Comptroller of the Currency
Administrator of National Banks

Quarterly Journal

3

VOLUME NINETEEN

Office of the Comptroller of the Currency
September 2000

Comptroller . . . . John D. Hawke Jr.

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Background

The Office of the Comptroller of the Currency (OCC) was established in 1863 as a bureau of the Department of the Treasury. The OCC is headed by the Comptroller, who is appointed by the President, with the advice and consent of the Senate, for a five-year term.

The OCC regulates national banks by its power to:

- Examine the banks;
- Approve or deny applications for new charters, branches, capital, or other changes in corporate or banking structure;
- Take supervisory actions against banks that do not conform to laws and regulations or that otherwise engage in unsound banking practices, including removal of officers, negotiation of agreements to change existing banking practices, and issuance of cease and desist orders; and
- Issue rules and regulations concerning banking practices and governing bank lending and investment practices and corporate structure.

The OCC divides the United States into six geographical districts, with each headed by a deputy comptroller.

The OCC is funded through assessments on the assets of national banks, and federal branches and agencies. Under the International Banking Act of 1978, the OCC regulates federal branches and agencies of foreign banks in the United States.

The Comptroller

Comptroller John D. Hawke Jr. has held office as the 28th Comptroller of the Currency since December 8, 1998, after being appointed by President Clinton during a congressional recess. He was confirmed subsequently by the United States Senate for a five-year term starting on October 13, 1999. Prior to his appointment Mr. Hawke served for 3½ years as Under Secretary of the Treasury for Domestic Finance. He oversaw development of policy and legislation on financial institutions, debt management, and capital markets; served as chairman of the Advanced Counterfeit Deterrence Steering Committee; and was a member of the board of the Securities Investor Protection Corporation. Before joining Treasury, he was a senior partner at the Washington, D.C. law firm of Arnold & Porter, which he joined as an associate in 1962. In 1975 he left to serve as general counsel to the Board of Governors of the Federal Reserve System, returning in 1978. At Arnold & Porter he headed the financial institutions practice. From 1987 to 1995 he was chairman of the firm.

Mr. Hawke has written extensively on the regulation of financial institutions, including *Commentaries on Banking Regulation*, published in 1985. From 1970 to 1987 he taught courses on federal regulation of banking at Georgetown University Law Center. He has also taught courses on bank acquisitions and serves as chairman of the Board of Advisors of the Morin Center for Banking Law Studies. In 1987 Mr. Hawke served on a committee of inquiry appointed by the Chicago Mercantile Exchange to study the role of futures markets in the October 1987 stock market crash. He was a founding member of the Shadow Financial Regulatory Committee, and served on it until joining Treasury.

Mr. Hawke was graduated from Yale University in 1954 with a B.A. in English. From 1955 to 1957 he served on active duty with the U.S. Air Force. After graduating in 1960 from Columbia University School of Law, where he was editor-in-chief of the *Columbia Law Review*, Mr. Hawke clerked for Judge E. Barrett Prettyman on the U.S. Court of Appeals for the District of Columbia Circuit. From 1961 to 1962 he was counsel to the Select Subcommittee on Education, U.S. House of Representatives.

The *Quarterly Journal* is the journal of record for the most significant actions and policies of the Office of the Comptroller of the Currency. It is published four times a year. The *Quarterly Journal* includes policy statements, decisions on banking structure, selected speeches and congressional testimony, material released in the interpretive letters series, statistical data, and other information of interest to the administration of national banks. Send suggestions or questions to Rebecca Miller, Senior Writer-Editor, Communications Division, Comptroller of the Currency, Washington, DC 20219. Subscriptions are available for $100 a year by writing to Publications—QJ, Comptroller of the Currency, P.O. Box 70004, Chicago, IL 60673–0004. The *Quarterly Journal* is on the Web at http://www.occ.treas.gov/qj/qj.htm.

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John D. Hawke Jr.

Comptroller of the Currency

The Administrator of National Banks

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Condition and Performance of Commercial Banks

The profitability of the banking industry weakened in the second quarter, particularly for large banks. This quarter we analyze the sources of the decline in earnings and explore whether the drop-off in profitability is likely to be temporary or prolonged.

Summary of Condition and Performance

Commercial banks reported a significant decline in their aggregate earnings in the second quarter of 2000. Net income for the commercial banking industry dropped to $14.7 billion, down 25 percent from the record earnings set in the first quarter and 13 percent from the second quarter of 1999. The return on assets (ROA) and return on equity (ROE) for the banking industry declined to less than 1 percent and 12 percent, respectively, (as shown in the top panel of Table 1), their lowest levels in almost a decade.

The decline in profitability was primarily focused in larger institutions due to a slowdown in the growth of noninterest income, higher realized security losses, and higher provisioning for loan losses. The increase in provisioning was spurred by the continued slippage in credit quality for commercial and industrial (C&I) loans. These negative developments, which were exacerbated by restructuring charges at a few large institutions, affected small banks much less than large banks in the second quarter. Correspondingly, two-thirds of the banking industry, by number of banks, experienced earnings gains in the second quarter, an increase of 10 percentage points from the same quarter a year ago.

The second quarter drop-off in aggregate earnings and profitability was more pronounced at national banks than for all commercial banks, as shown in the bottom panel of Table 1. This reflects the focus of negative earnings trends in large banks and the high proportion of large banks with a national charter. National banks account for almost one-half of all banks with assets over $1 billion, but only one-quarter of all banks with assets under $1 billion.

Table 1

All commercial banks		
	June 1999	*June 2000*
Net Income	$16.9 billion	$14.7 billion
ROA	1.25 %	0.99 %
ROE	14.5 %	11.8 %
Banks with earnings gains	57 %	67 %
National banks		
	June 1999	*June 2000*
Net Income	$11.0 billion	$6.6 billion
ROA	1.39 %	0.80 %
ROE	15.8 %	9.4 %
Banks with earnings gains	57 %	66 %

Assets of all commercial banks grew by $515 billion, or 9.4 percent, from June 1999 while the number of banks fell by 197. Assets of national banks increased by 5.3 percent while the number of national banks declined by 107.

Key Trends

Bank profitability weakened in the second quarter as the primary engine of recent revenue growth, noninterest income, slowed while realized security losses and loan loss provisions increased. These negative trends affected large banks to a greater degree than small banks. Hence the ROE for commercial banks with over $1 billion in assets declined 350 basis points from the second quarter a year ago to 11.4 percent, while the ROE for banks with under $1 billion in assets rose 65 basis points to 13.4 percent.

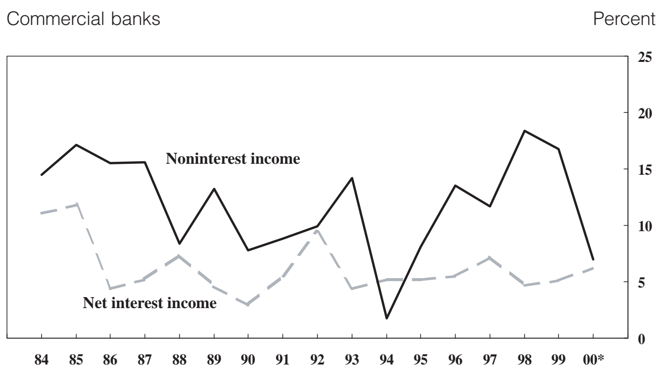
Revenue growth. Noninterest income growth accelerated in the late 1990s as banks sought alternative sources of revenue to offset the compression in net interest margin they were facing on lending activities.[1] Noninterest income grew at about three times the pace of net interest income in 1999, as shown in Figure 1. A significant portion of this growth came from large banks as they moved into "market-sensitive" sources of noninterest revenue such as brokerage and trading activities and investment banking. Although potentially highly profitable, these activities also have the potential for greater variability due to fluctuations in equity markets. That potential volatility was evident in the second quarter as trading revenue and other "market-sensitive" noninterest income slowed for large banks. Noninterest income is up 7 percent so far this year, only slightly faster than the growth in net interest income.

Security losses. Rising interest rates over the last 15 months depreciated the value of securities held by banks.

[1] For a more detailed analysis of the growing reliance on noninterest income and its implications see the "Condition and Performance of Commercial Banks" article in the OCC *Quarterly Journal*, Vol. 19, No. 2, June 2000.

Figure 1—Growth rate of noninterest income slows

Commercial banks Percent

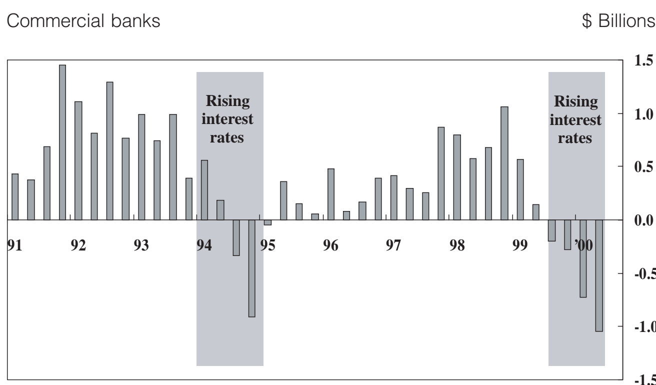


*Change in data as of June 30, 2000 from June 30, 1999.
Source: Integrated Banking Information System

Consequently, security sales went from an addition to a drain on earnings. As shown in Figure 2, realized losses on security sales set a new quarterly record and exceeded $1 billion in the second quarter. Large banks—those with assets over $1 billion—accounted for almost all (96 percent) of those losses.

Figure 2—Realized securities losses increase in rising interest rates environment

Commercial banks $ Billions



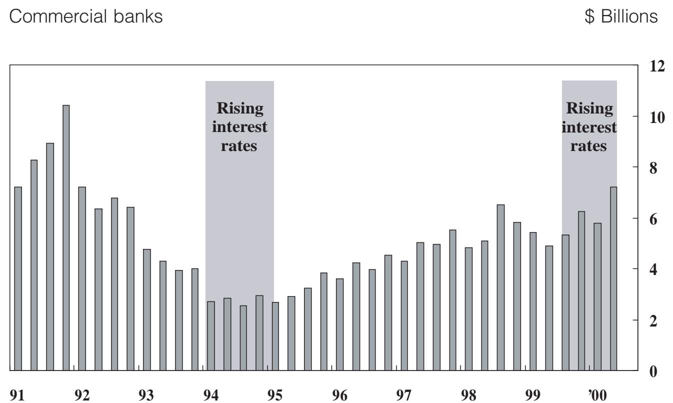
Source: Integrated Banking Information System

Security losses remain a potential drain to future earnings. Banks had a 2.3 percent depreciation in the value of their security holdings as of the second quarter, which is a slight improvement from the 2.5 percent depreciation they had as of the first quarter. Moreover, both large and small banks are holding security portfolios with roughly the same amount of depreciation.

Provisioning and asset quality. Strong and stable asset quality was a critical element in maintaining high commercial bank profitability in the second half of the 1990s. Loss provisions remained low and relatively stable during this period, as shown in Figure 3. However, loss provisions for commercial banks increased to $7.2 billion in the second quarter, up almost 46 percent from a year ago and the highest level of provisions since coming out of the last recession.

Figure 3—Loan loss provisions rise to highest level since 1992

Commercial banks $ Billions

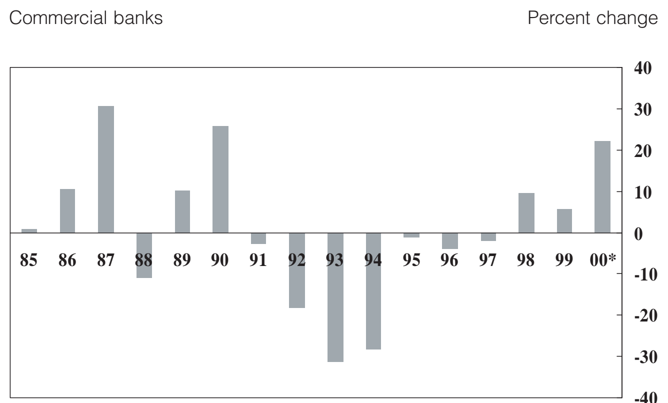


Source: Integrated Banking Information System

The increase in provisioning from a year ago reflects the slippage in credit quality commercial banks are currently experiencing. As shown in Figure 4, noncurrent loans increased at an 22 percent annual rate in the first half of 2000, the fastest growth in noncurrent loans since the last recession. Noncurrent loans had been decreasing through 1997.

Figure 4—Annual change in noncurrent loans on the rise

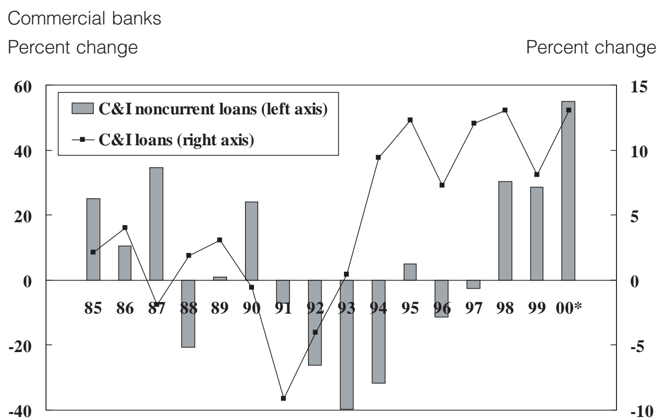
Commercial banks Percent change



*Annualized change in 2000 through June 30
Source: Integrated Banking Information System

Deteriorating credit quality for C&I loans is driving the increase in noncurrent loans. Noncurrent C&I loans increased at a 55 percent annual rate in the first half of 2000, as shown in Figure 5. The surge in C&I noncurrent loans comes on the heels of strong C&I loan growth in the second half of the 1990s and concern by regulators about loosening underwriting standards for commercial loans during that period. C&I loan growth averaged 11 percent in the second half of the 1990s compared to 7 percent growth for the rest of the loan portfolio. This is in stark contrast to the second half of the 1980s, when C&I loan growth averaged about one-fifth the growth in the rest of the loan portfolio.

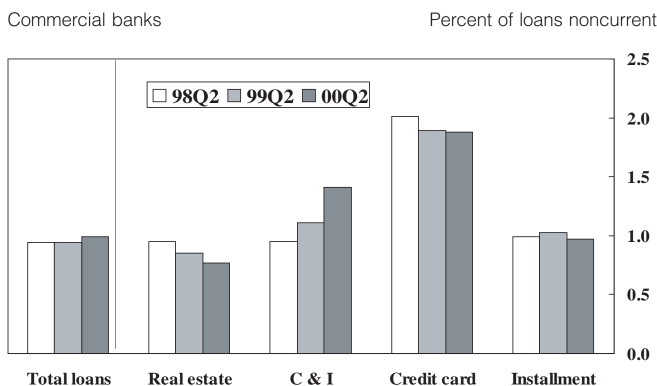
Figure 5—Strong C&I loan growth since 1994 followed by accelerating growth in noncurrent C&I loans



*Annualized change in 2000 through June 30
Source: Integrated Banking Information System

The weakening in credit quality as measured by noncurrent loans has thus far been reflected in C&I loans. The noncurrent ratio for C&I loans increased by 30 basis points over the last year and 46 basis points over the last two years, as shown in Figure 6. However, the percent of noncurrent loans for most other loan categories declined in the second quarter on a year-to-year comparison, including commercial real estate, construction real estate, credit card, and installment loans.

Figure 6—Noncurrent C&I loans ratio on the rise

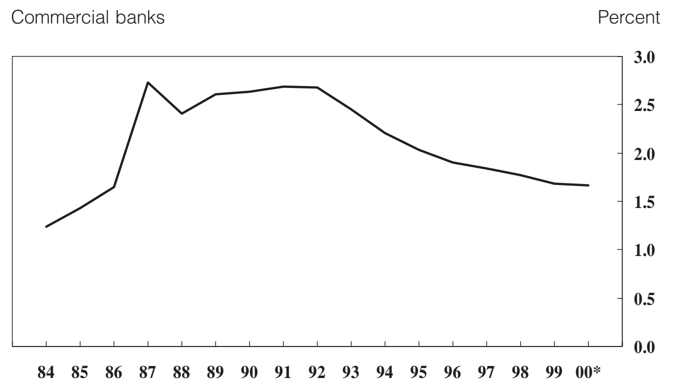


Source: Integrated Banking Information System

The weakening in noncurrent C&I loans is occurring in an environment of relatively strong though moderating growth in the U.S. economy. This raises concern about the possible impact on credit quality if the U.S economy were to slow further or slip into a recession.

Concern about future credit quality increases the likelihood that banks will have to increase provisioning further to maintain or boost their loss reserve ratios. The ratio of loan loss reserves to total loans for commercial banks peaked at 2.7 percent following the 1990–1991 recession. The industry-wide loss reserve ratio has been falling since the early 1990s, falling to 1.7 percent as of the second quarter 2000, as shown in Figure 7. The decline in the reserve ratio was one of the factors contributing to the high level of bank profitability in the second half of the 1990s. This option is likely to be unavailable to banks in coming quarters if credit quality conditions deteriorate significantly.

Figure 7—Decline in loan loss reserves to loans ratio may be coming to an end



*2000 data as of June 30. All other data as of year-end.
Source: Integrated Banking Information System

Conclusions

Banking industry profitability weakened in the second quarter as noninterest income growth slowed, realized security losses increased, and provisioning rose in response to deteriorating credit quality for C&I loans. These negative developments were more pronounced at large banks than at small banks, and were exacerbated by restructuring charges at a few large institutions. The slowdown in noninterest income growth may prove temporary if equity markets rebound and re-ignite growth in the "market-sensitive" components of noninterest income.

Realized security losses and increased provisioning, however, could persist as drains on net income. Nominal interest rates have stabilized but remain significantly higher than when the Fed began to tighten monetary policy 15 months ago. Unless interest rates decline, banks are likely to realize additional losses on the sale of their depreciated security holdings.

Credit quality may continue to slip even without a further slowdown in the U.S. economic growth due to the strong loan growth in the second half of the 1990 and looser underwriting standards in that period. Consequently, provisions are likely to rise to cover higher loan losses or to build reserve levels. In addition to being a drain on earnings, credit quality deterioration can also be a large distraction to bank management, reducing their ability to meet new challenges, and increasing the potential vulnerability of the bank in a dynamic competitive environment.

Key indicators, FDIC-insured national banks
Annual 1996–1999, year-to-date through June 30, 2000, second quarter 1999, and second quarter 2000
(Dollar figures in millions)

	1996	1997	1998	1999	Preliminary 2000YTD	1999Q2	Preliminary 2000Q2
Number of institutions reporting	2,726	2,597	2,456	2,364	2,302	2,409	2,302
Total employees (FTEs)	850,737	912,463	974,871	983,174	964,419	960,086	964,419
Selected income data ($)							
Net income	$30,497	$35,782	$37,607	$42,593	$18,161	$11,005	$6,622
Net interest income	94,564	106,639	110,985	114,535	58,380	28,736	29,444
Provision for loan losses	9,598	13,065	15,242	15,548	9,137	3,686	5,054
Noninterest income	56,100	65,429	81,344	92,672	46,436	22,630	21,667
Noninterest expense	93,690	104,682	122,606	125,811	65,016	30,667	34,022
Net operating income	30,095	34,993	35,548	42,416	19,418	10,870	7,438
Cash dividends declared	25,279	28,587	25,414	29,875	13,542	9,036	6,872
Net charge-offs to loan and lease reserve	9,968	12,661	14,492	14,174	7,249	3,243	3,632
Selected condition data ($)							
Total assets	2,528,057	2,893,910	3,183,384	3,271,259	3,363,723	3,193,148	3,363,723
Total loans and leases	1,641,464	1,840,485	2,015,585	2,127,881	2,200,052	2,044,447	2,200,052
Reserve for losses	31,992	34,865	36,810	37,687	39,262	37,301	39,262
Securities	380,615	452,118	516,117	537,185	516,063	546,678	516,063
Other real estate owned	2,761	2,112	1,833	1,572	1,508	1,674	1,508
Noncurrent loans and leases	17,223	17,878	19,513	20,810	22,977	19,728	22,977
Total deposits	1,801,043	2,004,867	2,137,946	2,154,276	2,197,099	2,121,968	2,197,099
Domestic deposits	1,525,565	1,685,316	1,785,856	1,776,129	1,788,873	1,755,761	1,788,873
Equity capital	207,166	244,794	274,192	278,018	285,529	276,867	285,529
Off-balance-sheet derivatives	7,488,663	8,704,481	10,953,514	12,077,568	14,661,921	10,982,091	14,661,921
Performance ratios (annualized %)							
Return on equity	15.28	15.00	14.29	15.57	12.95	15.82	9.36
Return on assets	1.25	1.29	1.24	1.35	1.10	1.39	0.80
Net interest income to assets	3.88	3.83	3.67	3.63	3.55	3.62	3.54
Loss provision to assets	0.39	0.47	0.50	0.49	0.55	0.46	0.61
Net operating income to assets	1.24	1.26	1.18	1.35	1.18	1.37	0.90
Noninterest income to assets	2.30	2.35	2.69	2.94	2.82	2.85	2.61
Noninterest expense to assets	3.85	3.76	4.05	3.99	3.95	3.87	4.10
Loss provision to loans and leases	0.61	0.73	0.79	0.76	0.85	0.73	0.94
Net charge-offs to loans and leases	0.63	0.71	0.75	0.70	0.68	0.64	0.67
Loss provision to net charge-offs	96.29	103.19	105.12	109.69	126.03	113.66	139.16
Performance ratios (%)							
Percent of institutions unprofitable	4.77	4.89	5.94	7.06	6.04	6.14	6.47
Percent of institutions with earnings gains	67.83	67.96	61.60	62.14	67.77	56.62	65.90
Nonint. income to net operating revenue	37.24	38.02	42.29	44.72	44.30	44.06	42.39
Nonint. expense to net operating revenue	62.18	60.84	63.75	60.72	62.03	59.70	66.57
Condition ratios (%)							
Nonperforming assets to assets	0.80	0.70	0.68	0.70	0.74	0.68	0.74
Noncurrent loans to loans	1.05	0.97	0.97	0.98	1.04	0.96	1.04
Loss reserve to noncurrent loans	185.75	195.01	188.65	181.10	170.88	189.08	170.88
Loss reserve to loans	1.95	1.89	1.83	1.77	1.78	1.82	1.78
Equity capital to assets	8.19	8.46	8.61	8.50	8.49	8.67	8.49
Leverage ratio	7.40	7.42	7.43	7.49	7.49	7.56	7.49
Risk-based capital ratio	11.95	11.84	11.79	11.72	11.82	12.00	11.82
Net loans and leases to assets	63.66	62.39	62.16	63.90	64.24	62.86	64.24
Securities to assets	15.06	15.62	16.21	16.42	15.34	17.12	15.34
Appreciation in securities (% of par)	0.50	1.11	0.82	−2.45	−2.49	−1.42	−2.49
Residential mortgage assets to assets	19.81	20.10	20.41	20.60	20.46	19.89	20.46
Total deposits to assets	71.24	69.28	67.16	65.85	65.32	66.45	65.32
Core deposits to assets	54.08	51.59	49.72	47.01	45.48	48.50	45.48
Volatile liabilities to assets	29.83	31.42	31.77	34.81	35.89	33.27	35.89

Loan performance, FDIC-insured national banks
Annual 1996–1999, year-to-date through June 30, 2000, second quarter 1999, and second quarter 2000

(Dollar figures in millions)

	1996	1997	1998	1999	Preliminary 2000YTD	1999Q2	Preliminary 2000Q2
Percent of loans past due 30–89 days							
Total loans and leases	1.39	1.32	1.27	1.16	1.06	1.12	1.06
Loans secured by real estate (RE)	1.45	1.39	1.33	1.22	1.09	1.05	1.09
1–4 family residential mortgages	1.63	1.65	1.50	1.61	1.41	1.13	1.41
Home equity loans	1.04	0.93	0.97	0.77	0.75	0.76	0.75
Multifamily residential mortgage	1.28	1.33	0.94	0.69	0.43	0.51	0.43
Commercial RE loans	1.25	0.95	1.02	0.70	0.60	0.96	0.60
Construction RE loans	1.63	1.63	1.82	1.07	1.01	1.16	1.01
Commercial and industrial loans*	0.89	0.76	0.81	0.71	0.72	0.87	0.72
Loans to individuals	2.46	2.52	2.44	2.36	2.10	2.23	2.10
Credit cards	2.70	2.75	2.52	2.53	2.32	2.41	2.32
Installment loans	2.26	2.34	2.37	2.24	1.92	2.10	1.92
All other loans and leases	0.41	0.46	0.46	0.50	0.57	0.52	0.57
Percent of loans noncurrent							
Total loans and leases	1.05	0.97	0.97	0.98	1.04	0.96	1.04
Loans secured by real estate (RE)	1.27	1.07	0.98	0.87	0.86	0.93	0.86
1–4 family residential mortgages	1.10	1.01	0.95	0.91	0.89	0.82	0.89
Home equity loans	0.47	0.43	0.41	0.28	0.33	0.34	0.33
Multifamily residential mortgage	1.47	1.01	0.88	0.44	0.37	0.83	0.37
Commercial RE loans	1.71	1.27	1.01	0.85	0.84	1.05	0.84
Construction RE loans	1.31	1.00	0.80	0.63	0.80	0.83	0.80
Commercial and industrial loans*	0.87	0.78	0.86	1.11	1.37	1.01	1.37
Loans to individuals	1.34	1.49	1.59	1.52	1.40	1.41	1.40
Credit cards	1.70	2.03	2.06	2.00	1.80	1.77	1.80
Installment loans	1.04	1.04	1.19	1.16	1.08	1.16	1.08
All other loans and leases	0.25	0.27	0.31	0.40	0.50	0.47	0.50
Percent of loans charged-off, net							
Total loans and leases	0.63	0.71	0.75	0.70	0.68	0.64	0.67
Loans secured by real estate (RE)	0.09	0.06	0.05	0.10	0.10	0.08	0.10
1–4 family residential mortgages	0.08	0.08	0.07	0.14	0.12	0.11	0.12
Home equity loans	0.24	0.18	0.16	0.19	0.18	0.18	0.16
Multifamily residential mortgage	0.09	0.01	0.07	0.02	0.01	0.02	0.11
Commercial RE loans	0.02	−0.01	−0.02	0.03	0.06	0.01	0.06
Construction RE loans	0.16	−0.10	−0.01	0.03	0.01	0.05	0.02
Commercial and industrial loans*	0.22	0.27	0.38	0.54	0.66	0.55	0.72
Loans to individuals	2.45	2.86	2.92	2.65	2.59	2.35	2.45
Credit cards	4.25	4.95	5.03	4.51	4.44	4.22	4.27
Installment loans	1.04	1.20	1.23	1.27	1.18	1.01	1.05
All other loans and leases	0.17	0.15	0.79	0.46	0.19	0.20	0.20
Loans outstanding ($)							
Total loans and leases	$1,641,464	$1,840,485	$2,015,585	$2,127,881	$2,200,052	$2,044,447	$2,200,052
Loans secured by real estate (RE)	646,570	725,305	764,944	853,143	889,778	770,597	889,778
1–4 family residential mortgages	329,031	363,329	381,597	433,809	453,609	378,365	453,609
Home equity loans	55,022	67,669	66,091	67,266	75,457	60,215	75,457
Multifamily residential mortgage	20,480	23,346	23,201	26,561	28,792	25,554	28,792
Commercial RE loans	170,350	190,067	200,469	214,146	218,124	205,328	218,124
Construction RE loans	38,848	47,410	56,261	71,578	73,359	62,623	73,359
Farmland loans	9,046	10,178	10,930	11,957	12,496	11,326	12,496
RE loans from foreign offices	23,794	23,306	26,396	27,825	27,941	27,186	27,941
Commercial and industrial loans	425,148	508,589	583,903	622,006	648,494	610,009	648,494
Loans to individuals	356,067	371,477	386,410	348,577	348,354	351,246	348,354
Credit cards	161,104	168,236	176,408	147,122	155,990	143,206	155,990
Installment loans	194,963	203,241	210,003	201,455	192,365	208,040	192,365
All other loans and leases	216,194	237,326	282,367	306,042	315,037	314,426	315,037
Less: Unearned income	2,515	2,212	2,039	1,890	1,611	1,831	1,611

*Includes "All other loans" for institutions under $1 billion in asset size.

