the requirements for a qualifying foreign banking organization under Regulation K.⁵

Bankia, as part of a corporate reorganization,⁶ proposes to establish the branch to assume the operations of Caja Madrid's agency and Bancaja's branch, and those offices would be closed. The proposed branch would offer substantially the same products and services currently provided by the Caja Madrid and Bancaja offices.

Under the IBA and Regulation K, in acting on an application by a foreign bank to establish a branch, the Board must consider whether the foreign bank (1) engages directly in the business of banking outside the United States; (2) has furnished the Board the information it needs to assess the application adequately; and (3) is subject to comprehensive supervision on a consolidated basis by its home country supervisors.⁷ The Board also considers additional standards as set forth in the IBA and Regulation K.⁸

As noted above, Bankia engages directly in the business of banking outside the United States. Bankia also has provided the Board with information necessary to assess the application through its submissions that address the relevant issues.

With respect to supervision by home country authorities, the Board previously has determined that BFA, Caja Madrid, and Bancaja are subject to comprehensive supervision on a consolidated basis by their home country supervisor.⁹ The Board also has determined that other banks in Spain that are supervised under the same regime as Bankia were subject to home country supervision on a consolidated basis.¹⁰ Bankia is supervised by the Bank of Spain on substantially the same terms and conditions as BFA, Caja Madrid, Bancaja, and those other banks. Based on all the facts of record, the Board has determined that Bankia is subject to comprehensive supervision on a consolidated basis by its home country supervisor.

⁵ 12 CFR 211.23(a).

⁶ Subsequent to BFA's creation, BFA and the savings banks agreed to transfer certain BFA assets and liabilities, including the group's banking business, to Bankia.

⁷ 12 U.S.C. § 3105(d)(2); 12 CFR 211.24. In assessing this standard, 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 regular examination reports, audit reports, or otherwise; (iii) obtain information on the dealings with and relationship 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; (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.

⁸ 12 U.S.C. § 3105(d)(3)–(4); 12 CFR 211.24(c)(2)–(3). The additional standards set forth in section 7 of the IBA and Regulation K include the following considerations: whether the bank's home country supervisor has consented to the establishment of the office; the financial and managerial resources of the bank; whether the bank has procedures to combat money laundering, whether there is a legal regime in place in the home country to address money laundering, and whether the home country is participating in multilateral efforts to combat money laundering; whether the appropriate supervisors in the home country may share information on the bank's operations with the Board; whether the bank and its U.S. affiliates are in compliance with U.S. law; the needs of the community; the bank's record of operation; in the case of a foreign bank that presents a risk to the stability of the United States, whether the home country of the foreign bank has adopted, or is making demonstrable progress toward adopting, an appropriate system of financial regulation for the financial system of such home country to mitigate such risk.

⁹ See *Caja de Ahorros de Valencia, Castellón y Alicante, Bancaja*, supra; *Caja de Ahorros y Monte de Piedad de Madrid*, 95 *Federal Reserve Bulletin* B23 (2009); *Caja de Ahorros de Valencia, Castellón y Alicante, Bancaja*, 84 *Federal Reserve Bulletin* 231 (1998).

¹⁰ See, e.g., *Banco Popular Español S.A.*, 92 *Federal Reserve Bulletin* C130 (2006); *Banco Bilbao Vizcaya Argentina, S.A.*, 91 *Federal Reserve Bulletin* 258 (2005); *Banco Pastor, S.A.*, 87 *Federal Reserve Bulletin* 555 (2001).

The additional standards set forth in section 7 of the IBA and Regulation K have also been taken into account.¹¹ The Bank of Spain has no objection to the establishment of the proposed branch.

With respect to the financial and managerial resources of Bankia, taking into consideration the bank's record of operations in its home country, its overall financial resources, and its standing with home country supervisors, financial and managerial factors are consistent with approval of the proposed branch. Spain has adopted risk-based capital standards that are consistent with those established by the Basel Capital Accord ("Accord"). Bankia's capital is in excess of the minimum levels that would be required by the Accord and is considered equivalent to capital that would be required of a U.S. banking organization for a similar proposal. Managerial and other financial resources of Bankia are also consistent with approval, and Bankia appears to have the experience and capacity to support the proposed branch. In addition, Bankia has established controls and procedures for the proposed branch to ensure compliance with U.S. law.