Key indicators, FDIC-insured national banks by asset size
Second quarter 1999 and second quarter 2000

(Dollar figures in millions)

	Less than $100M		$100M to $1B		$1B to $10B		Greater than $10B	
	1999Q2	2000Q2	1999Q2	2000Q2	1999Q2	2000Q2	1999Q2	2000Q2
Number of institutions reporting	1,237	1,162	987	963	138	131	47	46
Total employees (FTEs)	31,599	29,398	108,034	98,824	134,435	116,316	686,018	719,881
Selected income data ($)								
Net income	$172	$201	$896	$840	$1,913	$1,029	$8,025	$4,551
Net interest income	624	622	2,662	2,596	4,334	3,779	21,116	22,447
Provision for loan losses	34	39	201	213	778	478	2,673	4,323
Noninterest income	395	360	1,354	1,291	4,218	2,341	16,663	17,675
Noninterest expense	748	667	2,517	2,436	4,823	3,881	22,580	27,037
Net operating income	172	202	892	847	1,898	1,111	7,908	5,278
Cash dividends declared	101	112	734	482	1,200	841	7,001	5,437
Net charge-offs to loan and lease reserve	22	26	141	169	672	369	2,408	3,067
Selected condition data ($)								
Total assets	61,469	58,725	260,097	253,097	405,470	395,819	2,466,113	2,656,082
Total loans and leases	35,383	35,091	159,500	161,228	255,897	243,736	1,593,666	1,759,996
Reserve for losses	479	466	2,322	2,283	6,104	4,409	28,396	32,104
Securities	17,221	16,055	70,782	64,403	90,413	91,822	368,262	343,782
Other real estate owned	64	64	222	188	170	155	1,218	1,102
Noncurrent loans and leases	381	328	1,330	1,294	2,266	2,019	15,750	19,336
Total deposits	52,377	49,253	211,202	202,791	259,064	263,439	1,599,325	1,681,615
Domestic deposits	52,377	49,253	210,720	202,332	255,885	260,725	1,236,779	1,276,562
Equity capital	6,639	6,530	24,212	24,285	42,024	34,867	203,992	219,847
Off-balance-sheet derivatives	73	16	2,988	1,750	41,915	28,375	11,192,395	14,902,069
Performance ratios (annualized %)								
Return on equity	10.30	12.47	14.67	14.05	18.22	12.00	15.65	8.34
Return on assets	1.13	1.38	1.39	1.34	1.90	1.06	1.31	0.69
Net interest income to assets	4.09	4.27	4.13	4.15	4.31	3.88	3.45	3.42
Loss provision to assets	0.22	0.27	0.31	0.34	0.77	0.49	0.44	0.66
Net operating income to assets	1.12	1.39	1.39	1.35	1.89	1.14	1.29	0.80
Noninterest income to assets	2.59	2.47	2.10	2.06	4.20	2.40	2.72	2.69
Noninterest expense to assets	4.90	4.59	3.91	3.89	4.80	3.99	3.69	4.12
Loss provision to loans and leases	0.40	0.46	0.51	0.54	1.22	0.80	0.67	1.00
Net charge-offs to loans and leases	0.26	0.31	0.36	0.43	1.06	0.62	0.61	0.71
Loss provision to net charge-offs	154.65	148.82	142.61	126.12	115.72	129.50	111.01	140.96
Performance ratios (%)								
Percent of institutions unprofitable	9.86	9.04	2.33	2.70	2.17	7.63	0.00	17.39
Percent of institutions with earnings	49.15	65.23	62.92	68.74	73.19	58.78	72.34	43.48
Nonint. income to net operating revenue	38.78	36.66	33.71	33.21	49.32	38.25	44.11	44.05
Nonint. expense to net operating revenue	73.31	67.95	62.69	62.69	56.39	63.42	59.77	67.39
Condition ratios (%)								
Nonperforming assets to assets	0.72	0.67	0.60	0.59	0.61	0.56	0.70	0.78
Noncurrent loans to loans	1.08	0.93	0.83	0.80	0.89	0.83	0.99	1.10
Loss reserve to noncurrent loans	125.54	141.93	174.55	176.49	269.33	218.38	180.30	166.03
Loss reserve to loans	1.35	1.33	1.46	1.42	2.39	1.81	1.78	1.82
Equity capital to assets	10.80	11.12	9.31	9.60	10.36	8.81	8.27	8.28
Leverage ratio	10.74	11.30	9.10	9.56	9.03	8.12	7.07	7.12
Risk-based capital ratio	17.87	18.21	14.69	14.84	13.84	12.80	11.41	11.37
Net loans and leases to assets	56.78	58.96	60.43	62.80	61.61	60.46	63.47	65.05
Securities to assets	28.02	27.34	27.21	25.45	22.30	23.20	14.93	12.94
Appreciation in securities (% of par)	−0.99	−2.28	−1.13	−2.49	−1.22	−2.27	−1.54	−2.55
Residential mortgage assets to assets	21.68	21.45	25.76	24.69	26.14	27.00	18.19	19.06
Total deposits to assets	85.21	83.87	81.20	80.12	63.89	66.56	64.85	63.31
Core deposits to assets	73.62	71.66	69.75	67.69	55.34	56.72	44.51	41.11
Volatile liabilities to assets	13.32	15.07	17.21	19.15	26.67	27.28	36.54	39.23

Loan performance, FDIC-insured national banks by asset size
Second quarter 1999 and second quarter 2000
(Dollar figures in millions)

	Less than $100M		$100M to $1B		$1B to $10B		Greater than $10B	
	1999Q2	2000Q2	1999Q2	2000Q2	1999Q2	2000Q2	1999Q2	2000Q2
Percent of loans past due 30–89 days								
Total loans and leases	1.32	1.24	1.17	1.05	1.33	1.21	1.07	1.04
Loans secured by real estate (RE)	1.11	1.01	0.90	0.79	0.91	0.81	1.10	1.19
1–4 family residential mortgages	1.41	1.31	1.07	0.95	0.99	0.84	1.16	1.57
Home equity loans	0.82	0.64	0.65	0.64	0.84	0.92	0.76	0.73
Multifamily residential mortgage	0.51	0.41	0.48	0.49	0.48	0.36	0.52	0.43
Commercial RE loans	0.75	0.73	0.76	0.65	0.85	0.64	1.05	0.57
Construction RE loans	1.17	1.07	0.82	0.78	0.97	1.12	1.28	1.02
Commercial and industrial loans*	2.38	2.24	1.58	1.41	1.22	1.37	0.78	0.61
Loans to individuals	1.97	1.94	2.00	1.89	2.13	2.14	2.29	2.11
Credit cards	2.20	2.32	3.64	3.24	2.45	2.53	2.34	2.25
Installment loans	1.96	1.92	1.60	1.54	1.72	1.88	2.25	1.98
All other loans and leases					1.14	0.99	0.50	0.55
Percent of loans noncurrent								
Total loans and leases	1.08	0.93	0.83	0.80	0.89	0.83	0.99	1.10
Loans secured by real estate (RE)	0.85	0.74	0.65	0.62	0.71	0.66	1.03	0.95
1–4 family residential mortgages	0.74	0.61	0.62	0.55	0.70	0.56	0.88	1.00
Home equity loans	0.52	0.39	0.41	0.27	0.44	0.30	0.32	0.34
Multifamily residential mortgage	0.38	0.40	0.47	0.29	0.44	0.26	1.02	0.41
Commercial RE loans	0.84	0.76	0.68	0.73	0.86	0.83	1.20	0.88
Construction RE loans	0.47	0.71	0.47	0.50	0.52	0.80	0.99	0.86
Commercial and industrial loans*	2.82	2.44	1.51	1.53	0.74	1.11	0.99	1.37
Loans to individuals	0.72	0.61	0.91	0.87	1.32	1.13	1.49	1.51
Credit cards	1.38	1.22	2.64	2.51	1.93	1.90	1.66	1.76
Installment loans	0.69	0.58	0.49	0.43	0.55	0.62	1.39	1.29
All other loans and leases					0.64	0.42	0.47	0.51
Percent of loans charged-off, net								
Total loans and leases	0.26	0.31	0.36	0.43	1.06	0.62	0.61	0.71
Loans secured by real estate (RE)	0.03	0.03	0.05	0.03	0.10	0.13	0.08	0.11
1–4 family residential mortgages	0.03	0.06	0.05	0.04	0.13	0.18	0.11	0.11
Home equity loans	0.06	0.03	0.07	0.03	0.21	0.21	0.19	0.16
Multifamily residential mortgage	0.02	0.06	0.07	0.06	0.06	0.02	−0.01	0.14
Commercial RE loans	0.04	−0.01	0.04	0.02	−0.01	0.06	0.00	0.07
Construction RE loans	0.02	0.05	0.01	0.02	0.14	0.07	0.03	0.00
Commercial and industrial loans*	0.82	0.86	0.46	0.39	0.43	0.31	0.57	0.77
Loans to individuals	0.67	1.01	1.48	2.18	3.17	2.29	2.24	2.53
Credit cards	2.19	8.15	5.42	8.68	4.96	4.71	3.86	4.01
Installment loans	0.59	0.62	0.54	0.45	0.79	0.67	1.13	1.22
All other loans and leases					0.26	0.20	0.19	0.20
Loans outstanding ($)								
Total loans and leases	$35,383	$35,091	$159,500	$161,228	$255,897	$243,736	$1,593,666	$1,759,996
Loans secured by real estate (RE)	19,963	20,186	95,839	98,380	118,278	129,177	536,516	642,035
1–4 family residential mortgages	9,497	9,380	44,160	43,436	59,126	61,177	265,581	339,617
Home equity loans	427	444	3,912	4,053	7,983	8,136	47,893	62,823
Multifamily residential mortgage	425	497	3,180	3,408	4,825	4,622	17,124	20,265
Commercial RE loans	5,754	5,869	32,763	34,646	33,989	40,028	132,822	137,581
Construction RE loans	1,523	1,617	7,854	8,673	10,858	13,311	42,388	49,757
Farmland loans	2,338	2,379	3,947	4,159	1,311	1,718	3,731	4,240
RE loans from foreign offices	0	0	24	6	186	183	26,977	27,751
Commercial and industrial loans	6,132	5,974	28,599	28,855	49,424	48,547	525,855	565,117
Loans to individuals	5,041	4,921	25,167	24,061	72,417	49,902	248,621	269,471
Credit cards	237	258	4,932	5,007	40,399	19,922	97,638	130,802
Installment loans	4,804	4,663	20,236	19,053	32,018	29,980	150,982	138,669
All other loans and leases	4,358	4,092	10,212	10,207	15,851	16,197	284,005	284,541
Less: Unearned income	111	82	316	275	73	87	1,330	1,168

*Includes "All other loans" for institutions under $1 billion in asset size.

Key indicators, FDIC-insured national banks by region
Second quarter 2000
(Dollar figures in millions)

	Northeast	Southeast	Central	Midwest	Southwest	West	All institutions
Number of institutions reporting	265	311	468	463	556	239 2,	302
Total employees (FTEs)	278,790	278,736	161,525	79,877	71,872	93,619	964,419
Selected income data ($)							
Net income	$2,639	$189	$1,070	$1,097	$480	$1,147	$6,622
Net interest income	7,845	8,557	4,688	2,701	2,057	3,596	29,444
Provision for loan losses	1,566	1,212	807	472	269	727	5,054
Noninterest income	8,602	4,514	2,486	2,257	760	3,048	21,667
Noninterest expense	10,688	10,265	4,521	2,791	1,777	3,980	34,022
Net operating income	2,563	728	1,290	1,104	563	1,190	7,438
Cash dividends declared	1,381	2,735	1,118	519	263	856	6,872
Net charge-offs to loan and lease reserve	1,372	781	391	471	124	493	3,632
Selected condition data ($)							
Total assets	877,784	1,069,866	596,951	285,293	211,464	322,366	3,363,723
Total loans and leases	563,807	685,474	410,829	193,799	126,259	219,884	2,200,052
Reserve for losses	12,174	10,931	6,118	3,181	1,768	5,090	39,262
Securities	129,120	169,986	90,174	39,283	48,607	38,894	516,063
Other real estate owned	499	452	191	90	112	164	1,508
Noncurrent loans and leases	7,902	6,645	3,873	1,516	1,235	1,806	22,977
Total deposits	598,164	676,016	382,565	176,687	162,317	201,349	2,197,099
Domestic deposits	355,951	579,778	335,702	165,472	160,807	191,162	1,788,873
Equity capital	72,720	87,784	47,087	26,012	18,044	33,882	285,529
Off-balance-sheet derivatives	5,256,891	8,024,210	1,090,432	36,268	25,346	228,775	14,661,921
Performance ratios (annualized %)							
Return on equity	14.63	0.85	9.18	18.03	10.77	13.69	9.36
Return on assets	1.21	0.07	0.72	1.58	0.91	1.44	0.80
Net interest income to assets	3.60	3.25	3.17	3.88	3.90	4.52	3.54
Loss provision to assets	0.72	0.46	0.55	0.68	0.51	0.91	0.61
Net operating income to assets	1.18	0.28	0.87	1.59	1.07	1.50	0.90
Noninterest income to assets	3.95	1.71	1.68	3.24	1.44	3.83	2.61
Noninterest expense to assets	4.91	3.90	3.06	4.01	3.37	5.00	4.10
Loss provision to loans and leases	1.13	0.72	0.79	1.00	0.86	1.35	0.94
Net charge-offs to loans and leases	0.99	0.46	0.38	1.00	0.39	0.92	0.67
Loss provision to net charge-offs	114.09	155.20	206.39	100.33	218.00	147.52	139.16
Performance ratios (%)							
Percent of institutions unprofitable	5.28	16.08	4.49	3.24	4.32	10.46	6.47
Percent of institutions with earnings	64.15	62.06	63.46	66.52	68.35	70.71	65.90
Nonint. income to net operating revenue	52.30	34.54	34.65	45.53	26.98	45.87	42.39
Nonint. expense to net operating revenue	64.98	78.53	63.03	56.29	63.06	59.91	66.57
Condition ratios (%)							
Nonperforming assets to assets	0.98	0.66	0.70	0.56	0.64	0.64	0.74
Noncurrent loans to loans	1.40	0.97	0.94	0.78	0.98	0.82	1.04
Loss reserve to noncurrent loans	154.07	164.51	157.96	209.78	143.10	281.90	170.88
Loss reserve to loans	2.16	1.59	1.49	1.64	1.40	2.31	1.78
Equity capital to assets	8.28	8.21	7.89	9.12	8.53	10.51	8.49
Leverage ratio	7.46	7.21	7.33	7.71	7.85	8.45	7.49
Risk-based capital ratio	12.06	11.35	11.59	11.73	13.00	12.56	11.82
Net loans and leases to assets	62.84	63.05	67.80	66.81	58.87	66.63	64.24
Securities to assets	14.71	15.89	15.11	13.77	22.99	12.07	15.34
Appreciation in securities (% of par)	−1.54	−3.67	−2.05	−1.91	−2.69	−1.67	−2.49
Residential mortgage assets to assets	13.02	27.23	20.62	19.34	21.65	18.18	20.46
Total deposits to assets	68.14	63.19	64.09	61.93	76.76	62.46	65.32
Core deposits to assets	33.21	46.77	47.64	51.90	65.67	51.73	45.48
Volatile liabilities to assets	45.95	35.22	35.62	28.46	22.61	26.47	35.89

Loan performance, FDIC-insured national banks by region
Second quarter 2000
(Dollar figures in millions)

	Northeast	Southeast	Central	Midwest	Southwest	West	All institutions
Percent of loans past due 30–89 days							
Total loans and leases	1.06	0.91	1.20	1.38	1.02	1.06	1.06
Loans secured by real estate (RE)	1.18	1.16	1.19	1.00	0.90	0.68	1.09
1–4 family residential mortgages	1.52	1.61	1.41	1.01	0.98	0.80	1.41
Home equity loans	0.64	0.58	1.20	0.70	0.70	0.46	0.75
Multifamily residential mortgage	0.22	0.39	0.53	0.63	0.65	0.27	0.43
Commercial RE loans	0.52	0.37	0.84	0.90	0.72	0.50	0.60
Construction RE loans	0.80	0.53	1.57	1.30	1.21	1.05	1.01
Commercial and industrial loans*	0.51	0.41	0.94	1.68	1.12	0.97	0.72
Loans to individuals	2.46	1.90	2.16	1.94	1.32	1.97	2.10
Credit cards	2.77	1.91	1.77	1.94	1.14	2.04	2.32
Installment loans	1.99	1.90	2.22	1.94	1.33	1.78	1.92
All other loans and leases	0.33	0.36	0.90	1.07	0.61	0.99	0.57
Percent of loans noncurrent							
Total loans and leases	1.40	0.97	0.94	0.78	0.98	0.82	1.04
Loans secured by real estate (RE)	1.15	0.90	0.91	0.56	0.86	0.46	0.86
1–4 family residential mortgages	0.99	1.05	0.91	0.50	0.58	0.44	0.89
Home equity loans	0.25	0.22	0.64	0.25	0.27	0.16	0.33
Multifamily residential mortgage	0.45	0.27	0.41	0.20	0.36	0.62	0.37
Commercial RE loans	0.90	0.84	1.05	0.61	1.09	0.45	0.84
Construction RE loans	0.52	0.85	0.89	0.70	1.00	0.69	0.80
Commercial and industrial loans*	1.50	1.42	1.15	0.99	1.67	1.31	1.37
Loans to individuals	2.53	0.61	0.78	1.04	0.41	1.22	1.40
Credit cards	2.36	1.08	0.99	1.40	0.60	1.52	1.80
Installment loans	2.77	0.41	0.75	0.55	0.40	0.45	1.08
All other loans and leases	0.43	0.37	0.76	0.62	0.50	0.41	0.50
Percent of loans charged-off, net							
Total loans and leases	0.99	0.46	0.38	1.00	0.39	0.92	0.67
Loans secured by real estate (RE)	0.11	0.10	0.11	0.12	0.07	0.04	0.10
1–4 family residential mortgages	0.07	0.13	0.10	0.26	0.06	0.05	0.12
Home equity loans	0.19	0.11	0.25	0.21	0.43	−0.01	0.16
Multifamily residential mortgage	0.04	0.02	0.02	−0.03	−0.03	0.76	0.11
Commercial RE loans	0.05	0.07	0.11	−0.05	0.08	0.00	0.06
Construction RE loans	0.00	0.05	0.01	−0.07	0.10	−0.03	0.02
Commercial and industrial loans*	0.77	0.74	0.58	0.59	0.63	1.00	0.72
Loans to individuals	3.24	1.68	1.06	3.53	0.87	2.94	2.45
Credit cards	4.33	3.16	3.38	5.85	3.21	3.82	4.27
Installment loans	1.63	1.13	0.68	0.54	0.78	0.98	1.05
All other loans and leases	0.10	0.24	0.21	0.34	0.13	0.31	0.20
Loans outstanding ($)							
Total loans and leases	$563,807	$685,474	$410,829	$193,799	$126,259	$219,884	$2,200,052
Loans secured by real estate (RE)	153,549	330,705	176,340	78,679	54,017	96,489	889,778
1–4 family residential mortgages	72,861	199,712	81,355	38,149	21,895	39,637	453,609
Home equity loans	14,119	25,870	19,780	5,233	1,018	9,436	75,457
Multifamily residential mortgage	3,061	10,370	7,265	2,497	1,807	3,791	28,792
Commercial RE loans	30,915	65,330	49,313	21,414	20,291	30,861	218,124
Construction RE loans	6,940	23,897	15,446	8,188	7,308	11,580	73,359
Farmland loans	505	2,749	3,166	3,198	1,697	1,182	12,496
RE loans from foreign offices	25,148	2,777	14	0	0	2	27,941
Commercial and industrial loans	179,302	210,198	120,444	49,634	36,562	52,354	648,494
Loans to individuals	117,241	65,916	51,680	41,708	24,183	47,627	348,354
Credit cards	70,282	18,960	7,341	24,129	901	34,376	155,990
Installment loans	46,959	46,956	44,339	17,579	23,282	13,251	192,365
All other loans and leases	114,479	79,022	62,502	23,802	11,630	23,602	315,037
Less: Unearned income	763	368	137	23	133	187	1,611

*Includes "All other loans" for institutions under $1 billion in asset size.