Spain has enacted laws and regulations to deter money laundering that are consistent with the Financial Action Task Force recommendations. Money laundering is a criminal offense in Spain, and financial institutions are required to establish internal policies, procedures, and systems for the detection and prevention of money laundering throughout their worldwide operations. Bankia has policies and procedures to comply with these laws and regulations, and its compliance with applicable laws and regulations is monitored by governmental entities responsible for anti-money-laundering compliance.

With respect to access to information about Bankia's operations, the restrictions on disclosure in relevant jurisdictions in which Bankia operates have been reviewed and relevant government authorities have been contacted regarding access to information. Bankia has committed to make available to the Board such information on the operations of Bankia and any of its affiliates that the Board deems necessary to determine and enforce compliance with the IBA, the Bank Holding Company Act, and other applicable federal law. To the extent that the provision of such information to the Board may be prohibited by law or otherwise, Bankia has committed to cooperate with the Board to obtain any necessary consents or waivers that might be required from third parties for disclosure of such information. In light of these commitments and other facts of record, and subject to the condition described below, it has been determined that Bankia has provided adequate assurances of access to any necessary information that the Board may request.

Section 173 of the Dodd-Frank Act amended the IBA to provide that the Board may consider, for a foreign bank that presents a risk to the stability of the United States financial system, whether the home country of the foreign bank has adopted, or is making demonstrable progress toward adopting, an appropriate system of financial regulation for the financial system of such home country to mitigate such risk.¹² Spain has made progress toward adopting a system of financial regulation for its financial system to mitigate the risk to financial stability from its banks. The Bank of Spain and the Spanish government have taken a number of measures to strengthen the overall financial supervisory regime. These measures include supporting the integration of Spanish savings banks into financial groups, adopting legislative measures that increase minimum capital requirements for Spanish financial institutions, and requiring financial institutions to implement their recapitalization plans. The Bank of Spain also established a Financial Stability Department to monitor and analyze financial stability risks and issues in the Spanish and global finan-

¹¹ See, *supra*, note 8.

¹² 12 U.S.C. § 3105(d)(3)(E).

cial systems and produces an annual Financial Stability Report that includes an assessment of the key macroeconomic and financial market risks in Spain. In addition, Spanish authorities have been actively involved in advancing international financial stability discussions in various fora, including the Organisation for Economic Co-operation and Development, the International Monetary Fund, the Basel Committee on Banking Supervision, and the Financial Stability Board. More recently, Spain actively participated in the G-20 meeting of finance ministers and central bank governors where agreement was reached on a set of guidelines that measure potentially destabilizing imbalances in the global economy as a first step toward making the world less prone to financial crisis.

On the basis of all the facts of record, and subject to the commitments made by Bankia and its parent companies, as well as the terms and conditions set forth in this order, Bankia's application to establish a branch in Miami is hereby approved by the Director of the Division of Banking Supervision and Regulation, with the concurrence of the General Counsel, pursuant to authority delegated by the Board.¹³ Should any restrictions on access to information on the operations or activities of Bankia and its affiliates subsequently interfere with the Board's ability to obtain information to determine and enforce compliance by Bankia's or its affiliates with applicable federal statutes, the Board may require termination of any of Bankia or its affiliates' direct or indirect activities in the United States. Approval of this application also is specifically conditioned on compliance by Bankia with the commitments made in connection with this application and with the conditions in this order.¹⁴ The commitments and conditions referred to above are conditions imposed in writing by the Board in connection with this decision and may be enforced in proceedings under 12 U.S.C. § 1818 against Bankia and its affiliates.

By order, approved pursuant to authority delegated by the Board, effective December 16, 2011.

Robert deV. Frierson
Deputy Secretary of the Board

¹³ 12 CFR 265.7(d)(12).

¹⁴ The Board's authority to approve the establishment of the proposed branch parallels the continuing authority of the State of Florida to license branches of a foreign bank. The Board's approval of this application does not supplant the authority of the State of Florida or its agent, the Office of Financial Regulation ("OFR"), to license the proposed branch of Bankia in accordance with any terms or conditions that the OFR may impose.