Key indicators, FDIC-insured commercial banks
Annual 1996–1999, year-to-date through June 30, 2000, second quarter 1999, and second quarter 2000
(Dollar figures in millions)

	1996	1997	1998	1999	Preliminary 2000YTD	1999Q2	Preliminary 2000Q2
Number of institutions reporting	9,527	9,142	8,774	8,580	8,477	8,674	8,477
Total employees (FTEs)	1,489,186	1,538,408	1,627,073	1,657,518	1,662,504	1,623,205	1,662,504
Selected income data ($)							
Net income	$52,350	$59,156	$61,785	$71,586	$34,241	$16,946	$14,702
Net interest income	162,754	174,502	182,754	192,197	101,128	47,790	51,072
Provision for loan losses	16,285	19,851	22,215	21,810	12,973	4,930	7,191
Noninterest income	93,569	104,499	123,698	144,400	74,042	34,512	35,604
Noninterest expense	160,698	169,983	194,143	204,160	107,112	50,846	55,159
Net operating income	51,509	57,928	59,228	71,338	35,564	16,892	15,564
Cash dividends declared	38,791	42,541	41,004	51,935	22,761	13,802	11,246
Net charge-offs to loan and lease reserve	15,500	18,318	20,740	20,359	10,273	4,554	5,232
Selected condition data ($)							
Total assets	4,578,314	5,014,942	5,442,588	5,734,787	5,983,262	5,468,660	5,983,262
Total loans and leases	2,811,279	2,970,746	3,238,342	3,491,235	3,704,044	3,308,513	3,704,044
Reserve for losses	53,457	54,685	57,261	58,767	61,924	57,619	61,924
Securities	800,647	871,868	979,854	1,046,343	1,046,529	1,007,396	1,046,529
Other real estate owned	4,780	3,795	3,150	2,795	2,781	2,915	2,781
Noncurrent loans and leases	29,130	28,542	31,253	33,011	36,638	31,170	36,638
Total deposits	3,197,136	3,421,726	3,681,443	3,830,821	3,973,973	3,680,775	3,973,973
Domestic deposits	2,723,556	2,895,531	3,109,409	3,175,231	3,288,563	3,086,668	3,288,563
Equity capital	375,269	417,773	462,150	479,762	503,481	466,133	503,481
Off-balance-sheet derivatives	20,035,444	25,063,799	33,005,109	34,817,457	39,302,072	33,003,699	39,302,072
Performance ratios (annualized %)							
Return on equity	14.45	14.68	13.93	15.32	13.91	14.48	11.81
Return on assets	1.19	1.23	1.19	1.31	1.17	1.25	0.99
Net interest income to assets	3.70	3.64	3.51	3.51	3.45	3.51	3.45
Loss provision to assets	0.37	0.41	0.43	0.40	0.44	0.36	0.49
Net operating income to assets	1.17	1.21	1.14	1.30	1.21	1.24	1.05
Noninterest income to assets	2.13	2.18	2.37	2.64	2.53	2.54	2.41
Noninterest expense to assets	3.65	3.54	3.73	3.73	3.65	3.74	3.73
Loss provision to loans and leases	0.61	0.69	0.72	0.66	0.72	0.60	0.79
Net charge-offs to loans and leases	0.58	0.64	0.67	0.61	0.57	0.56	0.58
Loss provision to net charge-offs	105.06	108.37	104.81	107.12	126.28	108.25	137.40
Performance ratios (%)							
Percent of institutions unprofitable	4.28	4.85	6.11	7.45	6.62	6.78	6.97
Percent of institutions with earnings	70.78	68.35	61.24	62.83	69.82	56.64	66.80
Nonint. income to net operating revenue	36.50	37.45	40.36	42.90	42.27	41.93	41.08
Nonint. expense to net operating revenue	62.69	60.93	63.35	60.66	61.15	61.78	63.64
Condition ratios (%)							
Nonperforming assets to assets	0.75	0.66	0.65	0.63	0.67	0.64	0.67
Noncurrent loans to loans	1.04	0.96	0.97	0.95	0.99	0.94	0.99
Loss reserve to noncurrent loans	183.51	191.59	183.22	178.02	169.01	184.86	169.01
Loss reserve to loans	1.90	1.84	1.77	1.68	1.67	1.74	1.67
Equity capital to assets	8.20	8.33	8.49	8.37	8.41	8.52	8.41
Leverage ratio	7.64	7.56	7.54	7.79	7.73	7.74	7.73
Risk-based capital ratio	12.53	12.23	12.23	12.16	12.16	12.35	12.16
Net loans and leases to assets	60.24	58.15	58.45	59.85	60.87	59.45	60.87
Securities to assets	17.49	17.39	18.00	18.25	17.49	18.42	17.49
Appreciation in securities (% of par)	0.51	1.10	1.07	−2.31	−2.33	−1.20	−2.33
Residential mortgage assets to assets	19.79	20.03	20.93	20.77	20.73	20.29	20.73
Total deposits to assets	69.83	68.23	67.64	66.80	66.42	67.31	66.42
Core deposits to assets	52.45	50.06	49.39	46.96	46.04	48.62	46.04
Volatile liabilities to assets	30.71	31.92	31.68	34.94	35.86	33.00	35.86

Loan performance, FDIC-insured commercial banks
Annual 1996–1999, year-to-date through June 30, 2000, second quarter 1999, and second quarter 2000
(Dollar figures in millions)

	1996	1997	1998	1999	Preliminary 2000YTD	1999Q2	Preliminary 2000Q2
Percent of loans past due 30–89 days							
Total loans and leases	1.37	1.31	1.26	1.14	1.06	1.12	1.06
Loans secured by real estate (RE)	1.41	1.33	1.26	1.09	0.98	1.02	0.98
1–4 family residential mortgages	1.57	1.59	1.44	1.43	1.25	1.14	1.25
Home equity loans	1.06	0.96	0.98	0.75	0.72	0.75	0.72
Multifamily residential mortgage	1.19	1.11	0.86	0.58	0.43	0.58	0.43
Commercial RE loans	1.24	0.97	0.99	0.69	0.62	0.86	0.62
Construction RE loans	1.58	1.42	1.50	0.98	0.94	1.13	0.94
Commercial and industrial loans*	0.95	0.83	0.88	0.80	0.85	0.92	0.85
Loans to individuals	2.50	2.50	2.43	2.33	2.09	2.18	2.09
Credit cards	2.76	2.73	2.58	2.59	2.41	2.43	2.41
Installment loans	2.31	2.33	2.33	2.18	1.89	2.04	1.89
All other loans and leases	0.37	0.51	0.51	0.55	0.58	0.59	0.58
Percent of loans noncurrent							
Total loans and leases	1.04	0.96	0.97	0.95	0.99	0.94	0.99
Loans secured by real estate (RE)	1.20	1.01	0.91	0.79	0.77	0.85	0.77
1–4 family residential mortgages	0.99	0.94	0.88	0.82	0.79	0.78	0.79
Home equity loans	0.48	0.44	0.42	0.31	0.32	0.36	0.32
Multifamily residential mortgage	1.35	0.95	0.83	0.42	0.35	0.69	0.35
Commercial RE loans	1.61	1.21	0.95	0.77	0.76	0.91	0.76
Construction RE loans	1.38	0.97	0.81	0.67	0.73	0.83	0.73
Commercial and industrial loans*	0.98	0.86	0.99	1.18	1.41	1.11	1.41
Loans to individuals	1.36	1.47	1.52	1.42	1.32	1.34	1.32
Credit cards	1.91	2.18	2.22	2.05	1.88	1.89	1.88
Installment loans	0.97	0.98	1.06	1.04	0.97	1.03	0.97
All other loans and leases	0.22	0.25	0.34	0.39	0.44	0.43	0.44
Percent of loans charged-off, net							
Total loans and leases	0.58	0.64	0.67	0.61	0.57	0.56	0.58
Loans secured by real estate (RE)	0.10	0.06	0.05	0.08	0.07	0.06	0.08
1–4 family residential mortgages	0.08	0.08	0.07	0.11	0.10	0.09	0.10
Home equity loans	0.20	0.16	0.14	0.15	0.14	0.16	0.13
Multifamily residential mortgage	0.15	0.04	0.05	0.02	0.01	0.01	0.05
Commercial RE loans	0.09	0.01	0.00	0.03	0.04	0.02	0.05
Construction RE loans	0.19	−0.02	0.01	0.04	0.02	0.04	0.03
Commercial and industrial loans*	0.26	0.28	0.42	0.58	0.60	0.54	0.67
Loans to individuals	2.28	2.70	2.69	2.32	2.23	2.12	2.12
Credit cards	4.35	5.11	5.19	4.46	4.34	4.25	4.19
Installment loans	0.89	1.04	1.04	1.04	0.95	0.86	0.86
All other loans and leases	0.13	0.16	0.78	0.51	0.18	0.18	0.19
Loans outstanding ($)							
Total loans and leases	$2,811,279	$2,970,746	$3,238,342	$3,491,235	$3,704,044	$3,308,513	$3,704,044
Loans secured by real estate (RE)	1,139,018	1,244,985	1,345,644	1,509,950	1,626,812	1,373,452	1,626,812
1–4 family residential mortgages	570,122	620,599	668,752	736,823	787,529	663,363	787,529
Home equity loans	85,300	98,163	96,647	102,335	116,160	91,667	116,160
Multifamily residential mortgage	38,162	41,231	43,242	53,135	59,664	47,875	59,664
Commercial RE loans	315,989	341,522	370,544	417,576	447,247	390,695	447,247
Construction RE loans	76,399	88,242	106,729	135,621	150,390	118,150	150,390
Farmland loans	24,964	27,072	29,096	31,902	33,781	30,596	33,781
RE loans from foreign offices	28,083	28,157	30,635	32,558	32,040	31,105	32,040
Commercial and industrial loans	709,600	794,998	898,556	971,020	1,034,495	935,940	1,034,495
Loans to individuals	562,291	561,325	570,863	558,352	568,136	534,476	568,136
Credit cards	231,664	231,092	228,781	211,994	218,855	192,972	218,855
Installment loans	330,626	330,233	342,081	346,358	349,281	341,504	349,281
All other loans and leases	405,679	373,907	427,397	455,581	477,806	468,308	477,806
Less: Unearned income	5,308	4,469	4,117	3,671	3,205	3,664	3,205

*Includes "All other loans" for institutions under $1 billion in asset size.

Key indicators, FDIC-insured commercial banks by asset size
Second quarter 1999 and second quarter 2000
(Dollar figures in millions)

	Less than $100M		$100M to $1B		$1B to $10B		Greater than $10B	
	1999Q2	2000Q2	1999Q2	2000Q2	1999Q2	2000Q2	1999Q2	2000Q2
Number of institutions reporting	5,302	5,038	2,978	3,058	317	299	77	82
Total employees (FTEs)	113,558	105,603	305,808	296,321	286,894	248,651	916,945	1,011,929
Selected income data ($)								
Net income	$658	$711	$2,409	$2,505	$3,612	$2,412	$10,267	$9,074
Net interest income	2,497	2,496	7,674	7,983	8,910	8,209	28,708	32,385
Provision for loan losses	147	171	572	619	1,206	1,048	3,005	5,353
Noninterest income	767	734	2,992	2,948	6,994	4,440	23,761	27,483
Noninterest expense	2,222	2,098	6,649	6,661	9,162	7,659	32,814	38,740
Net operating income	656	715	2,397	2,532	3,597	2,535	10,242	9,782
Cash dividends declared	346	391	1,503	1,203	2,057	1,604	9,897	8,047
Net charge-offs to loan and lease reserve	87	106	380	393	1,015	785	3,072	3,948
Selected condition data ($)								
Total assets	246,970	237,333	736,688	766,285	872,730	863,564	3,612,272	4,116,080
Total loans and leases	146,501	146,631	459,352	500,679	552,928	541,500	2,149,731	2,515,233
Reserve for losses	2,119	2,050	6,794	7,103	11,040	9,259	37,666	43,511
Securities	68,214	62,945	196,173	186,384	203,541	203,394	539,468	593,805
Other real estate owned	262	265	719	638	458	404	1,476	1,474
Noncurrent loans and leases	1,577	1,370	3,768	3,856	4,919	4,524	20,906	26,888
Total deposits	210,809	199,361	602,347	620,212	596,708	597,185	2,270,910	2,557,216
Domestic deposits	210,799	199,361	600,341	617,964	584,565	584,517	1,690,962	1,886,721
Equity capital	26,736	25,968	69,378	71,292	83,205	74,489	286,813	331,732
Off-balance-sheet derivatives	241	218	8,835	5,851	93,432	73,577	33,397,720	39,604,585
Performance ratios (annualized %)								
Return on equity	9.81	11.06	13.87	14.24	17.42	13.16	14.22	11.05
Return on assets	1.08	1.21	1.32	1.32	1.68	1.14	1.14	0.89
Net interest income to assets	4.08	4.25	4.21	4.22	4.14	3.86	3.18	3.18
Loss provision to assets	0.24	0.29	0.31	0.33	0.56	0.49	0.33	0.53
Net operating income to assets	1.07	1.22	1.32	1.34	1.67	1.19	1.14	0.96
Noninterest income to assets	1.25	1.25	1.64	1.56	3.25	2.09	2.64	2.70
Noninterest expense to assets	3.63	3.57	3.65	3.52	4.26	3.61	3.64	3.80
Loss provision to loans and leases	0.41	0.48	0.51	0.50	0.88	0.79	0.56	0.87
Net charge-offs to loans and leases	0.24	0.30	0.34	0.32	0.74	0.59	0.57	0.64
Loss provision to net charge-offs	169.40	161.48	149.58	157.51	118.83	133.52	97.88	135.52
Performance ratios (%)								
Percent of institutions unprofitable	9.69	9.81	2.28	2.35	1.58	5.69	1.30	9.76
Percent of institutions with earnings	50.49	65.05	65.31	70.44	72.87	62.54	77.92	54.88
Nonint. income to net operating revenue	23.48	22.72	28.05	26.97	43.97	35.10	45.29	45.91
Nonint. expense to net operating revenue	68.07	64.96	62.34	60.94	57.60	60.55	62.54	64.71
Condition ratios (%)								
Nonperforming assets to assets	0.74	0.69	0.61	0.59	0.62	0.58	0.65	0.70
Noncurrent loans to loans	1.08	0.93	0.82	0.77	0.89	0.84	0.97	1.07
Loss reserve to noncurrent loans	134.39	149.68	180.29	184.20	224.46	204.66	180.17	161.82
Loss reserve to loans	1.45	1.40	1.48	1.42	2.00	1.71	1.75	1.73
Equity capital to assets	10.83	10.94	9.42	9.30	9.53	8.63	7.94	8.06
Leverage ratio	10.84	11.17	9.24	9.30	8.72	8.24	6.99	7.13
Risk-based capital ratio	17.82	17.68	14.67	14.20	13.37	12.75	11.46	11.48
Net loans and leases to assets	58.46	60.92	61.43	64.41	62.09	61.63	58.47	60.05
Securities to assets	27.62	26.52	26.63	24.32	23.32	23.55	14.93	14.43
Appreciation in securities (%of par)	−1.03	−2.34	−0.99	−2.45	−1.24	−2.38	−1.29	−2.27
Residential mortgage assets to assets	21.07	21.11	24.34	23.56	26.83	26.50	17.82	18.97
Total deposits to assets	85.36	84.00	81.76	80.94	68.37	69.15	62.87	62.13
Core deposits to assets	73.92	71.73	70.13	68.07	57.12	56.04	40.45	38.36
Volatile liabilities to assets	13.03	15.08	16.72	19.00	25.92	28.61	39.40	41.72

Loan performance, FDIC-insured commercial banks by asset size
Second quarter 1999 and second quarter 2000
(Dollar figures in millions)

	Less than $100M		$100M to $1B		$1B to $10B		Greater than $10B	
	1999Q2	2000Q2	1999Q2	2000Q2	1999Q2	2000Q2	1999Q2	2000Q2
Percent of loans past due 30–89 days								
Total loans and leases	1.43	1.37	1.18	1.08	1.26	1.14	1.05	1.03
Loans secured by real estate (RE)	1.22	1.15	0.93	0.84	0.92	0.79	1.06	1.08
1–4 family residential mortgages	1.58	1.51	1.14	1.05	1.07	0.90	1.12	1.38
Home equity loans	0.82	0.74	0.69	0.65	0.82	0.83	0.74	0.71
Multifamily residential mortgage	0.77	0.37	0.60	0.44	0.58	0.52	0.56	0.41
Commercial RE loans	0.86	0.88	0.72	0.64	0.77	0.61	0.99	0.59
Construction RE loans	1.08	0.94	0.98	0.93	0.92	0.93	1.32	0.96
Commercial and industrial loans*	1.46	1.43	1.36	1.25	1.21	1.30	0.72	0.66
Loans to individuals	2.21	2.16	2.00	1.95	2.15	2.05	2.23	2.12
Credit cards	2.74	1.98	3.27	3.49	2.60	2.52	2.29	2.32
Installment loans	2.18	2.17	1.74	1.65	1.77	1.81	2.19	1.95
All other loans and leases					1.04	1.03	0.59	0.58
Percent of loans noncurrent								
Total loans and leases	1.08	0.93	0.82	0.77	0.89	0.84	0.97	1.07
Loans secured by real estate (RE)	0.86	0.77	0.66	0.61	0.77	0.70	0.95	0.84
1–4 family residential mortgages	0.78	0.68	0.66	0.58	0.79	0.67	0.83	0.89
Home equity loans	0.45	0.34	0.37	0.28	0.41	0.32	0.33	0.32
Multifamily residential mortgage	0.71	0.42	0.56	0.41	0.54	0.37	0.80	0.32
Commercial RE loans	0.83	0.79	0.66	0.64	0.81	0.78	1.12	0.82
Construction RE loans	0.61	0.68	0.61	0.60	0.75	0.74	1.01	0.78
Commercial and industrial loans*	1.59	1.33	1.24	1.19	1.03	1.19	1.02	1.41
Loans to individuals	0.82	0.76	0.82	0.78	1.12	0.93	1.55	1.53
Credit cards	1.77	1.08	2.17	2.23	1.81	1.64	1.89	1.90
Installment loans	0.78	0.75	0.55	0.50	0.54	0.57	1.34	1.22
All other loans and leases					0.59	0.52	0.43	0.46
Percent of loans charged-off, net								
Total loans and leases	0.24	0.30	0.34	0.32	0.74	0.59	0.57	0.64
Loans secured by real estate (RE)	0.03	0.05	0.04	0.04	0.08	0.09	0.07	0.09
1–4 family residential mortgages	0.03	0.06	0.06	0.05	0.11	0.14	0.10	0.10
Home equity loans	0.04	0.05	0.05	0.05	0.20	0.16	0.17	0.13
Multifamily residential mortgage	−0.01	−0.01	0.01	0.02	0.06	−0.02	−0.02	0.08
Commercial RE loans	0.03	0.05	0.03	0.03	0.01	0.05	0.01	0.06
Construction RE loans	0.06	0.03	0.02	0.04	0.08	0.06	0.02	0.01
Commercial and industrial loans*	0.44	0.49	0.47	0.43	0.47	0.56	0.55	0.70
Loans to individuals	0.67	0.92	1.42	1.47	2.67	2.27	2.14	2.26
Credit cards	2.81	7.97	5.37	6.98	4.74	4.87	3.96	3.87
Installment loans	0.58	0.58	0.59	0.40	0.86	0.95	0.96	0.98
All other loans and leases					0.29	0.32	0.18	0.20
Loans outstanding ($)								
Total loans and leases	$146,501	$146,631	$459,352	$500,679	$552,928	$541,500	$2,149,731	$2,515,233
Loans secured by real estate (RE)	82,399	83,853	287,236	319,000	280,349	296,448	723,468	927,510
1–4 family residential mortgages	38,678	38,765	122,644	130,364	130,845	130,940	371,195	487,461
Home equity loans	1,828	1,957	12,032	13,421	17,482	17,960	60,324	82,822
Multifamily residential mortgage	1,730	1,851	9,522	10,931	11,032	11,531	25,590	35,351
Commercial RE loans	22,998	23,511	103,019	117,203	89,460	98,461	175,219	208,071
Construction RE loans	6,356	6,813	27,991	33,810	27,998	33,505	55,806	76,262
Farmland loans	10,809	10,956	11,968	13,219	3,172	3,693	4,647	5,914
RE loans from foreign offices	0	0	59	52	360	358	30,687	31,630
Commercial and industrial loans	25,071	25,039	83,268	90,786	118,123	119,104	709,478	799,565
Loans to individuals	20,674	20,114	63,910	64,643	119,842	93,574	330,050	389,805
Credit cards	819	803	10,713	10,571	54,992	31,587	126,448	175,894
Installment loans	19,855	19,311	53,197	54,072	64,851	61,987	203,602	213,911
All other loans and leases	18,747	17,878	25,859	27,059	35,225	32,991	388,477	399,879
Less: Unearned income	390	253	920	808	611	618	1,743	1,525

*Includes "All other loans" for institutions under $1 billion in asset size.

Key indicators, FDIC-insured commercial banks by region
Second quarter 2000
(Dollar figures in millions)

	Northeast	Southeast	Central	Midwest	Southwest	West	All institutions
Number of institutions reporting	669	1,435	1,833	2,180	1,430	930	8,477
Total employees (FTEs)	492,441	471,357	281,833	129,780	117,804	169,289	1,662,504
Selected income data ($)							
Net income	$5,964	$1,859	$2,301	$1,554	$821	$2,202	$14,702
Net interest income	15,220	13,628	8,186	4,103	3,163	6,773	51,072
Provision for loan losses	2,309	1,614	1,139	623	337	1,170	7,191
Noninterest income	16,362	7,180	4,061	2,578	1,057	4,367	35,604
Noninterest expense	19,879	15,052	7,461	3,740	2,645	6,381	55,159
Net operating income	5,874	2,429	2,552	1,563	905	2,240	15,564
Cash dividends declared	3,080	4,076	1,731	785	432	1,142	11,246
Net charge-offs to loan and lease reserve	1,996	1,098	548	551	165	873	5,232
Selected condition data ($)							
Total assets	2,042,882	1,605,351	1,011,799	417,424	317,105	588,701	5,983,262
Total loans and leases	1,093,864	1,054,508	686,290	283,502	188,447	397,433	3,704,044
Reserve for losses	20,703	15,974	9,785	4,551	2,613	8,298	61,924
Securities	337,476	282,953	180,318	70,726	80,369	94,687	1,046,529
Other real estate owned	795	824	387	193	239	344	2,781
Noncurrent loans and leases	13,883	9,398	5,782	2,217	1,824	3,533	36,638
Total deposits	1,290,668	1,066,536	677,455	284,119	249,469	405,725	3,973,973
Domestic deposits	816,881	949,277	612,629	272,903	247,960	388,912	3,288,563
Equity capital	163,637	132,557	80,637	38,700	27,752	60,198	503,481
Off-balance-sheet derivatives	29,731,371	8,079,662	1,166,613	37,150	25,882	261,394	39,302,072
Performance ratios (annualized %)							
Return on equity	14.73	5.60	11.55	16.84	11.97	14.92	11.81
Return on assets	1.18	0.47	0.92	1.52	1.04	1.52	0.99
Net interest income to assets	3.00	3.45	3.27	4.01	4.01	4.68	3.45
Loss provision to assets	0.46	0.41	0.45	0.61	0.43	0.81	0.49
Net operating income to assets	1.16	0.61	1.02	1.53	1.15	1.55	1.05
Noninterest income to assets	3.23	1.82	1.62	2.52	1.34	3.02	2.41
Noninterest expense to assets	3.92	3.81	2.98	3.66	3.35	4.41	3.73
Loss provision to loans and leases	0.86	0.62	0.67	0.90	0.72	1.20	0.79
Net charge-offs to loans and leases	0.74	0.42	0.32	0.80	0.35	0.90	0.58
Loss provision to net charge-offs	115.58	146.91	207.84	112.94	204.57	133.94	137.40
Performance ratios (%)							
Percent of institutions unprofitable	10.76	12.20	5.62	3.76	4.76	9.78	6.97
Percent of institutions with earnings	64.87	65.51	64.76	67.48	67.48	71.61	66.80
Nonint. income to net operating revenue	51.81	34.51	33.16	38.58	25.05	39.20	41.08
Nonint. expense to net operating revenue	62.94	72.34	60.93	55.98	62.69	57.28	63.64
Condition ratios (%)							
Nonperforming assets to assets	0.73	0.64	0.62	0.58	0.65	0.68	0.67
Noncurrent loans to loans	1.27	0.89	0.84	0.78	0.97	0.89	0.99
Loss reserve to noncurrent loans	149.12	169.96	169.24	205.24	143.27	234.86	169.01
Loss reserve to loans	1.89	1.51	1.43	1.61	1.39	2.09	1.67
Equity capital to assets	8.01	8.26	7.97	9.27	8.75	10.23	8.41
Leverage ratio	7.41	7.53	7.62	8.33	8.28	8.88	7.73
Risk-based capital ratio	12.43	11.56	11.76	12.48	13.61	12.76	12.16
Net loans and leases to assets	52.53	64.69	66.86	66.83	58.60	66.10	60.87
Securities to assets	16.52	17.63	17.82	16.94	25.34	16.08	17.49
Appreciation in securities (% of par)	−2.16	−2.90	−2.09	−2.02	−2.66	−1.65	−2.33
Residential mortgage assets to assets	16.10	26.90	22.02	19.29	22.25	17.94	20.73
Total deposits to assets	63.18	66.44	66.96	68.06	78.67	68.92	66.42
Core deposits to assets	31.91	50.47	51.03	58.11	66.23	54.96	46.04
Volatile liabilities to assets	46.91	32.28	33.48	24.34	22.12	26.93	35.86

Loan performance, FDIC-insured commercial banks by region
Second quarter 2000
(Dollar figures in millions)

	Northeast	Southeast	Central	Midwest	Southwest	West	All institutions
Percent of loans past due 30–89 days							
Total loans and leases	1.00	1.00	1.18	1.32	1.10	1.02	1.06
Loans secured by real estate (RE)	1.00	1.04	1.05	0.96	0.97	0.68	0.98
1–4 family residential mortgages	1.20	1.46	1.18	1.05	1.13	0.85	1.25
Home equity loans	0.63	0.60	1.02	0.71	0.89	0.54	0.72
Multifamily residential mortgage	0.23	0.37	0.75	0.50	1.01	0.27	0.43
Commercial RE loans	0.62	0.48	0.82	0.82	0.73	0.49	0.62
Construction RE loans	0.79	0.61	1.43	1.21	1.21	0.96	0.94
Commercial and industrial loans*	0.59	0.60	1.12	1.78	1.26	1.08	0.85
Loans to individuals	2.35	2.06	2.09	2.03	1.46	1.78	2.09
Credit cards	2.75	2.57	1.87	2.21	1.32	1.86	2.41
Installment loans	1.97	1.88	2.12	1.85	1.46	1.62	1.89
All other loans and leases	0.36	0.58	0.93	0.75	0.48	0.90	0.58
Percent of loans noncurrent							
Total loans and leases	1.27	0.89	0.84	0.78	0.97	0.89	0.99
Loans secured by real estate (RE)	0.89	0.77	0.78	0.59	0.85	0.58	0.77
1–4 family residential mortgages	0.80	0.91	0.77	0.50	0.66	0.57	0.79
Home equity loans	0.31	0.22	0.53	0.28	0.31	0.18	0.32
Multifamily residential mortgage	0.22	0.33	0.49	0.26	0.37	0.45	0.35
Commercial RE loans	0.84	0.71	0.86	0.63	0.94	0.63	0.76
Construction RE loans	0.74	0.68	0.81	0.64	1.03	0.62	0.73
Commercial and industrial loans*	1.68	1.32	1.07	1.16	1.70	1.44	1.41
Loans to individuals	2.13	0.85	0.72	1.02	0.47	1.12	1.32
Credit cards	2.36	1.61	1.04	1.49	0.71	1.51	1.88
Installment loans	1.91	0.58	0.67	0.54	0.46	0.40	0.97
All other loans and leases	0.39	0.36	0.65	0.44	0.41	0.46	0.44
Percent of loans charged-off, net							
Total loans and leases	0.74	0.42	0.32	0.80	0.35	0.90	0.58
Loans secured by real estate (RE)	0.06	0.09	0.09	0.08	0.07	0.07	0.08
1–4 family residential mortgages	0.06	0.12	0.09	0.19	0.07	0.08	0.10
Home equity loans	0.12	0.11	0.19	0.19	0.38	0.01	0.13
Multifamily residential mortgage	0.00	0.02	0.03	−0.09	−0.04	0.31	0.05
Commercial RE loans	0.02	0.05	0.09	−0.02	0.05	0.05	0.05
Construction RE loans	0.00	0.04	0.01	−0.04	0.09	0.04	0.03
Commercial and industrial loans*	0.65	0.67	0.50	0.57	0.64	1.17	0.67
Loans to individuals	2.63	1.52	0.95	3.22	0.79	2.77	2.12
Credit cards	4.25	3.31	3.42	6.03	3.02	3.82	4.19
Installment loans	1.08	0.92	0.62	0.51	0.71	0.98	0.86
All other loans and leases	0.12	0.24	0.22	0.23	0.10	0.42	0.19
Loans outstanding ($)							
Total loans and leases	$1,093,864	$1,054,508	$686,290	$283,502	$188,447	$397,433	$3,704,044
Loans secured by real estate (RE)	350,485	549,890	321,278	127,522	89,119	188,518	1,626,812
1–4 family residential mortgages	187,418	292,885	148,273	57,718	35,787	65,448	787,529
Home equity loans	25,547	39,937	29,635	6,477	1,250	13,314	116,160
Multifamily residential mortgage	15,207	16,759	12,269	3,810	2,701	8,918	59,664
Commercial RE loans	77,289	134,149	94,097	35,819	33,772	72,121	447,247
Construction RE loans	15,248	56,527	28,665	13,179	11,916	24,855	150,390
Farmland loans	1,301	6,857	8,304	10,519	3,692	3,108	33,781
RE loans from foreign offices	28,475	2,777	34	0	0	755	32,040
Commercial and industrial loans	337,306	283,808	199,907	66,229	49,623	97,621	1,034,495
Loans to individuals	203,230	123,054	76,391	52,758	33,986	78,717	568,136
Credit cards	98,386	32,386	9,269	26,646	1,304	50,863	218,855
Installment loans	104,844	90,668	67,122	26,111	32,682	27,853	349,281
All other loans and leases	204,145	98,495	89,028	37,052	15,983	33,104	477,806
Less: Unearned income	1,303	739	314	58	263	528	3,205

*Includes "All other loans" for institutions under $1 billion in asset size.

Glossary

Data Sources

Data are from the Federal Financial Institutions Examination Council (FFIEC) Reports of Condition and Income (call reports) submitted by all FDIC-insured, national-chartered and state-chartered commercial banks and trust companies in the United States and its territories. Uninsured banks, savings banks, savings associations, and U.S. branches and agencies of foreign banks are excluded from these tables. All data are collected and presented based on the location of each reporting institution's main office. Reported data may include assets and liabilities located outside of the reporting institution's home state.

The data are stored on and retrieved from the OCC's Integrated Banking Information System (IBIS), which is obtained from the FDIC's Research Information System (RIS) database.

Computation Methodology

For performance ratios constructed by dividing an income statement (flow) item by a balance sheet (stock) item, the income item for the period was annualized (multiplied by the number of periods in a year) and divided by the average balance sheet item for the period (beginning-of-period amount plus end-of-period amount plus any interim periods, divided by the total number of periods). For "pooling-of-interest" mergers, prior period(s) balance sheet items of "acquired" institution(s) are included in balance sheet averages because the year-to-date income reported by the "acquirer" includes the year-to-date results of "acquired" institutions. No adjustments are made for "purchase accounting" mergers because the year-to-date income reported by the "acquirer" does not include the prior-to-merger results of "acquired" institutions.

Definitions

Commercial real estate loans—loans secured by nonfarm nonresidential properties.

Construction real estate loans—includes loans for all property types under construction, as well as loans for land acquisition and development.

Core deposits—the sum of transaction deposits plus savings deposits plus small time deposits (under $100,000).

IBIS—OCC's Integrated Banking Information System.

Leverage ratio—Tier 1 capital divided by adjusted tangible total assets.

Loans to individuals—includes outstanding credit card balances and other secured and unsecured installment loans.

Net charge-offs to loan and lease reserve—total loans and leases charged off (removed from balance sheet because of uncollectibility), less amounts recovered on loans and leases previously charged off.

Net loans and leases to assets—total loans and leases net of the reserve for losses.

Net operating income—income excluding discretionary transactions such as gains (or losses) on the sale of investment securities and extraordinary items. Income taxes subtracted from operating income have been adjusted to exclude the portion applicable to securities gains (or losses).

Net operating revenue—the sum of net interest income plus noninterest income.

Noncurrent loans and leases—the sum of loans and leases 90 days or more past due plus loans and leases in nonaccrual status.

Nonperforming assets—the sum of noncurrent loans and leases plus noncurrent debt securities and other assets plus other real estate owned.

Number of institutions reporting—the number of institutions that actually filed a financial report.

Off-balance-sheet derivatives—the notional value of futures and forwards, swaps, and options contracts; beginning March 31, 1995, new reporting detail permits the exclusion of spot foreign exchange contracts. For March 31, 1984 through December 31, 1985, only foreign exchange futures and forwards contracts were reported; beginning March 31, 1986, interest rate swaps contracts were reported; beginning March 31, 1990, banks began to report interest rate and other futures and forwards contracts, foreign exchange and other swaps contracts, and all types of option contracts.

Other real estate owned—primarily foreclosed property. Direct and indirect investments in real estate ventures are

excluded. The amount is reflected net of valuation allowances.

Percent of institutions unprofitable—the percent of institutions with negative net income for the respective period.

Percent of institutions with earnings gains—the percent of institutions that increased their net income (or decreased their losses) compared to the same period a year earlier.

Reserve for losses—the sum of the allowance for loan and lease losses plus the allocated transfer risk reserve.

Residential mortgage assets—the sum of 1-4 family residential mortgages plus mortgage-backed securities.

Return on assets (ROA)—net income (including gains or losses on securities and extraordinary items) as a percentage of average total assets.

Return on equity (ROE)—net income (including gains or losses on securities and extraordinary items) as a percentage of average total equity capital.

Risk-based capital ratio—total capital divided by risk weighted assets.

Risk-weighted assets—assets adjusted for risk-based capital definitions which include on-balance-sheet as well as off-balance-sheet items multiplied by risk weights that range from zero to 100 percent.

Securities—excludes securities held in trading accounts. Effective March 31, 1994 with the full implementation of Financial Accounting Standard (FAS) 115, securities classified by banks as "held-to-maturity" are reported at their amortized cost, and securities classified a "available-for-sale" are reported at their current fair (market) values.

Securities gains (losses)—net pre-tax realized gains (losses) on held-to-maturity and available-for-sale securities.

Total capital—the sum of Tier 1 and Tier 2 capital. Tier 1 capital consists of common equity capital plus noncumulative perpetual preferred stock plus minority interest in consolidated subsidiaries less goodwill and other ineligible intangible assets. Tier 2 capital consists of subordinated debt plus intermediate-term preferred stock plus cumulative long-term preferred stock plus a portion of a bank's allowance for loan and lease losses. The amount of eligible intangibles (including mortgage servicing rights) included in Tier 1 capital and the amount of the allowance included in Tier 2 capital are limited in accordance with supervisory capital regulations.

Volatile liabilities—the sum of large-denomination time deposits plus foreign-office deposits plus federal funds purchased plus securities sold under agreements to repurchase plus other borrowings. Beginning March 31, 1994, new reporting detail permits the exclusion of other borrowed money with original maturity of more than one year; previously, all other borrowed money was included. Also beginning March 31, 1994, the newly reported "trading liabilities less revaluation losses on assets held in trading accounts" is included.

Recent Corporate Decisions

The OCC publishes monthly, in its publication *Interpretations and Actions*, corporate decisions that represent a new or changed policy, or present issues of general interest to the public or the banking industry. In addition, summaries of selected corporate decisions appear in each issue of the *Quarterly Journal*. In the second quarter of 2000, the following corporate decisions were of particular importance because they were precedent-setting or otherwise represented issues of importance. The OCC's decision documents for these decisions may be found in *Interpretations and Actions* using the decision or approval number at the end of each summary.

Charters

In the first quarter of 2000, the OCC began imposing a new standard condition on all newly chartered banks. Through this standard condition the OCC requires that a new bank provide prior notification, and in some cases obtain prior approval, of any significant deviation or change from the operating plan upon which the charter is approved. This condition remains in effect for a new bank's first three years of operation.

On April 13, 2000, the OCC granted preliminary conditional approval to a proposal by Amplicon, Inc., to charter an Internet-only national bank titled Hutton National Bank, later renamed California First National Bank, Santa Ana, California. The bank's business strategy is to purchase equipment leases from companies that originate such leases to small- and medium-sized businesses, including those from its parent company Amplicon, and to offer consumer-oriented deposit products and related electronic payment services. Approval was granted subject to certain pre-opening requirements and ongoing conditions addressing a capital and funding maintenance agreement with the parent company, methodology for determining the price paid for lease rental payment streams, contingency planning, and Internet security. [Conditional Approval No. 383]

On April 3, 2000, the OCC granted preliminary conditional approval to a proposal by Synovus Financial Corporation, Columbus, Georgia, to charter a national bank under the name pointpathbank, National Association, Columbus, Georgia. The bank will offer traditional products and services over the Internet and will not have a "brick and mortar" presence. Approval was granted subject to certain pre-opening requirements and ongoing conditions addressing, among other things, technology and Internet security matters. [Conditional Approval No. 368]

Mergers

On June 20, 2000, the OCC granted approval for TeamBank, National Association, Freeman, Missouri, to merge with its affiliate, First National Bank and Trust Company, Parsons, Kansas. The resulting bank of this interstate merger will retain and operate the Paola office as its main office and all other offices as branches. [Corporate Decision No. 2000-09]

On June 22, 2000, the OCC granted conditional approval for Old National Bank, Lawrenceville, Indiana (ONB) to acquire Permanent Bank, Evansville, Indiana. The approval requires that ONB comply with a two-branch divestiture agreement it signed with the Department of Justice. The approval also requires that, within two years from the date of the consummation of the merger, ONB either conform its investment in a life insurance company with applicable laws or divest of its investment in the company. [Conditional Approval No. 406]

Branch

On June 21, 2000, the OCC granted approval for First National Bank, Houston, Missouri, to establish a branch in Mountain Grove, Missouri. In establishing the branch, the bank will demolish a building that is eligible for listing in the National Register of Historic Places. The approval requires the bank to prepare a recordation of the building, and have it accepted by the state historic preservation office, prior to demolition of the building. [Corporate Decision No. 2000-10]

Operating Subsidiaries

On April 25, 2000, the OCC granted conditional approval for Union Planters Bank, NA, Memphis, Tennessee, to acquire an operating subsidiary. The subsidiary contracts with businesses to manage human resource and employment functions such as payroll processing, employment benefit administration, workers compensation, cost management, tax reporting, and regulatory compliance. The subsidiary also sells, as agent, supplemental insurance products and performs certain administrative services. The approval requires the subsidiary to maintain ad-

equate employment practices liability insurance. [Conditional Approval No. 384]

On May 10, 2000, the OCC granted approval for Mellon Bank, National Association, Pittsburgh, Pennsylvania, to acquire as an operating subsidiary MPAM Private Equity, LLC, a limited liability company (LLC). The LLC serves as a sole general partner of MPAM 1999 Private Equity Fund, LP, a Delaware limited partnership that is used as an investment vehicle for bank clients. [Corporate Decision No. 2000-07]

On June 1, 2000, the OCC granted approval for The Citizens National Bank of Evans City, Evans City, Pennsylvania, to establish an operating subsidiary, CNBCommerce.com, L.L.C., to provide services to merchants that facilitate the sales of goods and services over the Internet. The LLC will offer a package of Internet services that bundle payments processing with the support necessary for merchants to have their Web sites linked to a "virtual mall" Web site. The LLC will also offer these services to other financial institutions on a wholesale basis for their respective customers. [Corporate Decision No. 2000-08]

On June 24, 2000, the OCC granted approval for Fleet National Bank, Providence, Rhode Island, to acquire a second-tier operating subsidiary that provides government program counseling and benefits services. In addition, as finder, the subsidiary brings together program participants with potential employers. [Corporate Decision No. 2000-11]

Noncontrolling Investment

On May 19, 2000, the OCC granted conditional approval for Chase Manhattan Bank USA, National Association, Wilmington, Delaware, Wells Fargo Bank, National Association, San Francisco, California, and First Union National Bank, Charlotte, North Carolina, to retain their minority, noncontrolling investment in Spectrum EBP, LLC following its expansion of activities to include bill payment services. The approval was granted subject to the OCC's standard conditions for noncontrolling investments by national banks. [Conditional Approval No. 389]

Community Reinvestment Act Decisions

On April 19, 2000, the OCC granted conditional approval for Northern National Bank, Nisswa, Minnesota, to establish a branch in Baxter, Minnesota. In March 1999, the OCC assigned Northern National Bank a CRA rating of "needs to improve." After reviewing the bank's progress in addressing its CRA weaknesses, the OCC determined that the imposition of an enforceable condition requiring continuing progress was appropriate and consistent with the Community Reinvestment Act and OCC policies thereunder. [CRA Decision No. 105]

On June 23, 2000, the OCC granted approval for Norwest Bank Wisconsin, NA, Milwaukee, Wisconsin, to merge with Norwest Bank La Crosse, La Crosse, Wisconsin, and Norwest Bank Hudson, NA, Hudson, Wisconsin. A community organization expressed concerns with Norwest's level of lending to low- and moderate-income (LMI) and minority borrowers, and within LMI census tracts. In addition, the organization expressed "steering" concerns with a subprime unit of Wells Fargo Home Mortgage, Inc. The OCC's investigation of those concerns disclosed no information that was inconsistent with approval under Community Reinvestment Act. [CRA Decision No. 106]

Special Supervision/Fraud and Enforcement Activities

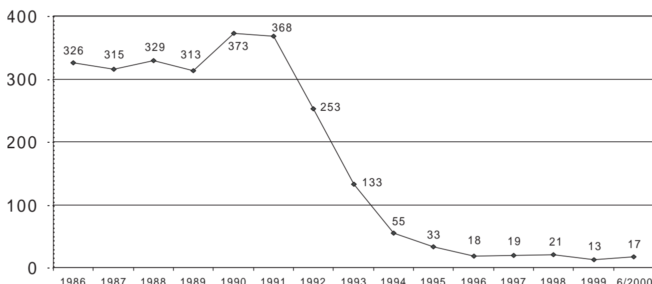
The Special Supervision/Fraud Division of the Bank Supervision Operations Department supervises the resolution of critical problem banks through rehabilitation or orderly failure management, monitors the supervision of delegated problem banks, coordinates fraud/white collar crime examinations, provides training, disseminates information, and supports OCC supervisory objectives as an advisor and liaison to OCC management and field staff on emerging problem bank and fraud/white collar crime related issues. Fraud experts are located in each district office, in the large bank division, and the OCC's Washington office.

This section includes information on problem national banks, national bank failures, and enforcement actions. Data on problem banks and bank failures is provided by OCC's Special Supervision/Fraud Division in Washington. Information on enforcement actions is provided by the Enforcement and Compliance Division (E&C) of the law department. The latter is principally responsible for presenting and litigating administrative actions on the OCC's behalf against banks requiring special supervision.

Problem National Banks and National Bank Failures

Although the number of problem banks is relatively stable, a slight increase in problem banks is now evident. Even so, problem banks represented less than 1 percent of the national bank population at June 30, 2000. The number of problem banks or those rated CAMELS 4 or 5 totals 17 at

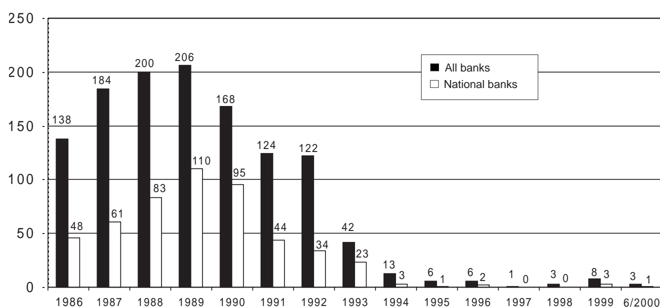
Figure 1—Problem national bank historical trend line



Source: Special Supervision/Fraud

June 30, 2000. (The CAMELS rating is the composite rating based on capital, asset qulity, management, earnings, liquidity, and sensitivity to market risk.) This low volume of problem banks reflects the stable economy and generally favorable economic conditions. There was one national bank failure during the first six months of 2000, out of three commercial bank failures.

Figure 2—Bank failures



Source: Special Supervision/Fraud

Enforcement Actions

The OCC has a number of remedies with which to carry out its supervisory responsibilities. When it identifies safety and soundness or compliance problems, these remedies range from advice and moral suasion to informal and formal enforcement actions. These mechanisms are designed to achieve expeditious corrective and remedial action to return the bank to a safe and sound condition.

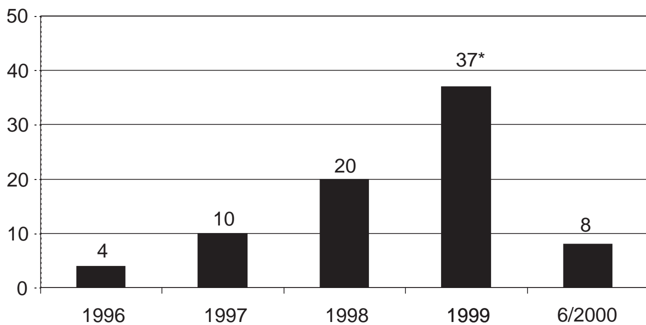
The OCC takes enforcement actions primarily against national banks and individuals associated with national banks. The OCC's informal enforcement actions against banks include commitment letters and memoranda of understanding (MOUs). Informal enforcement actions are meant to handle less serious supervisory problems identified by the OCC in its supervision of national banks. Failure to honor informal enforcement actions will provide strong evidence of the need for the OCC to take formal enforcement action.

The most common types of formal enforcement actions issued by the OCC against banks over the past several years have been formal agreements and cease-and-desist orders. Formal agreements are documents

signed by a national bank's board of directors and the OCC in which specific corrective and remedial measures are enumerated as necessary to return the bank to a safe and sound condition. Violations of a formal agreement may result in the assessment of a civil money penalty (CMP). Cease-and-desist orders (C&Ds), sometimes issued as consent orders, are similar in content to formal agreements, and violations of a C&D are also a basis for a CMP assessment. In addition, a C&D may be enforced by an action for injunctive relief in federal district court.

The charts below show total numbers of the various types of enforcement actions completed by the OCC against banks in the last several years. (Year-2000 related actions taken in 1999 are noted in parentheses.)

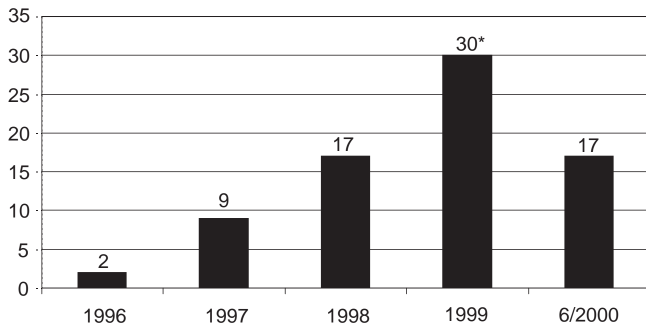
Figure 3—Commitment letters



Source: OCC Supervisory Monitoring System (SMS). Note that SMS totals for previous years' completed enforcement actions may be adjusted to reflect revised aggregates.

*6 of which are for year-2000 problems

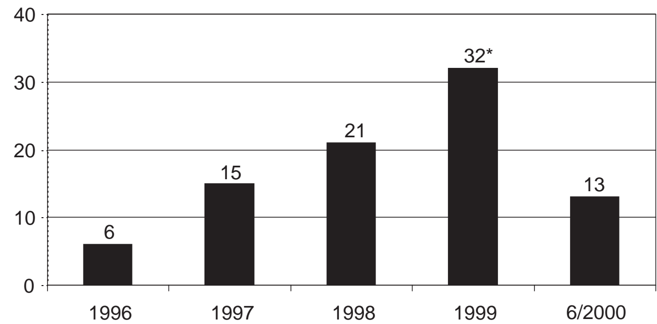
Figure 4—Memorandums of understanding



Source: SMS. Note that SMS totals for previous years' completed enforcement actions may be adjusted to reflect revised aggregates.

*6 of which are for year-2000 problems

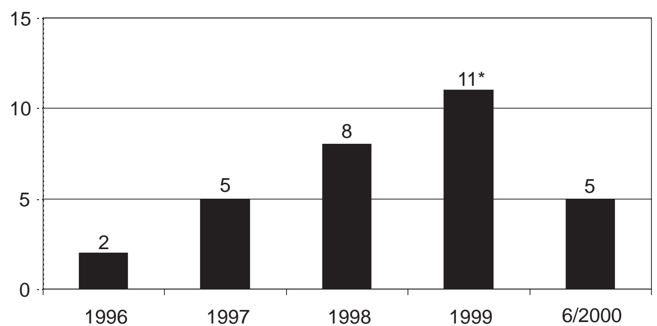
Figure 5—Formal agreements



Source: SMS. Note that SMS totals for previous years' completed enforcement actions may be adjusted to reflect revised aggregates.

*2 of which are for year-2000 problems

Figure 6—Cease-and-desist orders against banks



Source: SMS. Note that SMS totals for previous years' completed enforcement actions may be adjusted to reflect revised aggregates.

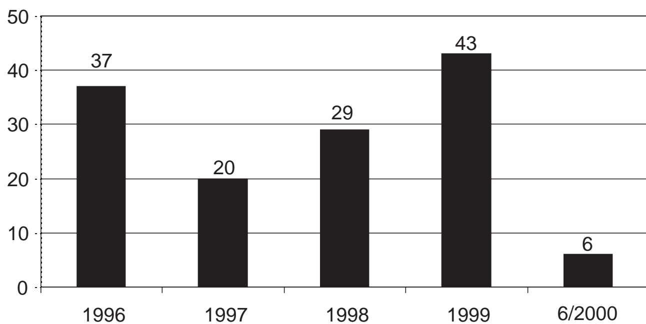
*1 of which is for year-2000 problems

The OCC also issued three CMPs against national banks in the first half of 2000.

The most common enforcement actions against individuals are CMPs, personal C&Ds, and removal and prohibition orders. CMPs are authorized for violations of laws, rules, regulations, formal written agreements, final orders, conditions imposed in writing, and under certain circumstances, unsafe or unsound banking practices and breaches of fiduciary duty. Personal C&Ds may be used to restrict individuals' activities and to order payment of restitution. Removal and prohibition actions, which are used in the most serious cases, result in lifetime bans from the banking industry.

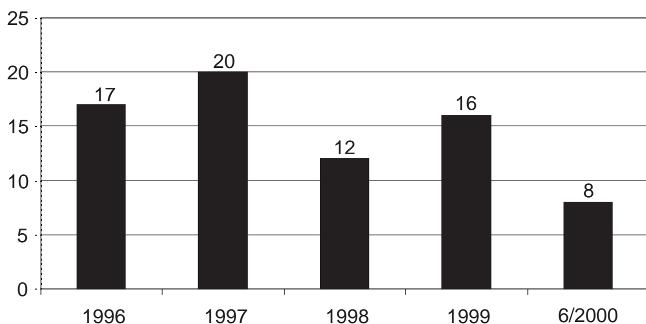
The charts below show total numbers of the various types of enforcement actions completed by the OCC against individuals in the first half of 2000 and in the last several years.

Figure 7—Civil money penalties against individuals



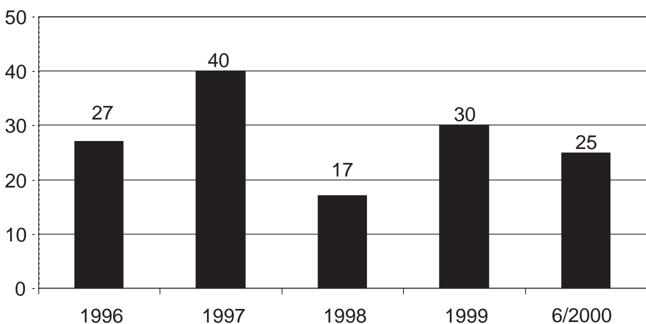
Source: SMS. Note that SMS totals for previous years' completed enforcement actions may be adjusted to reflect revised aggregates.

Figure 8—Cease-and-desist orders against individuals



Source: SMS. Note that SMS totals for previous years' completed enforcement actions may be adjusted to reflect revised aggregates.

Figure 9—Removal and prohibition orders



Source: SMS. Note that SMS totals for previous years' completed enforcement actions may be adjusted to reflect revised aggregates.

Recent Enforcement Cases

Consent Orders and Formal Agreements

In February 2000, the former president of a community bank in Texas consented to the issuance of a cease-and-desist order against him. The former president arranged for a director of the bank to act as a nominee borrower, who then passed on the proceeds of several bank loans to another bank borrower (another former director), whose credit at the bank had already exceeded the bank's legal lending limit. The cease-and-desist order requires the former president, whenever he is affiliated with an insured depository institution, to comply with all applicable lending limit laws and regulations, to stop using nominee borrowers, to make reasonable efforts to ensure loan purposes are accurately recorded, and to file accurate call reports.

In February and March 2000, three directors of a community bank in California consented to the issuance of orders requiring them to pay civil money penalties and restitution. The directors approved two nominee loans which caused loss of over $400,000 to the bank. The OCC orders required the directors to make restitution and pay civil money penalties of $5,000, $1,000, and $1,000, respectively.

In March 2000, the former chairman and president of a community bank in Louisiana consented to an order prohibiting him from banking and requiring him to pay restitution of $300,000 and a civil money penalty of $150,000. The former chairman misused bank funds by causing the bank to pay over $225,000 in excessive fees to affiliates and to pay for a life insurance policy for the benefit of his children. In addition, he attempted to use bank funds to settle a private lawsuit against himself.

In May 2000, Advanta National Bank consented to a comprehensive cease-and-desist order requiring it to write down the value of its residual assets that resulted from the securitization of its home mortgage and home equity loan portfolios. The order also required the bank to correct its model for valuing its residuals, meet increased capital ratios, restrict its growth, renegotiate an arm's length contract with its affiliated servicing company, establish acceptable policies and procedures in numerous aspects of its operations, stop accepting brokered deposits, and improve its risk management and strategic planning.

In June 2000, Providian National Bank consented to the issuance of a cease-and-desist order that requires the bank to make restitution of at least $300 million to its credit card customers and to correct numerous credit card practices that the OCC identified as unfair or deceptive. The OCC believes that the bank failed to adequately disclose to consumers the significant limitations in several credit card products and programs it marketed. For example, consumers who agreed to transfer credit card balances to a Providian-issued card were promised lower rates than they had been receiving. In fact, however, some customers actually ended up with higher rates than before—up to 21.99 percent—and then found out they could not move balances out of the account without pay-

ing a 3 percent "balance transfer fee." For those customers who did receive a lower rate, the savings amounted to no more than 0.3 percent in one promotion and 0.7 percent in another. The San Francisco district attorney's office and the California attorney general's office entered into a parallel action against the bank's parent company.

In June 2000, United Credit National Bank, a credit card bank in South Dakota, consented to a comprehensive cease-and-desist order that required the bank to cease its operations and liquidate by year-end. The bank issued credit cards in connection with credit rehabilitation educational materials sold to the bank's subprime customers by an affiliated company that marketed the cards. The OCC believes the credit card operations reflected a systemic conflict of interest in that the owner of the marketing company also set the salary for and supervised the actions of the bank president. Many of the bank's payments to the credit card company also constituted impermissible affiliate transactions, in violation of section 23A and B of the Federal Reserve Act. The bank's parent company also consented to an order requiring it to ensure that the bank is liquidated without loss to the federal deposit insurance fund and post cash and collateral worth over $100 million as part of its guaranty.

Fast Track Enforcement Cases

The OCC continued its Fast Track Enforcement Program, initiated in 1996, which ensures that bank insiders and employees who have engaged in serious wrongdoing in banks, but who are not being criminally prosecuted, are prohibited from working in the banking industry. As part of the Fast Track Enforcement Program, E&C secured 18 consent prohibition orders against institution-affiliated parties in the first half of 2000. Some of these orders also incorporated restitution payments to the appropriate banks for losses incurred. In addition, E&C sent out 44 notifications to former bank employees who were convicted of crimes that federal law prohibits them from working again in a federally insured depository institution.

Appeals Process

Appeal 1—Appeal of ''Needs to Improve'' CRA Rating and Management Rating of 2

Background

A community bank appealed its Community Reinvestment Act (CRA) rating of "needs to improve" assigned by the supervisory office. The performance evaluation (PE) stated that lending within the bank's assessment area was lower than the standard for "satisfactory" performance. The bank believed the conclusion was inappropriate based on the following:

- The bank's principle line of business had not changed substantially since the previous CRA evaluation that resulted in a "satisfactory" rating.
- The bank was following the same business strategy, yet the examiners did not properly consider the performance context issues as was done in the prior examination.
- The bank's business plan and strategy centered on origination of "non-conforming" residential mortgage loans to customers throughout the country. A large number of these loans were made to low- and moderate-income individuals.

The appropriateness of the management component rating downgrade from 1 to 2 was also appealed.

CRA Rating

Discussion

As reported in the PE, the bank had a low level of lending within its assessment area. For the two-year evaluation period, the bank originated 79 loans equating to 7 percent of all bank HMDA reportable (one- to four-family purchase, home improvement, and home refinance) loans. The facts were not in dispute. The key issue was whether the bank's low level of lending within its assessment area could result in a satisfactory record of meeting the bank's community credit needs when considering all relevant factors, including the bank's performance context.

Banks with assets of less than $250 million are defined as small institutions under the Community Reinvestment Act regulation. Small institutions are evaluated under five assessment criteria:

- Loan to deposit ratio;
- Percentage of loans and as appropriate, other lending-related activities located in the bank's assessment area (lending in the assessment area);
- Record of lending to borrowers of different income levels and businesses and farms of different sizes;
- Geographic distribution of the bank's loans; and,
- Record of taking action in response to complaints about its performance in helping to meet credit needs in its assessment area.

The PE concluded the bank's performance in all the above criteria was found to be reasonable with the exception of lending in the assessment area.

In all CRA evaluations, performance context is an integral component of the analysis. The performance context considers:

- The economic condition and demographics of the assessment area
- Information about lending, investment, and service opportunities
- The bank's product offering and business strategy
- Any limiting factors or constraints
- Past performance
- The bank's public file, and
- Any other information deemed relevant by the OCC

Performance context is especially important to this bank due to their business strategy and non-traditional product delivery systems. The bank's primary lending activity focuses on non-conforming/subprime mortgage secured loans. Management stated that because there was strong competition from several larger institutions in their market area for traditional lending products, that they had identified subprime lending as a viable niche. According to bank management, this strategy and type of lending has affected the bank's ability to generate a significant volume of loans within their assessment area.

The May 3, 1999 FFIEC *Community Reinvestment Act; Questions and Answers Regarding Community Reinvestment* (Qs & As) states that if the percentage of loans and other lending-related activities in an institution's assessment area is less than a majority, then the institution does not meet the standards for satisfactory performance only under this criterion. However, its effect on the overall performance rating of the institution is considered in light of the performance context.

In addition, the Qs & As also state that examiners can consider "lending-related activities," including community development loans when evaluating the first four performance criteria of the small institutions performance tests. Community development lending provides support on a performance context basis to the degree that a loan benefits a low- or moderate-income individual or is made in a low- or moderate-income geography. Community development is defined as:

- Affordable housing (including multi-family rental housing) for low- or moderate-income individuals;
- Community services targeted to low- or moderate-income individuals;
- Activities that promote economic development; or,
- Activities that revitalize or stabilize low- or moderate-income geographies.

Conclusion

The performance context under which this bank operates is unique. It is a small bank (under CRA criterion) that has a narrow product offering which has affected its ability to provide a significant level of traditional lending within its assessment area. While the bank is compensated for assuming additional risk, the benefits to the customers include availability of credit, debt consolidation, and opportunity to improve their credit rating. Although performance context allows for consideration of items such as business strategy and past performance when evaluating CRA, in this situation it did not provide the degree of mitigation needed to bridge the unusually low level of lending within the bank's assessment area to reach an overall "satisfactory" rating.

Therefore, considering the above factors the ombudsman concluded that the bank's performance under the CRA was reflective of a "needs to improve" rating. While the bank's community development lending had a positive impact on the assessment area performance, its current level did not bring the bank's performance to an overall "satisfactory" level.

Management Rating

Discussion and Conclusion

The submission also appealed the appropriateness of the 2 management rating. The Report of Examination stated that "board oversight and management supervision are satisfactory; . . . however, they did not provide adequate oversight in complying with the requirements of CRA resulting in a 'needs to improve' rating." OCC Bulletin 97-1, Uniform Financial Institutions Rating System, states that the capability and performance of management and the board of directors is rated based upon evaluation factors which include the level and quality of oversight and support of *all* institution activities by the board and management. Based on the noted deficiencies in the bank's overall management and administration of its CRA activities, the ombudsman concluded that the assigned 2 management rating was appropriate.

Appeal 2—Appeal of the Criterion used to Examine a Community Development Focused Bank

Background

A bank with a community development (CD) focus formally appealed the criterion used to examine the bank. The appeal pointed out that, by pursuing the CD focus, which was the bank's mission, the bank was in direct conflict with some of the examination criterion employed by the Office of the Comptroller of the Currency (OCC).

In its appeal the bank expressed concern that the OCC's evaluation of some component ratings is not sensitive to the obstacles facing banks with a CD focus. To illustrate this point, the appeal stated that the bank's CD focus works contrary to profit maximization (earnings) by:

- Creating mortgages that are smaller, more labor intensive, and take longer to close than traditional mortgages.
- Financing businesses with smaller loan amounts, and principals lacking the financial sophistication and expertise of traditional borrowers.
- Serving consumers who, on the deposit side, are characterized by having low balances and requiring a great deal more time and attention due to cultural, linguistic, and experiential difficulties, and who, on the loan side, are disadvantaged by nonexistent, inadequate, or unsatisfactory credit histories; in addition, these consumers have earning streams that are inconsistent, small, and/or from non-traditional sources.

The appeal further stated a CD-focused bank's approach to offsetting these inherent disadvantages is to seek available financial assistance from public and private sources supportive of its mission. A significant source of offset comes from within the U.S. Treasury Department in the form of a Bank Enterprise Act (BEA) award. Banks with a CD focus are entitled to these awards based on accomplishing preset goals consistent with its mission. Despite documentation showing the bank's eligibility for these funds, in this instance the examiners discounted them because of their non-traditional status.

The appellate submission noted that, unlike investors in most banks that are motivated to acquire new capital and accumulate additional capital based solely on maximizing profit, a bank with a CD focus looks for a balance between profits and service to the low- and moderate-income community. As emphasized above in the discussion of earnings, banks with a CD focus have non-traditional means of raising additional capital such as awards or grants from community groups or other banks.

Additionally, the appeal stated that management's ability to budget and project financial outcomes for a bank with a CD focus is severely constrained by the unavailability of comparable data. It further notes, that by definition, the customers of a bank with a CD focus have not been well served by traditional banks and available data is very limited.

Discussion

The corporate process and requirements for chartering a bank with a CD focus is subject to the same standard requirements as any other bank. However, there is a special condition that banks with a CD focus must include the nature of its activities in the articles of association. Specifically, the articles must state:

- The business of the association will be designed to primarily promote the public welfare consistent with the requirements for national bank investment in the community development projects pursuant to national banking laws and regulations, including 12 CFR 24 (Eleven) and 12 CFR 24.
- The bank must obtain prior written approval of the OCC before amending its articles of association to alter its business operations from those of a community development focus.

There are no other special provisions or requirements designed for banks with a CD focus.

Conclusion

As the ombudsman considered whether the examination criterion of the OCC represents a conflict for banks with a CD focus, he recognized the "intrinsically more challenging undertaking" of serving disadvantaged communities that these institutions face. However, the financial health of any banking organization is critical to fulfilling its obligation to the stockholders and the community it serves. As CD banks pursue a balance between serving low- and moderate-income communities and profitability, the financial health of these institutions becomes increasingly important. Financially stable community development institutions will have longevity, which will allow them to maximize the positive impact on their communities. The ombudsman concluded that the existing safety and soundness criterion contributes to achieving this longevity. In the OCC's evaluation of a bank's performance under the Community Reinvestment Act, a bank with a CD focus receives recognition for their efforts to provide financial services to low- and moderate-income communities.

The OCC is committed to ensuring that its supervisory conclusions consider the uniqueness of each institution in assigning ratings that reflect the safety and soundness of its operation. The ombudsman offered assurance that the agency will continue to evaluate the issues confronting institutions with a community development focus to ensure there is a reasonable chance for their success.

Appeal 3—Appeal of "Noncompliance" with an Article of the Bank's Formal Agreement

Background

A community bank appealed the "noncompliance" conclusion on the bank's level of compliance on a particular article in the bank's formal agreement. The article stated:

> Within ninety days of signing the agreement, the Board is required to establish a compliance program to cover all applicable non-consumer laws and regulations. The program shall include a policy and procedures manual, an audit review system, a mechanism for corrective actions when violations occur and a system of training to ensure clear communication of requirements. A copy of the program shall be forwarded to this Office for review.

During the next examination, the supervisory office categorized the bank's level of compliance as "noncompliance" with the following narrative explanation:

The timeframe for accomplishment of this Article had not expired when we conducted our review. During the examination, management provided a written request for a short extension of the ninety-day requirement to allow the Board to approve the policy at their regular Board meeting. This request was approved and the Board approved the program subsequent to our examination. We will review the program during the next quarterly review, and provide any needed communication to the Board.

Discussion

The OCC has an internal operating procedure that defines the options for assessing compliance with enforcement actions. These include compliance, partial compliance, or noncompliance, with the following definitions:

Compliance: The bank's action(s) to accomplish the primary objective of the article/document are effective. Any additional actions which are still necessary are technical in nature and are easily completed in the normal course of business.

Partial compliance: The bank has worked to achieve compliance. However, additional efforts are necessary to fully meet the primary objective of the article/document.

Noncompliance: The bank's action(s) to comply with the provisions of the article/document are unsatisfactory. Even though there may be effort(s) on the part of the bank to achieve compliance, little or no progress has been made toward meeting the primary objective of the article/document.

The supervisory office concluded that the bank was in "noncompliance" because the time frame for action had not expired. The internal operating procedure details that the OCC must perform an initial on-site assessment of the bank's compliance with a new enforcement action within 60 days of the latest due date in the enforcement action. The procedures do not address which of the three ratings are appropriate in a case where the due date has not expired.

Conclusion

The ombudsman concluded that if the time frame for compliance has not expired, the level of compliance with an article should not be evaluated. Therefore, the conclusion on the level of compliance on the article was changed to "no action required to date." The field office forwarded revised ROE pages to the bank to reflect this change.

Appeal 4—Appeal of a "Satisfactory" CRA rating

Background

A large retail bank filed an appeal concerning its Community Reinvestment Act (CRA) rating of "satisfactory." The bank also appealed the lending test rating of "high satisfactory," the investment test rating of "low satisfactory," and the service test rating of "high satisfactory." The bank's last performance evaluation (PE) rated the bank as having an "outstanding record of helping to meet the community credit needs."

The submission noted that even prior to the enactment of CRA, the bank took great pride in delivering its products and services to all individuals and businesses in its trade area. It continued that since the inception of CRA and the rating system, the bank had made every effort to attain and sustain an "outstanding" CRA rating. CRA has become a part of the bank's yearly business plans and a major goal of the bank's management. The submission detailed the reasons for disagreement on each of the tests and the overall rating, as follows:

The PE states that the primary reasons for the bank being rated "satisfactory record of meeting community credit need" are:

- The bank's lending levels reflect a good responsiveness to the credit needs of its assessment area.
- A substantial majority of the bank's loans are in the assessment area.
- The bank's distribution of small loans to businesses is good. The bank's geographic distribution of small loans to businesses is also good.
- The bank has a good distribution of loans to borrowers of different income levels. The bank's geographic distribution of loans to borrowers of different income levels is satisfactory.
- The level of community development investments and grants is adequate. However, the bank makes extensive use of flexible lending programs to help meet the needs of its assessment area (AA).
- The bank's delivery systems are accessible to geographies and individuals of different income levels. To the extent changes have been made, the bank has improved the accessibility of its delivery systems.
- The institution provides a satisfactory level of community development services.

The bank is an intrastate bank and is the lead bank in a multi-bank holding company. The bank's assets exceed $2 billion with multiple offices located in four counties. Ninety-five percent of the offices are full-service locations. The bank owns and operates a number of automated teller machines (ATMs) in its assessment area (AA). The bank's AA consists of two separate but contiguous areas. One of the bank's AAs is a metropolitan statistical area (MSA), while the other is a non-MSA. The bank's AAs are comprised of 2 percent low-income geographies, 22 percent moderate-income geographies, 61 percent middle-income geographies, and 9 percent upper-income geographies. By family income level, 18 percent of the families in the AAs are considered low-income families, 19 percent are moderate-income, 27 percent are middle-income, and 36 percent are upper-income. The bank's business strategy is to operate with a community-bank orientation while offering a large-bank range of products. Commercial lending has long been a primary focus of the bank with small business lending considered one of the bank's market niches.

Discussion and Conclusions

Lending Test

The lending test evaluates a bank's performance in terms of the volume of lending, the geographic distribution of loans originated and purchased, the borrower dispersion of loans originated and purchased, the responsiveness to community needs, the level of innovation and flexible products offered, and community development lending activities.

The PE concluded:

- The bank had demonstrated a good responsiveness to the credit needs in its assessment areas, taking into account the number and amount of home mortgage, small business, small farm, and consumer loans in its assessment areas.
- A substantial majority of loans were made in the bank's assessment area.
- The bank's record of lending to businesses of different sizes was good. The bank also demonstrated a good geographic distribution of small loans to businesses.
- The bank has a good distribution of loans to individuals of different income levels. The bank's geographic distribution of loans to borrowers of different income levels is satisfactory.
- The level of community development lending is reasonable based on the available opportunities.
- There is a good use of flexible lending practices and programs.

The appellate submission stated that the lending test rating should be "outstanding" based on the information contained in the PE because the bank was consistently ranked as the leading provider of CRA-related loans to low- and moderate-income individuals, businesses, and farms in the bank's assessment area.

Lending Activity

A review of the bank's lending tables disclosed that the bank extended a high volume of loans for the evaluation period. While the bank had the largest deposit share in its market, its lending activities also reflected dominance. The market share for small business lending, the bank's acknowledged niche, was commensurate with the bank's deposit share in the MSA and exceeded its deposit share in the non-MSA. The bank ranked first in market share for loans to small businesses, home purchase loans, home-improvement loans, and multifamily real estate loans. Small business, home purchase, and multifamily loans were identified as the most significant credit needs in the community. The bank's market share percentage was significant in these product categories. Additionally, the substantial majority of the bank's loans were within the designated assessment areas. Therefore, the ombudsman concluded that the bank's level of lending reflected an excellent responsiveness to the area's credit needs.

Geographic Distribution

Small business lending represents a significant portion of the bank's business lending. The bank's strategy emphasized business lending, which has long been considered its strength. Additionally, loans for start-up companies was one of the most frequently cited credit needs in the bank's AA. Therefore, when considering all factors, the ombudsman concluded that at the time of the examination, the primary emphasis should be placed on small business lending. The PE also stated that affordable, first-time homebuyer loans and multifamily real estate loans were identified credit needs. As such, performance in home purchase and multifamily lending was weighted heavier than other housing-related products.

Furthermore, the ombudsman's analysis found the bank's percentage of loans in LMI areas ranged from an adequate to excellent level of performance when evaluated against the percentage of housing units or businesses in those geographies. In addition, the following was considered:

- In the MSA, the bank's 34 percent small business market share in low-income geographies exceeded the

overall market share. In addition, the bank's 26 percent small business market share in moderate-income geographies equaled the overall market share. The percentage of the bank's loans to businesses with revenues of $1 million or less did not exceed the percentage of businesses in those areas. Small business lending performance in the MSA's LMI areas was considered good.

- The small business market share in the non-MSA's moderate-income areas exceeded the bank's overall small business market share and the percentage of loans to small businesses in the moderate geographies exceeded the percentage of businesses in those areas. This was considered an excellent level of performance.
- Home purchase lending in the MSA's low-income geographies equaled the percentage of housing units in that area and the market share in the geographies exceeded the bank's overall market share. The performance in the MSA's moderate-income areas was not as strong; however, the MSA's home purchase lending overall was considered good.
- In the non-MSA, the bank's market share in moderate-income areas was comparable to its overall market share. The percentage of loans made during this evaluation period was not as comparable to the housing units located in that geography, but overall performance in the non-MSA was also considered good.
- The percentage of multifamily real estate loans in the MSA's moderate-income geographies exceeded the percentage of housing units in that geography and the bank's market share in that geography exceeded its overall market share. Additionally, this lending occurred in an area identified by the city as being in need of revitalization in terms of housing and economic development. Performance in this product relative to geographic distribution was excellent.

As mentioned above, these loan products addressed the identified credit needs of the community, further demonstrating the bank's commitment to help meet community credit needs. Therefore, the ombudsman concluded that the bank's overall geographic distribution of loans was good.

Borrower Distribution

Borrower distribution reflected a strong level of performance measuring borrowers with various income levels and market share measures. The bank's distribution of loans to LMI borrowers ranged from adequate to excellent. Of particular note during this evaluation period was:

- The bank's overall market share of small loans to businesses was 27 percent and ranked first. The bank's market share of loans to businesses with revenues of $1 million or less exceeded its overall market share. The bank made 78 percent of its business loans to businesses with revenue of $1 million or less. This compared very favorably to the overall market's percentage of loans to those businesses. It was also comparable to the percentage of businesses that had revenues of $1 million or less. This was an excellent level of performance in the MSA.
- The performance with small businesses in the non-MSA was quite comparable with the bank's excellent performance in the MSA indicated above.
- In the MSA, home purchase lending to low-income borrowers was significantly lower than the demographic, however, approximately 40 percent of these families have incomes below the poverty level. These families may have difficulty qualifying for housing-related products. Home purchase lending to moderate-income borrowers met the demographic, while the bank ranked first in overall market share. The bank's market share of moderate-income borrowers was comparable to its overall market share. Considering all factors, overall lending performance to LMI borrowers was good in the MSA and non-MSA.
- Consumer loans to LMI households exceeded the demographics, 113 percent and 175 percent, respectively. This represented an excellent level of performance.

As with geographic distribution, these loan products addressed the identified credit needs of the community and were appropriately weighted in determining the overall performance for borrower distribution. These facts indicate the bank's response to the needs of small businesses was excellent and performance in home purchase lending was good. Therefore, it was appropriate at the time of the examination to place the most emphasis on these products. The ombudsman concluded the bank's overall performance in providing credit to borrowers of different income levels was excellent.

Community Development Lending and Innovative or Flexible Lending Programs

There was no disagreement with the assessment that "the bank's level of community development lending was reasonable based on available opportunities." The PE also described several lending programs that were flexible, responsive, and have had a positive impact on the development of the community. These programs utilize standards that make credit available to borrowers that typically have difficulty accessing credit. While some of the programs

have been available for several years, the programs continue to generate loans. Therefore, the ombudsman concluded that the bank utilized flexible lending programs, which had a positive impact on the bank's overall rating for the lending test.

Lending Test Overall Conclusion

The bank's volume of lending was significant and substantial within the its assessment areas. Therefore, the bank's performance in the geographic and borrower distribution of credit was key to the bank's overall rating for the lending test. The bank's performance in the geographic and borrower distribution of credit noted above reflected a commitment to helping meet the credit needs of the community. This was particularly true considering the identified credit needs, the bank's product niche or emphasis, the operating environment and the extensive use of flexible lending programs. The bank's overall volume of lending was consistent with the CRA guidelines for an "outstanding" rating for the lending test.

Investment Test

The bank's performance under the investment test was evaluated in terms of:

- The volume of qualified investment and grants;
- The level of innovation and complexity associated with the investments;
- The degree to which the investments and grants responded to the credit and community development needs of the AA; and,
- The degree to which these investments and activities are not routinely provided by private investors.

The PE concluded:

- The bank's level of community development investments and grants is reasonable, based on the investment opportunities available in the community.
- The bank has taken a leadership role in one significant investment initiative.

The appellate submission stated that the investment test rating of "low satisfactory" was not justifiable, given the information in the PE. In addition, the submission stated that management believes their willingness to invest in any economically viable project in their community, coupled with taking the lead in the only limited liability corporation of its kind, in a community where there are limited community development opportunities as noted by the community contacts, should afford the bank a "high satisfactory" rating.

No additional information was offered during the processing of the appeal that would increase the level of community development investments noted at the time of the examination. The level of qualified investments noted during the CRA review represented less than 1 percent of the bank's tier one capital and the PE noted only one occasion where the bank assumed a leadership position. The ombudsman agreed that the level of investment identified during the examination was accurately categorized as reasonable, given the bank's size and resources. Therefore, he concluded that the assigned "low satisfactory" rating was appropriate for the bank's performance on the investment test.

Service Test

The bank's performance under the service test was evaluated in terms of retail banking services (the accessibility of delivery systems, changes in branch locations, and the reasonableness of business hours and services to help meet the AA's needs) and the level of community development services provided in the AAs.

The PE concluded:

- The bank's delivery systems are accessible to all portions of its AA;
- To the extent changes have been made, the bank has improved the accessibility of its delivery systems. Since the last CRA evaluation, the bank acquired a full-service branch in a moderate-income census tract;
- Banking services and hours of operation are tailored to meet customer needs;
- The bank is a leader in providing community development services.

The appellate submission stated that the PE supporting information supported an "outstanding" rating for the service test, so an upgrade from a "high satisfactory" to an "outstanding" was requested.

The primary focus of the service test is the distribution of full service branches, while still considering alternative delivery systems. The bank's branch distribution in the MSA's LMI areas exceeded the demographic in the low-income area, but not in the moderate-income areas. Information provided during the processing of the appeal revealed that the volume of ATM transactions in the MSA for ATMs located in or near LMI areas was significant. However, there are no branches or ATMs distributed in moderate-income areas of the non-MSA. Therefore, the overall branch distribution was good.

The PE noted that the bank opened a full service branch in a moderate-income geography, which did improve the accessibility of banking services in that geography. The bank's performance in opening and closing branches was excellent.

Services listed in the PE were considered to determine the reasonableness of the bank's business hours and services. The services listed did not inconvenience any segment of the community. However, the services are not tailored specifically for LMI individuals or geographies and do not represent a significant difference from services offered by other banks. Considering this, the bank's services were adequate.

There was no dispute about the bank's community development services, which was described as excellent. When blending the conclusions of the other tests to determine the overall rating for the service test, the most weight was given to the bank's branch distribution and the community development services. Therefore, the ombudsman concluded an "outstanding" rating was appropriate for the bank's performance in the service test.

CRA Rating

The ratings in each of the tests contribute to the overall CRA rating. In this case the changing of the rating on the lending test from "high satisfactory" to "outstanding" positively affected the overall rating on the bank's CRA performance. Therefore, the bank's overall CRA rating was changed to "outstanding" and a new PE was prepared to reflect the change.

Speeches and Congressional Testimony

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Remarks by John D. Hawke Jr., Comptroller of the Currency, before the New York Bankers Association, on the structure of financial regulation in the United States, New York, April 6, 2000

Anyone assessing the impact of the Gramm-Leach-Bliley Act (GLBA), which was signed into law five months ago, has to be struck by the magnitude of the changes it brought about. First and foremost, it tore down the wall between commercial banking and investment banking that was erected in the Glass-Steagall Act of 1933. Second, it obliterated a major premise of the Bank Holding Company Act of 1956—that special measures are needed to avoid concentrations of economic power in financial conglomerates.

Yet, as far reaching as the new law is, it left entirely unchanged the structure of financial regulation—a fact that some observers have found surprising. "Why," asked editors of *The Economist*, "if politicians are at last to do something about the depression-era rules that govern financial firms, have they not tried to update America's supervisory structure at the same time?"

The decision in Gramm-Leach-Bliley not to address fundamental issues of supervisory structure struck some as particularly curious in light of developments in financial regulation in other countries. The irony is stark: while other major financial powers continue to look to the United States for new approaches to financial regulation, they are increasingly rejecting the confusing structural model of U.S. supervision in favor of a unified agency approach, such as that adopted by Great Britain in 1997, and many other countries, including Canada and Japan, since then.

Of course, the idea of consolidating the federal banking agencies in this country is not a new one. Even defenders of the present structure concede that no one would ever design it that way from scratch. The product of a long accretion of legislative decisions, piled one on top of the other, the U.S. financial regulatory structure is complicated, confusing, duplicative, and, at least at the margins, costly. It's not surprising that our colleagues from abroad would seek positive inspiration elsewhere.

Proposals to rearrange the responsibilities of the federal financial agencies have been a perennial of public policy for many years. Such proposals began surfacing almost from the moment that complexity was introduced into supervision on the national level, with the creation of the Federal Reserve in 1913. At that time, of course, the Comptroller of the Currency and the Secretary of the Treasury sat as members of the Federal Reserve Board. Between 1917 and 1923, no fewer than three separate bills were introduced in Congress—none of them acted upon—to fold the 50-year-old Office of the Comptroller of the Currency (OCC) into the fledgling Fed. In the 1930s and 1940s, private and government proposals variously contemplated merging the OCC into the Federal Deposit Insurance Corporation (FDIC); or the OCC and the FDIC into the Federal Reserve; or the FDIC into the OCC. In 1971, the Hunt Commission recommended the transfer of the Fed's supervisory authority to the FDIC.

In more recent years, agency consolidation proposals have looked to the creation of a new independent agency, to which the bank supervision and regulation functions of each of the existing agencies would be transferred. During the 1970s, Senator William Proxmire advocated the creation of a new federal banking commission. A similar proposal was made during the 1980s, in the Reagan Administration, by a task force headed by Vice President Bush. And to underscore the bipartisan appeal of such proposals, the Clinton Administration offered a regulatory consolidation bill of its own in 1993.

Yet none of the proposals for consolidation of bank supervision in a single agency came to fruition, and it may be instructive to consider why. A major reason why the idea of agency consolidation has not been accepted—despite its appeal to neatness—has undoubtedly been the lack of agreement on a basic assumption implicit in all of the more recent proposals: that the federal deposit insurer and the central bank do not need involvement in the banking system in order to discharge their primary responsibilities. The FDIC has argued that controlling risk at the source is essential to protecting the deposit insurance interest, and the Federal Reserve has said that it needs a "window" into the banking system, to help it prepare to meet the threat of systemic crises and to be a more effective administrator of the country's payment and settlement systems.

Another reason for opposition to the consolidation of federal bank regulation has been a concern about its impact on the dual banking system. State banking interests have been concerned that banks might lose interest in state charters if *all* banks were to have the same federal regulator.

But what these proposals for regulatory consolidation have lacked most of all is a compelling *practical* reason for restructuring. While our system surely does not conform to any standard model of bureaucratic orderliness, it has worked extremely well. Indeed, if our current system

were as flawed as some critics suggest, you might expect the banking industry to be leading the charge for structural reform. After all, it's bankers who have to put up with the system's complexities and any cost burden resulting from the structure. But the industry has been at best lukewarm—and often hostile—to most consolidation proposals. Bankers know the system's not perfect. But they also recognize the risk in discarding one that works.

The system works for a variety of reasons—not the least of which is that the regulatory agencies have learned over many years to capitalize on its strengths and maneuver around its weaknesses. Regulatory competition has stimulated innovation and efficiency. Competition keeps all of us on our toes and provides incentives to add real value to our supervision. While the system unquestionably provides opportunities for regulatory arbitrage, there is little evidence that it has stimulated the "competition in laxity" that former Federal Reserve Chairman Arthur Burns discussed 30 years ago.

Above all, the agencies themselves have learned the importance of coordination, both substantive and procedural, as well as the need to avoid inconsistencies in their policies that might encourage arbitrage. To this end, the agencies, on their own, formed an interagency coordinating committee during the mid-1970s, which was formalized by Congress in 1978 as the Federal Financial Institutions Examination Council, or FFIEC.

For more than 20 years, the FFIEC has served as a forum for promoting common standards for bank supervision and for reconciling many interagency differences. The tradition of coordination has become so ingrained that the agencies now routinely confer on *all* matters of common interest and concern, both within and beyond the purview of the FFIEC.

Moreover, Congress has not merely tolerated the multipartite division of supervisory and regulatory jurisdiction; it has resoundingly reaffirmed it in virtually every major piece of banking legislation since 1964. It was then that Congress coined the term "appropriate federal banking agency," or AFBA, to refer to the primary federal regulator of each class of regulated depository institution, to which the other agencies were expected to defer in carrying out their own responsibilities. Whenever Congress has imposed new supervisory and regulatory duties on federal banking agencies, it has almost always parceled them out to the respective AFBAs. As a result, each agency has an extensive set of parallel responsibilities for the institutions it supervises—the OCC for national banks and their subsidiaries, the Fed for state banks that have elected to be members of the Federal Reserve System, the FDIC for state nonmember insured banks, and the Office of Thrift Supervision for most federally insured thrifts, whether state- or federally chartered. The Federal Reserve has also been designated the AFBA for bank holding companies and their nonbank subsidiaries.

In the case of national banks, the OCC has "cradle to grave" responsibilities, which range from approving new charters to declaring insolvencies. We determine for national banks what "the business of banking" consists of, and what is "incidental" to that business. In our role as the AFBA for national banks, we are charged by Congress with the responsibility for setting and enforcing requirements relating to capital adequacy, risk management systems, internal controls and audit, information systems, loan loss reserves, loan documentation and credit underwriting, and interest rate exposure, among other things. We are required to pass on mergers and changes in control involving national banks, the establishment of bank subsidiaries, and the permissibility of bank investments. We are empowered to impose a formidable array of sanctions and remedial measures against national banks, and we enforce a lengthy catalogue of safety and soundness and consumer protection laws and regulations. Finally, we, and we alone, are charged with the responsibility of performing regular, on-site, full-scope examinations of national banks. While the FDIC and the Federal Reserve do not charter or close banks, they have virtually identical responsibilities as ours in their roles as the AFBAs for state banks.

This principle of allocating parallel jurisdictions has repeatedly been reinforced and reaffirmed—in the International Lending Supervision Act of 1983, the Competitive Equality Banking Act of 1987, the Federal Deposit Insurance Corporation Improvement Act of 1991, the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, and most recently in Gramm-Leach-Bliley.

There have, of course, been occasions when Congress has imposed regulatory responsibilities on a single agency. The Federal Reserve, for example, has been given the task of drafting most consumer protection rules, while enforcement of those rules has been allocated in the usual manner to the respective AFBAs. Bank holding company regulation has been similarly treated. From the time they first appeared, in the early decades of the twentieth century, bank holding companies have been viewed as a potential threat to bank safety and soundness—as the means by which bankers might evade legal restrictions applicable to the bank itself. In 1956, these concerns led to the passage of the Bank Holding Company Act, with the Federal Reserve denominated as the federal regulator of bank holding companies. But the consistent goal of that law has been to supplement the work of the primary bank regulators by protecting insured banks from risks that might emanate from activities outside the bank,

elsewhere in the corporate family, where the jurisdiction of the primary regulator might not reach.

In Gramm-Leach-Bliley, the unique structure of U.S. bank supervision has again received strong affirmation. As in the past, Congress has dispersed many new supervisory responsibilities in parallel across the federal banking agencies. Some early versions of this legislation permitting financial conglomeration would have authorized new unregulated financial holding companies, outside the scope of the Bank Holding Company Act. But both the Administration's proposed bill, as well as the final enactment, preserved the Federal Reserve's role as the regulator of bank holding companies, with the mission of supplementing the work of the primary bank regulators by focusing on risks arising outside the bank.

At the same time, Congress reinforced the role of the primary bank regulators, both federal and state, in two ways: first, it required the Federal Reserve, in its role as holding company regulator, to limit "to the fullest extent possible," the focus and scope of its holding company examinations to the holding company itself and to nonbank subsidiaries that could have a materially adverse effect on the safety and soundness of any bank subsidiary. Second, it required the Fed to give deference to the primary federal or state supervisor when seeking information from bank holding companies by using their examination reports "to the fullest extent possible." In both cases, the new law used stronger language than has ever been used before in this context, in order to underscore its intention that the role of the primary regulator not be needlessly duplicated, and that the burdens of regulation on banks be kept to the absolute minimum. By thus reemphasizing the primary regulator's responsibility for assuring the safety and soundness of the bank, and the holding company regulator's role with respect to activities outside the bank, Congress implicitly underscored its intention that the bank safety net not be extended to holding company affiliates of banks.

One novel aspect of Gramm-Leach-Bliley is its emphasis on the role of "functional regulation"—the principle that just as banking activities should be regulated by banking regulators, and holding company activities by the holding company regulator, securities activities should be regulated by securities regulators, and insurance activities by insurance regulators. Where prior law imposed no constraints on the authority of bank and bank holding company regulators to examine into the operations of insurance and securities affiliates of banks and bank holding companies, respectively, the new law limits the circumstances under which they may examine or require reports from such functionally supervised subsidiaries and affiliates. Only if there is reasonable cause to believe that the subsidiary or affiliate is either engaged in activities that pose a material risk to the bank or is operating in violation of a law for which that regulator has specific jurisdiction may the banking regulator cross this barrier. Otherwise the bank regulator must rely on the functional regulator for this information.

Some have expressed a concern that, by limiting the authority of the OCC and our sister banking agencies to examine functionally regulated companies, GLBA will make it more difficult for us to assess the consolidated risk of banks and bank holding companies. This would be serious if it were true.

But I don't believe it is. Viewed in perspective, I believe the new law simply extends the existing multi-agency concept of financial supervision that we've been refining for nearly a century. In fact, Gramm-Leach-Bliley adds depth to supervision by drawing on the specialized expertise of insurance and securities regulators to ensure that these highly complex activities—which some banking organizations will be engaging in for the first time—are conducted safely and soundly, in a way that lends strength to the bank instead of detracting from it.

Certainly the new law presents a major challenge to all financial regulators: to pursue the kind of interagency cooperation and coordination that is needed to ensure the safety and soundness of our financial services industry. The banking agencies are already discussing this objective with their counterparts in the insurance and securities industry, and with each other. What is essential is not only a common recognition of, and respect for, the primary regulatory roles assigned to individual agencies, but recognition by each of the interrelationships among these roles.

When Congress passed the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) in 1989, the *Washington Post* published a wiring diagram purporting to show how FIRREA had changed—and vastly complicated—the relationships among the various supervisory agencies. It was a maze of solid and broken lines almost impossible to unravel. The diagram was widely reprinted, usually without comment, for the implication was clear: that the U.S. financial regulatory structure was hopelessly tangled and getting worse. If ever there was proof of our national penchant for convoluted bureaucratic "solutions" to critical public policy questions, this seemed to be it. If ever the case for rationalizing the structure of regulation had any force, it was then.

That was more than a decade ago. During that decade, we have been given new supervisory tools and have developed new approaches to supervision. We have been tested by crisis, and have learned from the experience. And we have seen an era of unparalleled prosperity for

the U.S. banking industry. I think it is quite clear that we do a better job supervising banks today than we did when FIRREA was enacted.

There will always be purists who won't be satisfied with anything less than wholesale restructuring of financial regulation. Their day may yet come. But I believe the odds are against it, as long as the financial regulatory agencies—all of us—work together in the spirit of cooperation that has long been the system's strength. By carrying out our respective responsibilities with a view to minimizing duplication and maximizing coordination, and with mutual regard for our respective roles and responsibilities, we can assure that our present regulatory structure will serve us as well in the future as it has in the past.

Statement of John D. Hawke Jr., Comptroller of the Currency, before the U.S. House Committee on Banking and Financial Services, on predatory lending practices, Washington, D.C., May 24, 2000

Statement required by 12 USC 250: The views expressed herein are those of the Office of the Comptroller of the Currency and do not necessarily represent the views of the President.

Mr. Chairman, Ranking Member LaFalce, and members of the committee, I appreciate this opportunity to appear before you today to testify on issues regarding predatory lending practices in the consumer credit industry. As you have recognized in the questions posed in your letter of invitation, the proper definition of "predatory lending" remains somewhat unsettled, and, in part for that reason, the scope and extent of the problem are difficult to ascertain. Despite these uncertainties, however, the subject of abusive lending practices raises important supervisory issues for the Office of the Comptroller of the Currency (OCC) and the other bank and thrift regulatory agencies, as well as significant public policy issues appropriate for congressional consideration.

While there is legitimate debate over precisely what practices should be characterized and criticized as predatory or abusive, we should all be able to agree that lending practices that take unfair advantage of borrowers are inconsistent with important national policies. For one thing, misleading, manipulative, or otherwise abusive lending practices frustrate our common objective that a competitive market economy should benefit all who participate in it. The competitive market works best when consumers have a wide array of choices and, importantly, the necessary information about price, other terms and conditions, and their available options to make well-advised decisions. Furthermore—and something I want to emphasize—many practices that have been characterized as predatory tend, and in some cases may be designed, to strip away borrowers' equity in their homes, and to make foreclosure more likely, if not inevitable. Thus, some forms of predatory lending undermine a central objective of our national social and economic policies for many decades: the promotion of home ownership and its attendant virtues of neighborhood stability, decreased crime, and the building of wealth for a broader spectrum of American families. These practices should be condemned.

My remarks today will focus on four areas, while addressing the specific questions raised in the chairman's letter of invitation: first, the difficulties associated with defining and measuring predatory lending, and therefore in assessing trends in predatory practices; second, the OCC's supervisory efforts to address predatory lending issues within the framework of existing laws, including the safety and soundness implications of loans that the borrower cannot repay without resort to collateral; third, the limitations of existing laws and the regulatory implementation of those laws; and finally, the legislative proposals relating to predatory lending now pending before the Congress.

As I hope my remarks will make clear, the OCC does have tools at its disposal, under current law, to deal with many abusive lending practices where they exist in the institutions we regulate, and we are fully prepared to use those tools aggressively to combat predatory practices. There are, however, limitations in the current legal framework that reduce the effectiveness of those tools. Legislative action may help to remedy those deficiencies, and is certainly worthy of further discussion. We must always be cautious, however, that legislative intervention be carefully considered so as not unintentionally to obstruct access to credit on the part of borrowers whose credit needs can only be satisfied at rate levels that reflect the higher costs and risks of meeting those needs. I hope that this discussion will yield a better understanding of how to address abusive lending practices while preserving credit access, consumer choice, and competition in the provision of financial services to low- and moderate-income families. I also hope that this discussion will include consideration of increased support for financial education, which may be a necessary adjunct to addressing these issues.

Defining and Measuring Predatory Lending

1. The Concept of Predatory Lending

The term "predatory lending," while frequently used to describe certain abusive lending practices, does not have a common definition. As I indicated in my introductory remarks, there is some uncertainty, and legitimate debate, concerning exactly what practices constitute predatory lending. As a general matter, the term often is used to refer to a variety of practices that typically share one or more of the following characteristics:

- Loans made in reliance on the value of the borrower's home or other collateral, without a proper evaluation of, or reliance on, the borrower's independent ability to re-

pay, with the possible or even intended result of foreclosure or the need to refinance under duress;

- Pricing terms—whether interest rates or fees—that far exceed the true risk and cost of making the loan;

- Targeting persons or areas that are less financially sophisticated or otherwise vulnerable to abusive practices, or have less access to mainstream lenders, such as the elderly and persons living in low- or moderate-income areas;

- Inadequate disclosure of the true costs and risks of the transaction;

- Practices that are fraudulent, coercive, unfair, or deceptive, or otherwise illegal;

- Loan terms and structures—such as negative amortization—that make it more difficult or impossible for borrowers to reduce their indebtedness;

- Aggressive marketing tactics that amount to deceptive or coercive conduct;

- "Packing" of loan contracts with unearned, inadequately disclosed, or otherwise unwarranted fees;

- "Balloon" payments that may conceal the true burden of the financing and force borrowers into costly refinancing or foreclosure situations; and

- Loan "flipping"—frequent refinancings with additional fees which strip equity from a borrower.

It is necessary to make two caveats here. First, it should be noted that certain of the loan terms and structures described above are not inherently abusive. Negative amortization, for example, was a feature of many mortgage loans taken out by informed, middle-class homeowners in the interest rate environment of the 1980s, and helped to make housing more affordable for a wide range of consumers. But, these sorts of provisions can be abusive in other circumstances, particularly where the borrower does not comprehend the relevant risks, or where the provisions are inserted into loan agreements in a deceptive or coercive manner.

Second, the foregoing list of criteria should not, by any means, be construed as a working definition of predatory lending, but instead as an effort to illustrate the difficulty of arriving at a general definition of the term. This difficulty is compounded both by disagreement about what lending practices should be considered predatory and by the fact that the term is used to refer to practices employed in a wide range of loan products and markets. Thus, we should be concerned that any general definition may be over- or under-inclusive, and quite possibly both.

I do not think it is necessary, however, or even particularly helpful, to arrive at a general definition of predatory lending in order to address the particular troubling practices that we should all wish to remedy. In fact, the attempt to do this may simply create confusion and misdirect our efforts to address real problems. In particular, attempts to attack an abstract conception of predatory lending may tend to focus on broad classes of lending activity, and to distract us from the particular troubling practices we wish to address.

For example, the idea that predatory lending is a unified problem, capable of being generally defined, may have contributed to a tendency to equate predatory lending, mistakenly, with subprime lending. While predatory lending may be concentrated to date in a sector of the subprime market, it is important to make clear that not all subprime lending is predatory lending. The OCC, in fact, encourages responsible, risk-based subprime lending to borrowers who are willing and able to repay their loans. Lending to subprime credit applicants, whose credit histories, or lack thereof, indicate a higher than normal risk of default, can be conducted in a fair and responsible manner. The basic principles of such lending should be that it is priced based on risk and cost, that it provides adequate disclosure for full borrower comprehension, and that it contains repayment terms that the borrower appears reasonably likely to meet, based on an assessment of the borrower's ability to repay. Such fair and responsible subprime lending can be of benefit to a wide range of borrowers who might otherwise not have access to credit.

Payday lending, similarly, is often broadly characterized as a predatory type of lending activity, without qualification. This form of short-term credit is often used by consumers—generally consumers with regular paychecks and bank accounts—to meet unexpected financial emergencies or other temporary cash flow problems. These loans are often priced at a fixed dollar amount, or a percentage of the loan amount, which, when annualized, produces a very high annual percentage rate. There are, to be sure, some very troubling aspects in the way that this business is conducted by some in the industry. For example, there have been concerns raised about the use of intimidation and unwarranted threats of criminal prosecution in loan collection, unlimited and costly renewals of the initial loan that perpetuate indebtedness, and failures to ascertain whether borrowers are truly in a position to repay the loans in accordance with their terms, or whether the product is otherwise appropriate for them. However, if and when conducted in a responsible manner, with ap-

propriate disclosures and other consumer protections, payday lending can serve a need for short-term credit for some consumers. I believe that such responsible payday lending is possible—for example, when conducted in conjunction with low-cost electronic accounts linked to direct deposit arrangements.

2. Measuring Trends in Predatory Lending

It is difficult to determine with any precision the prevalence or the rate of growth of predatory lending. In addition to the lack of generally accepted criteria for classifying a loan as predatory (as discussed above), there are no ready tools for identifying such loans or assembling information about them in order to compile aggregate data. For these reasons, the available information contained in a number of reports describing or analyzing predatory lending and its prevalence is, thus far at least, primarily anecdotal.

Drawing on this anecdotal evidence, some studies have concluded that predatory practices persist to a sufficient degree as to warrant legislative or regulatory action. For example, the *Joint Report to the Congress Concerning Reform to the Truth in Lending Act and the Real Estate Settlement Procedures Act*, prepared by the Federal Reserve Board and the Department of Housing and Urban Development in 1998, concluded that "[a]busive practices continue to exist in some segments of the home-equity lending market, demonstrating the need for additional protections," and that "substantive protections dealing with predatory lending practices are necessary to ensure that all consumers benefit from reform of TILA and RESPA."

Other studies have indicated that there has been a substantial increase in subprime lending in recent years, and some observers have deduced from this increase in subprime lending that predatory lending activity also is increasing. However, the situation in these markets is too complex to make that judgment based on the information currently available. For one thing, as noted above, subprime lending should not automatically be equated with predatory lending. Furthermore, though it is certainly possible that predatory lending is increasing proportionately to subprime lending—given that predatory lending is believed to be occurring primarily in subprime markets—I am not aware of any studies that demonstrate this to be the case. It is also possible that increased competition in subprime markets in recent years from regulated lenders may have reduced to some extent the growth in predatory practices in these markets that might otherwise have accompanied the general increase in activity. However, we simply do not have reliable information adequate to quantify the level of, or trends in, predatory lending at this time.

3. Types of Institutions that Engage in Predatory Lending

Also relevant to questions relating to the scope of predatory activity—particularly for the OCC—is the extent of involvement by national banks and other insured depository institutions. For the same reasons that it is difficult to define and measure predatory lending activity in general, it is also difficult to state precisely the degree to which any particular group of lenders is making predatory loans. This depends greatly on the definition that is employed—for example, whether all subprime or payday loans are classified as predatory. Reports to date suggest that the problem of predatory lending primarily concerns unregulated lenders—those not subject to routine examinations. As a general matter, our supervisory and other activities, as well as the other information that has been developed concerning predatory lending practices, have not led us to conclude that national banks and their subsidiaries are engaged to any noteworthy extent in these sorts of practices. I note, however, that the OCC does not examine affiliates of national banks that are not subsidiaries of the bank, and we therefore cannot speak to such entities' lending activities.

It is important to remember, however, that even if predatory activity is not expanding, or being conducted to any significant degree by insured depository institutions, the mere existence of some practices that have such potentially disastrous effects on homeowners warrants the attention of policy makers and financial institution supervisors. For these reasons, the OCC is striving to gain a more comprehensive understanding of predatory lending activity. Through our participation in an interagency working group—which includes representatives from the bank and thrift regulatory agencies, the Departments of Justice and Housing and Urban Development (HUD), and the Federal Trade Commission—we are working to learn more about predatory lending issues and to formulate possible responses.

Other government agencies have undertaken projects in the past few months that could shed further light on the issues surrounding predatory lending. For example, the Departments of Treasury and Housing and Urban Development recently established a task force on predatory lending practices that is holding public forums around the country to ascertain the dimensions of the problem (including the types of lenders involved and the impact of the secondary market on predatory lending) and to assist in formulating protective measures. In addition, the Office of Thrift Supervision (OTS) has issued an Advance Notice of Proposed Rulemaking that seeks, in part, to gather in-

formation and views about predatory lending practices, including by state-chartered, non-depository institution creditors that are covered by the OTS regulations. We look forward to the results of these initiatives, and to using the information developed to assist us in determining what supervisory or regulatory actions—in addition to those, discussed below, that we have already taken or are currently pursuing—may be appropriate for us to take in this area, either alone or on an interagency basis.

4. The Role of the Secondary Market

The chairman's letter of invitation specifically asked me to address the impact of the secondary market on the incidence of predatory lending. There is strong evidence that, in contrast to a decade ago, there is a significant secondary market for subprime consumer debt instruments. And, it is certainly likely that this secondary market has functioned, in part, to finance the extension of more subprime loans than would otherwise have been made. To the extent that some of these additional loans may possess predatory characteristics, and assuming no change in practices due to the influence of secondary market participants, then it can be said that the secondary market has helped these practices to persist and, at least in a marginal sense, to expand beyond what would have existed had this secondary market not developed.

Recently, the two principal government-sponsored housing enterprises—Fannie Mae and Freddie Mac—each announced initiatives to help ensure that their very significant participation in the secondary mortgage markets does not lend support to predatory lending practices. Among other things, these institutions both have indicated that they will require full-file reporting of borrower payment histories; will not purchase loans involving single-premium credit insurance; will require limitations on prepayment penalties to ensure that such provisions are not being employed in an abusive manner; and will not purchase loans that are priced so high as to qualify as "high-cost home loans" under the federal Home Ownership and Equity Protection Act (HOEPA). One or both of these entities also will implement enhanced due diligence and audit review; adopt procedures to prevent the purchase of loans with excessive fees and points, or that are priced above the level justified by the borrower's risk profile; and undertake reviews to ensure that loans have been made with an adequate analysis of the borrower's capacity to repay. While it is clearly too early to judge the effectiveness of these measures, it is certainly possible that substantial initiatives by Fannie Mae and Freddie Mac will have a salutary effect on the level of predatory lending by directing secondary market financing toward responsibly made subprime loans.

OCC Supervisory Efforts to Address Predatory Lending Issues

I believe it is important for the OCC vigorously to confront predatory lending issues if and as they arise, and try to prevent problems whenever possible. Our efforts to address predatory lending concerns have, to date, been focused upon ascertaining, and using the tools we do have to stem, potential problems. The OCC is fully prepared to use these tools to combat objectionable lending practices, and we will employ our supervisory powers—including safety and soundness, fair lending, and consumer compliance examinations—to address lending practices that can be characterized as abusive or predatory.

1. Safety and Soundness Supervision

One of these tools—and one particularly appropriate to our role as banking supervisors—is to review, criticize, and require action to correct the adverse safety and soundness implications of predatory loans. This approach encompasses not only the legal, compliance, and reputation risks associated with such loans, but also the more traditional credit risks presented by some predatory practices: for example, lending under circumstances where the lender cannot reasonably expect repayment of the loan without resort to a foreclosure on the collateral. Lenders following safe and sound lending practices will assure themselves that the borrower has the capacity to repay without resort to collateral, taking into account all of the borrower's obligations, including other indebtedness, insurance, and taxes, as well as principal and interest. These principles should apply not only to loans that the institution originates but also to loans that the institution purchases from an affiliate or a third party.

As I suggested previously, lending in reliance on collateral, without an analysis of the borrower's capacity to repay, raises serious supervisory concerns, particularly when credit is extended on the basis of a homeowner's equity. There are significant social implications to lending transactions in which people who cannot afford credit place their homes at risk of foreclosure. Difficulties in repayment not only risk loss of the home, but also the depletion of accumulated home equity—a primary source of wealth building for many Americans. It is hard to see how such loans could be suitable for the borrower.

These transactions also raise fundamental supervisory concerns for the OCC as a bank regulatory agency, concerns that we believe can be addressed through our safety and soundness examinations and other supervisory activities. In our view, a loan for which there is no reasonable expectation of repayment without recourse to collat-

eral is presumptively an unsafe and unsound loan, and making or purchasing such loans on a regular basis is inconsistent with safe and sound banking practices.

This is a fundamental principle of safety and soundness supervision. To emphasize the application of this principle in the specific context of consumer home lending, we plan to direct our examiners to be actively watchful for loan policies or practices that permit loans to be made without a reasonable expectation of repayment absent resort to a borrower's home equity. In appropriate circumstances, examiners also will be instructed to review a sample of loan files to help ensure that loans are not being made in contravention of this principle. These examiner instructions will be issued either in the form of an OCC advisory or through the Federal Financial Institutions Examination Council on an interagency basis. Loans predicated on real estate collateral where the borrower does not demonstrate the capacity to repay the loan as structured will be adversely classified, and, depending on the specific circumstances presented, further accrual of interest may not be allowed. Further, we are prepared to take enforcement action against any unsafe and unsound practices that we find in this area—including practices that raise unwarranted legal or reputation risks—under the enforcement authority Congress granted to us in the Federal Deposit Insurance Act.

In addition, if examiners find particular loan terms, lending practices, or other factors that may indicate a heightened risk of problems in this area, we will take a closer look, from both safety and soundness and other appropriate perspectives. For example, if a lender is making loans in circumstances where a reliance on collateral is apparent or likely—as in cases involving very high debt-to-income and low loan-to-value ratios—and other features associated with abusive lending practices are present, the situation will be referred to consumer compliance or fair lending examiners for further review.

2. Use of Chartering and Licensing Process

The OCC's supervisory function also is carried out through our chartering and licensing role with respect to national banks and their subsidiaries. In this role, we act to ensure the safe and sound operations of national banks and their subsidiaries, as well as the objectives of the other statutory and regulatory factors we are required to consider when acting on proposals such as bank mergers and new national bank charters. For example, under the OCC's regulations, a charter proposal must include plans for achieving appropriate Community Reinvestment Act (CRA) objectives (including compliance with the fair lending laws), for attracting and maintaining community support, and for serving the community consistently with the safe and sound operation of the bank. When confronted with proposals involving subprime lending that require our approval, we have acted to ensure that any such lending activity by national banks or their subsidiaries will be conducted responsibly, and with appropriate consumer protections, in accordance with the applicable legal criteria. We will continue to do so in the future, and will not approve proposals that are inconsistent with these principles.

3. Enforcement of Consumer Protection and Fair Lending Laws

A third aspect of our supervisory role is to enforce consumer protection and other laws applicable to national banks. I noted previously that one characteristic often associated with predatory lending is the targeting of products toward persons or areas that are less financially sophisticated or otherwise vulnerable to abusive practices, or have less access to mainstream lenders. In addition, abusive practices may be targeted toward particular consumers or groups of consumers on the basis of age, race, or other prohibited bases in violation of the Equal Credit Opportunity Act or the Fair Housing Act. We will bring enforcement action where we find such violations.

We also examine banks for compliance with specific laws that may be relevant to predatory lending practices, particularly the disclosure provisions of the Truth in Lending Act (TILA) and the special provisions for high-cost home loans included as part of the Home Ownership and Equity Protection Act. We expect strict compliance with both the substantive limitations and the disclosure requirements of these consumer protection laws. I note that, in addition to engaging in an unsafe and unsound banking practice, a bank or other lender engaged in a pattern or practice of making high-cost home loans based on consumers' collateral, without regard to repayment ability, is in violation of HOEPA.

Moreover, we recognize that predatory practices, in and of themselves, may warrant enhanced fair lending and consumer protection scrutiny to ensure that customers of these lenders are not being made the victims of discrimination or other illegal practices. In the near future, the OCC will be issuing an advisory to our examiners identifying particular factors associated with abusive lending practices that may indicate an increased risk of illegal discrimination or noncompliance with consumer protection laws (as well as harm to the bank's reputation). On the fair lending front, this advisory will be used to help set the scope and focus of our fair lending examinations, and will supplement our ongoing efforts to identify circumstances indicating a higher than normal risk of illegal discrimination. Conversely, we also are exploring whether our ongoing efforts to identify fair lending-related risks (in

connection with implementation of our risk-based approach to fair lending examinations) may have the collateral benefit of helping us to ascertain which institutions are more likely to be engaged in abusive lending practices that should be targeted for scrutiny under the consumer protection laws and safety and soundness standards. In addition, if we find that a bank has a high risk of noncompliance with the fair lending laws on account of these factors, we will take appropriate supervisory action, such as conducting a special, targeted fair lending examination to review, for example, issues relating to racial steering or the use of differential pricing on a prohibited basis.

4. Prevention of Unfair or Deceptive Practices

Many lending practices that may be characterized as abusive or predatory can be treated as unfair or deceptive trade practices, which are illegal under the Federal Trade Commission Act. Where warranted by the facts presented in individual cases, the OCC is prepared to take action against national banks or their subsidiaries engaging in unfair or deceptive lending practices.

Alternative Mortgage Transaction Parity Act and State Law Preemption

In your letter of invitation, you asked us to address certain matters relating to the preemption of state laws that directly or indirectly affect predatory lending practices. The OCC's regulations with respect to real estate lending, under long-standing principles of federal preemption and specific authority Congress granted in the Alternative Mortgage Transactions Parity Act (AMTPA), are specifically directed to certain state laws restricting the ability of lenders to offer variable-rate and other nonstandard mortgage loans, including state limitations on prepayment fees. The AMTPA portions of this regulation also apply to state-chartered banks. The OCC's AMTPA regulation does not affect *non*-depository institution lenders. The OTS has similar, somewhat broader rules applicable to federal and state thrifts and state-chartered non-depository institution housing creditors. Both the OCC and the OTS regulations were promulgated shortly after the passage of the AMTPA in the early part of the 1980s, a time of relatively high interest rates when Congress sought to ensure the continued flow of housing credit by permitting greater flexibility in mortgage loan terms. Recently, the OTS issued an Advance Notice of Proposed Rulemaking that seeks, in part, to gather information and views about predatory lending practices, including the possible effects of that agency's AMTPA regulations on the fees charged by non-depository institution lenders.

Although not, strictly speaking, a matter of preemption, it also should be noted in this context that under federal law, national banks, state banks, and thrifts generally may charge the interest rates permitted by the states where they are located in transactions with borrowers located in other states, even if the law of the borrower's state would not permit such charges. This is essentially a choice of law principle that Congress has enacted to afford multistate lenders the benefit of operating under a single set of rules.

It is questionable, however, whether these choice of law principles have had a significant effect relating to predatory lending. These principles relate to insured depository institutions, and, as noted previously, there is little evidence to indicate that such institutions are involved to any significant degree in predatory lending. As noted previously, however, we will use the information developed by the OTS in its pending rulemaking in this area to assist us in determining what additional supervisory or regulatory actions may be appropriate for us to take.

Legal and Regulatory Limitations

While there are some tools that the OCC and the other federal financial institution supervisory agencies have, there are limitations in the existing legal and regulatory framework that might help to permit abusive lending practices to persist. For the most part, these limitations and the related troublesome practices raise policy issues appropriate for Congress to consider, though there are some actions that supervisory agencies may be able to take as well, under existing authority.

On the legislative side, it should be acknowledged that the current HOEPA requirements are fairly easy to avoid. First, they apply only with respect to a narrow range of loan products—closed-end refinancings and home equity loans secured by the borrower's dwelling—and thus can be circumvented simply by structuring the loan as an open-end home equity credit line. Moreover, HOEPA requirements apply only if the interest rate or other pricing for the loan is very high, and thus can be avoided by pricing just below the HOEPA thresholds. The HOEPA sets the annual percentage rate threshold for the applicability of its special disclosure requirements and substantive protections at 10 percentage points over the yield on U.S. Treasury securities with a comparable maturity. HOEPA also empowers the Federal Reserve Board to lower this threshold to 8 percentage points in certain circumstances. Finally, HOEPA addresses only a specified range of prob-

lematic practices, albeit an important subset of the practices often classified as predatory.

The remainder of TILA, outside of the HOEPA provisions, is addressed primarily to disclosures about loan costs: the annual percentage rate and finance charge. TILA does not, as a general matter, impose substantive limitations on loan pricing or other practices. Moreover, the TILA disclosure requirements may not cover loan terms and other practices that could have potentially disastrous consequences for some borrowers. To take one example, a principal criticism of payday loans is that they frequently are rolled over several times before they are finally paid off, with additional fees being assessed at each renewal just as though a new loan were being made. Borrowers trapped in this cycle find it very difficult to escape their indebtedness, in part because they may soon find themselves paying the lender all of what they borrowed in the form of fees, yet still owe the entire principal. It is noteworthy that, under TILA, a borrower approaching a payday lender will not receive a disclosure indicating the total finance charges that may be imposed, assuming an average, or maximum permitted, number of rollovers.

Other laws are similarly limited. The fair lending laws may not implicate these practices, so long as they are employed against all borrowers regardless of age, race, or other prohibited bases. The Federal Trade Commission Act (FTCA) generally bars unfair or deceptive acts or practices, which would seem to encompass most lending practices that are characterized as predatory. In this regard, both HOEPA and the FTCA authorize the issuance of regulations to specifically prohibit acts or practices found to be unfair or deceptive. Under HOEPA, which applies to mortgage loans, this authority rests with the Federal Reserve Board, and under the FTCA, this authority is divided between the Federal Trade Commission and certain other agencies, including, with respect to banks and thrifts, respectively, the Federal Reserve Board and the OTS. The very limited use of this regulatory authority to declare certain practices to be unfair or deceptive limits HOEPA's and the FTCA's effectiveness in proscribing predatory practices and make it more difficult for the OCC and other agencies to bring enforcement actions to correct these practices.

Another, less direct, way in which we can address predatory lending practices is to encourage responsible competition in lending to low- and moderate-income and other communities that may be targeted by predatory lenders. The OCC has issued guidance relating to the responsible conduct of subprime lending activities, both on its own and as part of the Federal Financial Institutions Examination Council. Furthermore, our examination and other activities relating to the CRA also are designed to promote competitive alternatives for low- and moderate-income borrowers. We will continue to explore, both on our own and on an interagency basis, how we might be able to make more effective use of these and other tools to enhance competition in the provision of financial services to low- and moderate-income consumers. For example, greater encouragement for the development of low-cost electronic accounts linked to direct deposit arrangements could result in lower-cost, less risky credit alternatives to the kind of payday lending that now is carried on in some communities. Another idea that I think has great promise in this area is the consortium bank, through which a number of institutions could join together to provide loans and other banking and financial services in underserved communities.

Finally, many have raised a significant regulatory concern about the appropriate consideration under the CRA of loans—whether made or purchased—that can be characterized as abusive or predatory. Certainly, it is fair to ask how an institution can be helping to "meet the credit needs of its entire community" if it engages in lending that is designed to strip equity from low- or moderate-income homeowners. Others have raised questions about the CRA treatment of routine business financing arrangements in which an insured depository institution might make a loan to a company engaged in predatory lending practices. The bank and thrift regulatory agencies need to address how loans with these characteristics could be identified in a CRA exam and whether they should receive discounted, or no, CRA credit, or even "debits" akin to the treatment of loans found to be discriminatory. I welcome the opportunity to work with our fellow regulators on an interagency basis to achieve a consistent interagency approach to this issue. In addressing these issues, we will need to be careful to ensure that we target abusive practices in a manner that will not have the unintended effect of discouraging responsible financial institutions from serving low- and moderate-income areas and families with both prime and subprime credit products that carry appropriate risk-based pricing. While it is certainly anomalous to give CRA credit for loans that harm, rather than help, communities, it could be even more unfortunate to attack this problem in a way that undermines the CRA's central purpose of enhancing credit access.

Legislative Proposals

1. Matters Warranting Legislative Consideration

Because of the limitations of the current legal framework, and the importance of the public policy issues raised by predatory lending practices, it is appropriate for the Congress to be considering proposals to address these is-

sues. Many of the concerns raised in connection with abusive lending practices involve important questions of social and economic policy that are appropriate for legislative deliberation.

As the committee is aware, there are various bills now pending in the Congress to respond to predatory lending issues. I commend the sponsors of these bills for putting forth proposals that will generate needed policy debate on these matters. These proposals have the potential to fill gaps in the current statutory and regulatory scheme, and to address many of the concerns that have been raised about abusive lending practices. For one thing, they build on the existing framework in HOEPA, which is targeted to preventing abuses that place a family's home and home equity at risk. The case for congressional intervention against abusive practices is clearly strongest in just these circumstances, where such practices tend to undermine the important national priorities associated with home ownership. Pending proposals would expand HOEPA requirements by including more types of products (such as open-end home equity lines of credit), tightening existing requirements on practices such as negative amortization and balloon payments, and other mechanisms, as well as by lowering the threshold for covered loans.

Rather than simply declaring "predatory practices," however defined, to be unlawful, these bills instead focus on specific improvements to be made to existing law and the consumer credit markets. For example, many of the proposals are designed to strengthen the safety and soundness principle I discussed earlier in connection with the OCC's supervisory policies: lenders should not extend credit without analyzing the borrower's ability to repay the loan, and satisfying themselves about the prospects of being repaid without resorting to a foreclosure on collateral. Whereas current law bars such activity in connection with HOEPA-covered loans only where the activity amounts to a pattern or practice, the proposals generally would provide that any failure to perform such an analysis would be a violation of the statute.

Another positive aspect of the bills, which I am very pleased to note, would require the "full file" reporting of positive payment performance to credit bureaus, so that borrowers who deserve more favorable credit terms are more likely to have access to them. More than a year ago, I began to speak out on the unfairness to consumers, particularly subprime borrowers, of lenders' failing to report a borrower's payment history to credit bureaus. When satisfactory payment performance is not made a part of credit reports, consumers are deprived of the ability to establish or improve their credit profiles, and thereby qualify for the lower-cost loans that their actual credit histories would say they deserve.

Because predatory lenders may target consumers who are less financially sophisticated, it is critical that any legislative effort include, as some of the proposals do, a focus on enhanced disclosure of loan terms and consumer financial counseling in an effort to ensure that borrowers are more likely to understand their loan transactions. I have stated previously that predatory lending and financial illiteracy go hand in hand, and that part of the solution to the predatory lending problem is to educate borrowers to understand their obligations and options, legal and financial. Thus, I would urge Congress to explore a number of possibilities for further encouraging and supporting financial education and literacy.

Further, the bills raise other matters that may warrant legislative attention. For example, some proposals would expand Home Mortgage Disclosure Act reporting requirements to include loan pricing information. Before such a requirement is enacted, of course, I would hope that the additional paperwork burden on mortgage lenders—and associated costs to consumers—will be carefully assessed. Still, this proposal is a useful introduction of the idea that some mechanism may need to be constructed for obtaining better information about lending practices.

Finally, I hope that the pending bills spur a serious and comprehensive debate that would take up a number of other matters related to predatory lending and address weaknesses in existing law or regulation that I noted earlier, including:

- Defining more particularly what practices are unfair or deceptive for purposes of both HOEPA and the Federal Trade Commission Act, a subject that is introduced by at least one of the pending proposals;
- Enhanced disclosures for payday loans so that borrowers are aware of the total finance charges that eventually may be imposed if they are not in a position to repay the loan in accordance with its terms without multiple rollovers;
- Fortifying the enforcement mechanisms under existing laws, particularly for lenders not subject to routine examinations; and
- Considering whether other important consumer assets—such as retirement savings accounts—should receive special protection from abusive lending practices akin to that now afforded to homes.

I recognize, of course, that the ensuing debate will not be able to address all possible issues in consumer credit markets. For example, broader TILA and Real Estate Settlement Procedures Act reform of the sort discussed in the 1998 joint study by the Federal Reserve Board and

HUD, including a general review of whether TILA disclosure requirements are sufficiently inclusive to ensure borrower comprehension of loan costs, should be taken under consideration as soon as it is feasible, but need not impede a more immediate effort to address abusive lending practices.

2. The Need to Preserve Credit Access for Low- and Moderate-Income Persons

I also hope that this debate results in legislative action that addresses concerns about abusive lending practices without obstructing fair access to credit. While I will defer comment on the merits of other aspects of the pending bills, I urge the Congress carefully to consider all the potential consequences of the different proposals for reform. It is important that any reform not have the unintended consequence of interfering with the flow of credit or limiting the availability of legitimate credit options, including responsibly made subprime loans. This is perhaps especially important for low- and moderate-income persons and underserved communities. For example, at some point, lowering the interest rate and fee thresholds for loans subject to the HOEPA restrictions risks limiting credit access for subprime borrowers. Further, a general ban on prepayment premiums could limit a consumer's product choices and ability to negotiate other concessions, such as a reduced interest rate, in exchange for accepting the risk of a prepayment premium. Such a ban also could raise safety and soundness concerns, and constitute a subsidy to one class of consumers (those who prepay) at the expense of another (those who do not).

Thus, while we clearly need to address the real abuses that exist, particularly in connection with home loans, we also need to preserve and encourage, to the greatest extent possible, consumer access to credit, meaningful consumer choice, and competition among responsible lenders in the provision of financial services to low- and moderate-income families. Determining how to draw the line between predatory and legitimate credit practices in a way that will both combat abuses and advance these other objectives is the great challenge of this effort.

Remarks by John D. Hawke Jr., Comptroller of the Currency, before the Stonier Graduate School of Banking, on risk management, Washington, D.C., June 19, 2000

It's a pleasure to welcome the first incoming class of the Stonier Graduate School at its new home here at Georgetown. This is the third campus to house Stonier since it was founded back in 1935 on the Rutgers University campus, and I'm proud to say that the Office of the Comptroller of the Currency (OCC) was present at the creation—and ever since. Over the years, dozens of our most able employees have come to Stonier both as students and faculty, and they have invariably been enriched by the experience. The OCC is committed to building on this historic relationship and supporting the school's important work in the years ahead.

As you probably know, the school is named after its founder, Dr. Harold Stonier, perhaps the most distinguished educator of his day in the fields of business and finance. It was Dr. Stonier who established the business school at his alma mater, the University of Southern California (USC), during the 1920s. But the good doctor grew increasingly weary of academe. No ivory tower intellectual, he believed that for education to have real value, it had to be practical, and there was apparently too much abstraction—and not enough application—for Stonier's taste on the USC campus back in the twenties.

So he left to become education director of the American Institute of Banking in 1927, and then, a decade later, executive director of the American Bankers Association (ABA). That happy marriage lasted 20 years. And perhaps the highlight of his tenure at ABA was the creation of the graduate school of banking that today bears his name.

The school was founded on the proposition that if bankers were to enjoy the same status as other professionals, they needed specialized formal training. The goal was not only to deepen their mastery of banking fundamentals, but also to encourage the exchange of ideas with other practitioners on the pressing issues of the day—and not just the purely vocational ones. Creative thinking was in short supply in the banking business during the 1930s. Demoralized by the Great Depression and extensive new regulatory restrictions, many bankers had a hard time rousing themselves to come to work each day—and an even harder time believing in themselves and in the importance of what they were doing for a living. It might have been the least opportune moment to launch a graduate school of banking. But never was one more needed to promote the intellectual stimulation and fraternal pride then so sorely missing from most bankers' lives.

So Stonier forged ahead, and the ABA, with its long record of support for professional education, backed him all the way. He saw the graduate school as an agent of change that would eventually lead to better days. And he was right. In the classroom and in after-hours skull sessions, plans began to take shape to revive the industry, nurture its creative spirit, and free it from excessive dependence on government. Many of the leaders who were responsible for restoring the industry to its position of influence and prestige in subsequent decades drew ideas and inspiration from their experiences as Stonier students.

The school's general goals today are much the same as they were during those early crisis years. The current curriculum reflects the same strong emphasis on sound basic banking practice that was there at its inception. Courses in credit risk management, asset/liability management, and regulatory compliance were essential parts of the core curriculum half a century ago, as they are today. But, faithful to Dr. Stonier's passion for perspective and innovation and for pushing the boundaries, the curriculum has not only kept up with the rapid changes that have occurred in financial practice in recent years, but has moved to the cutting edge of new financial products and services, new customer demands, and new technologies. Among the courses from which you'll choose are offerings in derivatives, international trade finance, and retail delivery of insurance services. It should be next to impossible to walk out the door with a Stonier diploma and not have an advanced understanding of the challenges and opportunities that await the banking industry as it moves into the twenty-first century.

But I believe that the underlying philosophy of the Stonier curriculum—this balanced blending of old and new, of vision and verity, is every bit as important as any specific element of it to the future of this industry. And that's what I'd like to discuss with you this evening.

The recent history of the banking business can be seen as an ongoing search for balance and stability. I'm not referring to the rigid, low-growth, cartel-like stability of a generation ago. Those days are gone—and not lamented. Rather, I'm speaking here about the industry's quest for a middle ground between boom and bust—for a way of avoiding alternating and often disastrous excesses of caution and risk. It hasn't been easy, partly because bankers today probably have less control over the larger economic forces that affect them than at any time in the

past. It used to be that commercial bankers served as prudential counterweight, responsible for increasing credit during slack times and putting on the brakes when the economy threatens to overheat. As you know, central bankers and governments now perform that critical function.

It was not that long ago when bankers were responsible for setting standards and writing many of the rules that the rest of the business community lived by. They don't do much of that anymore. Competition and the diffusion of financial power have eroded the industry's dominance—and its moral authority. But bankers still play a critical role in the economy, and they still have compelling responsibilities to their customers and shareholders. Bankers may not be as free as they once were to impose their standards on others, but they cannot afford to stop applying those standards to themselves—even if that involves walking away from dubious deals, or steering clear of activities that may pose undue reputation risk, or entering new fields without first acquiring the necessary managerial expertise.

Self-denial takes discipline, and discipline takes reinforcement. It requires concerted effort—by attitude-shapers in the financial media, by those who provide professional education, and by senior management—to ensure that the industry keeps a close watch on the fundamentals of safe and sound banking while it is also looking—and thinking—ahead.

We regulators have an important role to play in this effort. I would be less than honest if I didn't acknowledge that at times in the past we have been have been part of the problem. We, too, have occasionally been guilty of the sin of inconstancy—of blinking at unpleasant facts, of allowing problems to linger a bit too long, and then, necessarily, of acting abruptly against troubled institutions.

We would like to think that those days are behind us—that we have learned from our mistakes and have taken the steps required to correct them. We have resolved to bite the bullet when necessary—and to compel banks to do likewise—in addressing issues that we believe threaten the safety and soundness of individual institutions and the banking system as a whole. When we spot weaknesses in credit underwriting, internal controls, compliance management, or any other critical phase of a bank's operations, we are demanding prompt remedial action. We are drilling into bank portfolios and downgrading assets where appropriate. But we are also working with banks to achieve positive outcomes.

We're strengthening our early warning systems, coupling the power of modern technology with the formidable expertise of our staff. We're making use of the stature of the Comptroller's office to remind bankers, publicly and behind the scenes, not to allow enthusiasm and short-term considerations to override sound banking fundamentals and good common sense. And we're carefully monitoring industry trends—again, drawing on sophisticated computer models and other technological innovations—so that we can spot negative developments as well as provide positive reinforcement when the industry takes constructive steps to correct present or potential shortcomings.

In other words, we are determined to respond to problems in graduated, timely, and tempered ways, so that we can avoid the need for more drastic action later on.

We are encouraged to see the industry's leaders proceeding down a parallel track. Many bankers are harnessing innovation, especially in technology, to the fundamentals of safe, sound, and balanced banking.

Tremendous breakthroughs have been achieved in the area of risk identification and management. Bankers no longer have to rely on instinct and guesswork to figure out the nature and extent of the risk they confront. Risk management has evolved into a specialized science, with tools and terminology all its own. Computer models can detect small changes in customers' risk profiles, collateral values, asset-liability matches, portfolio shifts, and lots more. With this information, bankers are able to make incremental operational adjustments to meet corporate goals for risk tolerance in pricing, credit availability, portfolio allocation, and so forth. Indeed, in recent months the industry has demonstrated an impressive dexterity in adjusting loan underwriting standards to reflect changes in the economic environment and their customers' prospects. By tightening the strings ever so slightly today, bankers are ensuring that the pain of massive credit curtailment can be avoided in the future.

The new risk management tools represent an important contribution to a safe and sound banking system. But they are no panacea. Such advanced tools and techniques are a complement to—and must never become a substitute for—a risk management program solidly grounded in an understanding of the nature of risk, the forms it takes, and how to control it. That's what I mean by a balanced blend of vision and verity.

Let me put it another way, in another context. Because banking is such an information-intensive business, bankers—contrary to their reputation for conservatism and aversion to change—have always been among the earliest adopters of information technology. It's not surprising that the first industry to extensively embrace computers, back in the 1950s, should also be a pioneer in the delivery of its products and services over ATMs, telephone

lines, and the Internet. But especially in dealing with technology, it's crucial not to lose sight of the distinction between means and ends. Banking is a service business. And innovation, no matter how original, adds value to a financial institution only to the extent that it aids in the effort to provide excellent service. No matter what niche in the marketplace a bank seeks to fill, customer service has to come first. Everything else ranks a distant second.

Last year's controversy over proposed federal anti-money-laundering regulations had at least one unfortunate side effect: it turned an imperative [know your customer] into an epithet. In fact, it's every banker's responsibility—perhaps their foremost responsibility—to get to know their customers: their strengths and limitations, their goals and aspirations. That understanding is the foundation of outstanding service and lifelong customer relationships. Good bankers know what kinds of products and services to offer customers—and, sometimes just as important, what not to offer them. No one benefits in the long run from a loan that can't be repaid or an investment that doesn't meet the customer's needs.

Determining just what those needs are is a job that can best be accomplished, again, by drawing upon both traditional and modern techniques. Certainly there is no substitute for the kind of person-to-person interaction that defined banking relationships in the old days. Personal service is what many customers are looking for in a bank, and they'll go—and stay—where they get it. Most customers appreciate being known by their first names and having a single point of contact to which they can turn to get answers to their questions or to resolve a problem.

But modern information systems also give bankers unprecedented power to collect, sort, analyze, and apply data about existing—and potential—customers. Used properly, this information can be a boon to banks and consumers alike. It gives bankers insight into the characteristics of their customers, information that enables bankers to customize their service offerings to each customer's individual needs. These days, it's almost impossible to be a good financial services provider without continuing to invest in technology and up-to-date automated systems, because that's what today's customers have come to expect: easy access to their funds and to account information, a wide variety of financial options, and enough information to make rational choices from among them.

But if personal financial information is misused or abused—and it's eminently susceptible to both—it can be profoundly disruptive to customer relationships and a bank's reputation.

The "know your customer" controversy and the ongoing debate over the privacy provisions of the Gramm-Leach-Bliley Act showed how strong public sensitivities are on this subject. Clearly, consumers expect their personal information to be handled in a way that does not compromise its confidentiality. They do want to determine for themselves whether information about them is to be shared with affiliates of the bank or outside firms. They expect transactions to be processed neutrally and nonjudgmentally by their banks. They do not expect their banks to serve as agents of government surveillance. And they have expressed these feelings in unambiguous terms to lawmakers and regulators all across the country.

But we have to be careful not to draw the wrong conclusions from the privacy controversy. I do not believe that customers are registering any general opposition to the electronic delivery of financial services. They expect effective safeguards against the misuse of personal information, but they don't expect bankers to return to the stubby pencil days. To the contrary, as I've already suggested, banking technology has been embraced by the general public with considerable enthusiasm. Internet banking has been somewhat slower to get off the ground, but I detect little resistance to the idea per se. Most people seem to have an open mind about on-line banking, but regard it as a work in progress, with a number of practical issues that remain to be ironed out. Once these problems are resolved, I believe the future of limited Internet banking is bright—although it will never entirely supplant person-to-person, brick-and-mortar banking. Here, too, a balanced approach to the delivery of financial services, combining traditional and novel approaches, will almost certainly prevail. A high level of customer service requires an advanced technological base. But it also requires the personal touch. That's true today, and I believe it will be just as true in the future.

What consumers are demanding in regard to privacy, instead, is simply that bankers continue to live by what has long been a fundamental tenet of their business: that the information that consumers entrust to bankers will be held in confidence. This expectation is a foundation stone of the banking business, and no one has a stronger interest than bankers themselves to assure that customers' expectations of confidentiality are realized.

Although the differences between banking and other forms of economic enterprises have narrowed, banking still retains unique characteristics of a public trust. Balancing public and private responsibilities has always been this industry's special charge. It still is today.

The program you're about to begin offers the tools you need to meet those responsibilities. As I said at the out-

set, Dr. Stonier's whole career as an educator and industry leader was built around the idea that it was what one did with one's learning that counted. If you embrace the spirit as well as the substance of what the program offers and apply what you've learned to the critical decisions that you—and the industry—face, then I'm confident that Stonier's legacy—and the future of this profession—are secure.

Remarks by Julie L. Williams, First Senior Deputy Comptroller and Chief Counsel, Office of the Comptroller of the Currency, before the Robert Morris Associates/Consumer Bankers Association Fifth Annual Consumer Risk Management Conference, on predatory lending practices, Chicago, June 5, 2000

It is always an honor to have the opportunity to speak at a conference sponsored by Robert Morris Associates (RMA) or by the Consumer Bankers Association (CBA)—this afternoon is a real doubleheader in that regard. Also, I could hardly think of a more appropriate forum than a "Consumer Risk Management" conference, sponsored by RMA and CBA, to talk about today's hottest consumer lending *and* credit quality topic—predatory lending.

Concerns about predatory lending are attracting a great deal of attention in Washington and at the state and local level. Less than two weeks ago, the House Banking Committee held a day-long hearing on predatory lending, with testimony from *nine* regulatory agencies, scores of representatives from community and consumer organizations and the financial industry. There are at least five bills now pending in Congress to deal with predatory lending. In addition to expanding the coverage and provisions of the Home Ownership and Equity Protection Act (HOEPA), some of these bills would also impose restrictions on home mortgages generally, regardless of the rate.

Predatory lending also is the focus of attention at the state and local level. For example, North Carolina has enacted an anti-predatory-lending law that is based on the high cost loan concept in HOEPA. In fact, it appears that the North Carolina law served as a model for some of the bills pending in Congress. To give you a flavor of additional state activity, Utah and West Virginia have recently enacted laws designed to address abusive practices in mortgage lending. The states of California and Massachusetts are considering high-cost mortgage legislation, and the New York Banking Department has published its second regulatory proposal to address the issue. Finally, there is activity at the local level, such as here in Chicago, where the city is considering an ordinance that would bar what it would call "predatory lenders" and affiliates of such companies from doing business with the city, including being a depository of city funds.

What I'll do this afternoon is discuss the concept of predatory lending, including the difficulty we face in trying to define and measure this activity, and describe the federal government's efforts in this area. But I also want to underscore the significance of the role *your institutions* need to play. This is an issue of major significance for the banking industry—not only to help stop unacceptable practices by a few bad actors, but also to affirm the banking industry's leadership role in promoting responsible lending to all segments of customers. To paraphrase a recent observation by Congressman John LaFalce, the industry should ensure that it is mainstreaming new consumers and new entrepreneurs—not questionable practices—into our banking system.

Let me begin by defining terms—or perhaps I should say, by not exactly defining terms. "Predatory lending" often is used to refer to practices that share one or more of the following characteristics:

- Loans made in reliance on the value of the borrower's home, without a proper evaluation of the borrower's ability to repay without resort to foreclosure on the collateral, with the possible or even intended result of foreclosure or the need to refinance under duress;
- Pricing terms that far exceed the true risk and cost of making the loan;
- Targeting persons that are less financially sophisticated or otherwise vulnerable to abusive practices, or have less access to mainstream lenders, such as the elderly and persons living in low-income areas;
- Practices that are fraudulent, coercive, unfair or deceptive, or otherwise illegal;
- Loan terms and structures that make it difficult for borrowers to reduce their indebtedness;
- "Packing" into the loan unearned, or otherwise unwarranted, fees or services, which may include prepaid single premium credit life insurance; and
- Loan "flipping," that is, frequent refinancing with fees which strip equity from a borrower.

While we may all be able to agree that the individual lending practices that I listed are abusive, devising a general definition to the term "predatory lending" that avoids being either over-inclusive or under-inclusive is challenging.

"Subprime" lending illustrates the problem. As you all know, we have seen tremendous advances over the last several years in credit availability. With the increase in the

availability of mortgage credit has come greater opportunities for home ownership and the accumulation of wealth—two longstanding objectives of social and economic policy in the United States. Not surprisingly, improved access to credit can mean higher loan prices for subprime borrowers whose credit profiles present greater risks. While higher loan prices do not necessarily indicate abuses, testimony at the recent congressional hearing stated that most predatory lending practices occur in the subprime market. And some observers have broadly—and inaccurately—characterized all subprime loans as predatory loans.

It does not follow that the improved access to credit by subprime borrowers generally involves predatory lending practices. There are a great many responsible subprime lenders who make credit available at rates that reflect the costs and risks of such lending without engaging in abusive lending practices, and these lenders frequently provide access to credit for borrowers whose options might otherwise be limited.

We do need to recognize, however, that some of the characteristics that cause a borrower to be a "subprime" credit, are also characteristics that may make that customer vulnerable to predatory lending practices. But when does "subprime" lending become "predatory" lending? The key is often what occurs at "ground level," in the interactions between lenders and their customers.

If you will permit me to borrow a notion from the Discovery Channel to illustrate, you could say that a classic "predator" traps the unwary and preys on the weak. Put in the lending context, a predatory lender ensnares vulnerable customers with loan products designed to prey on their weakness, to bleed them financially, and in some cases, strip them of their most precious possessions. Loan features such as high rates, collateral requirements, payment structure, fees and services included, frequency of refinancing, and inadequate and misleading disclosures are simply means that can be tailored to that end.

Certain loan features may be indicators of higher risk of predatory lending patterns, HOEPA-covered loans are an example, but not all loans with such features will necessarily be predatory. This makes the extent of predatory lending occurring very difficult to quantify, but like pornography, you know it when you see it. Drawing on anecdotal evidence, some studies have concluded that predatory practices persist to a sufficient degree as to warrant legislative or regulatory action. For example, the 1998 *Joint Report to Congress* of the Federal Reserve Board and the Department of Housing and Urban Development proposing reforms to the Truth in Lending Act and Real Estate Settlement Procedures Act (RESPA) stated that "[a]busive practices continue to exist in some segments of the home-equity lending market, demonstrating the need for additional protections."

When confronting this issue, two observations made at the recent congressional hearing bear repeating. First, predatory lending often involves the abuse of credit terms that otherwise can be of value to many consumers. Second, these abuses seem to be occurring mostly in the unregulated sector of the market by lending institutions that do not undergo periodic compliance examinations—and thus additional governmental resources may be needed in order to track down—and shut down—the breeding ground of predatory loans.

These considerations, and the "you know it when you see it" nature of some predatory lending, illustrate the difficulty faced by legislators who want to target abuses without affecting otherwise legitimate practices or affecting access to credit. The current challenge is to define predatory lending in such a way that distinguishes it from responsible subprime lending, and that draws the line between predatory and legitimate lending practices so that abuses can be addressed without impairing access to credit.

Without a doubt, government has a role in addressing predatory lending but, I hasten to add, by no means does it have the only role. Even if predatory activity is not being conducted to any significant degree by banks, the mere existence of some practices that have such potentially disastrous effects on homeowners and that could pose serious risks to the banking industry warrants the attention of the bank supervisory agencies. For these reasons, the Office of the Comptroller of the Currency (OCC) is taking a number of steps in this area. We plan to use our supervisory powers—through our safety and soundness, fair lending, and consumer compliance examinations; our licensing and chartering process; and individual enforcement actions—to address any potential predatory lending concerns that might arise in national banks and their subsidiaries.

For example, one common characteristic of predatory lending raises clear safety and soundness concerns. In our view, a mortgage loan for which there is no reasonable expectation of repayment without recourse to collateral is presumptively an unsafe and unsound loan, and making or purchasing such loans on a regular basis is inconsistent with safe and sound banking practices. To help address this concern, the OCC will issue guidance that directs our examiners to carefully review lending policies to ensure that they would not permit loans to be made or purchased for which there is no reasonable expectation of repayment without resort to the collateral. Loans fitting this profile will be adversely classified and further accrual of interest may be disallowed.

The OCC also intends to use its supervisory process to address the adverse fair lending implications of predatory lending. Areas where this can be manifested include selective marketing, customer targeting, and steering practices. We will be issuing additional guidance emphasizing that abusive lending practices increase the risks of unlawful discrimination. Depending on such risks, examiners may adjust the scope and focus of fair lending examinations.

The OCC also will continue to use its chartering and licensing authority to ensure that subprime lending by national banks or their subsidiaries will be conducted responsibly, and with appropriate consumer protections, in accordance with the applicable legal criteria. We will not approve proposals that are inconsistent with these principles.

Through our participation in an interagency working group—which includes representatives from the bank and thrift regulatory agencies, the Departments of Justice and Housing and Urban Development, and the Federal Trade Commission—we are working to learn more about predatory lending issues and to formulate possible responses. Also on an interagency basis, we plan to address the CRA implications of predatory loans that might be originated or purchased by depository institutions. For example, it simply defies logic for equity-stripping loans to be viewed as helping to meet the credit needs of the bank's community for CRA purposes.

Finally, the other banking and thrift agencies have announced separate actions that they may take to address the risks of predatory lending within their regulated institutions. One agency has proposed the issuance of "effective practices" guidance to banks on how to underwrite or purchase loans that do not contain predatory terms.

The two principal government-sponsored housing enterprises—Fannie Mae and Freddie Mac—have announced their own initiatives to help ensure that their participation in the secondary mortgage markets does not lend support to predatory lending practices. Among other things, these institutions will require full-file reporting of borrower payment histories; will not purchase loans involving single-premium credit insurance; will require limitations on prepayment penalties to ensure that such provisions are not being employed in an abusive manner; and will not purchase loans that are priced so high as to qualify as "high-cost home loans" under HOEPA.

As I mentioned earlier, there are several bills pending in Congress to address predatory lending. Many provisions of these bills would fill gaps in the current legal framework and address many of the consumer abuses that exist. For example, they would attack "equity stripping" by strengthening the principle—in HOEPA and in our safety and soundness supervision—that home-secured loans should not be made without an individual determination that the borrower can reasonably be expected to repay the loan without resort to the collateral. They would also provide for "full-file reporting" and ensure that responsible subprime borrowers can establish a credit history and have the opportunity to make the transition to lower-cost prime loans. The bills would address problems associated with loan "flipping" by further restricting the availability of balloon payments in HOEPA loans, by prohibiting the financing of fees in HOEPA loans that are refinanced with the same creditor, and by covering more loan brokers. Finally, they would address the "packing" of loans with fees for credit life insurance in which single premium payments are prepaid.

Federal, state, and local response to the concerns about predatory lending represent a two-edged sword for the banking industry. On the one hand, the industry should have no fear of standards designed to curb abusive lending practices. On the other hand, given the difficulty of legislating a precise definition of each potential characteristic of a "predatory" loan, the industry should be concerned that federal, state or local efforts could "overslide the base," and impose restrictions far beyond what is necessary to address consumer abuses that exist. For example, at some point, lowering the interest rate and fee thresholds for coverage under the new restrictions could deter responsible subprime lenders from entering the market. And, blanket bans on particular credit terms and loan structures—such as pre-payment penalties and balloon payments—could limit product choice and adversely affect a consumer's ability to negotiate other concessions, such as a lower interest rate or down payment.

Given these concerns and risks, what should the banking industry do? Because predatory lending is hard to define precisely, and practices or loan features that may be abusive in some instances may be neutral, or even beneficial, in others, the industry should be very interested in avoiding a situation in which a regulatory or legislative response takes the form of a blunt instrument. In this regard, the industry could learn some valuable lessons from recent experience with another issue.

A little over two years ago, I spoke at a conference of the Consumer Bankers Association on an issue that ultimately played a major role in the debate over the financial modernization legislation. Part of my message was to issue a call to action by the industry. In that speech, I said:

> Failure by the banking industry to demonstrate leadership . . . risks a . . . backlash that could fuel legislative reactions at the federal and state levels. . . . [I]t is emphatically in the interests of the financial

> services industry . . . to take the lead in demonstrating that self-regulation can and will work, and that public concerns . . . can be addressed without requiring more draconian, externally imposed solutions to the problem.
>
> The banking industry today has a rare opportunity to step up to the plate and become a leader.

As you might have guessed, that speech was about privacy. There are some parallels between the two issues that I urge you not to ignore.

For example, like privacy, there is a lot of emotional momentum on the predatory lending issue. Public interest organizations, regulatory agencies, and members of Congress all have voiced their concerns and announced proposals to address the issue. And, just as it was impossible to be "against" privacy, it is equally impossible *not to be against* predatory lending.

Both issues also raise significant reputation risk concerns for the banking industry. Both have an emotional content such that a set of bad facts has the potential to propel a legislative response. Do regulated depository institutions run the risk, for example, of being tarred with practices engaged in by a relatively few institutions, rarely involving insured depository institutions? Banks should be concerned when local governments threaten to withdraw city deposits unless they can certify that neither they nor their affiliates are "predatory lenders."

Despite the fact that banks generally are engaged in responsible lending practices, legislative proposals already show the potential to "overslide the base" by imposing complete bans on loan terms such as prepayment penalties and balloon payment provisions in all mortgage transactions—not just "high-cost" loans. Interest rate caps have even been threatened by some.

This leads me to close by offering several suggestions, based on recent experience with the privacy issue:

- *First, do you know what your company is doing?* And I mean your whole company—not just the bank. Are you satisfied that your company is not engaging in conduct that could sully the good name of your bank? If you don't know, *find out*.

- *Second, has your company reviewed its lines of business to evaluate where there may be a higher risk of questionable lending practices?* Does your company engage in any type of subprime lending? Is it conducted in the bank or in a separate entity? Are there risk management systems and controls in place to ensure that it is conducted responsibly and without the kinds of abuses I have described? How do you audit that area? Have you considered appointing a special ombudsman for your subprime consumer lending business to focus on the unique concerns and risks that may arise there?

- *Third, has your company evaluated how it uses third parties, such as loan brokers?* Do you "know your brokers" and their practices? Do you have safeguards in place to ensure that the brokers' fees, referrals, and other business practices do not raise fair lending, RESPA, or other legal risks? Do you require brokers to adhere to standards set by your company? Do you check to see whether they do? Most companies have sophisticated quality control and data integrity processes in place to protect their business operations. Do you have comparable systems in place to ensure the integrity of loans you obtain from brokers or buy in the secondary market?

- *Fourth and finally, what have you done to show leadership?* Compete to offer the best products—ones that are both profitable and fill a credit need responsibly, on terms that are fair to consumers. Consider partnering with community-based organizations as a means of enhancing borrower financial literacy as well as developing new customers. Work to push the bad actors out of the business. Publicly embrace responsible lending standards—whether they are developed by others, such as the Fannie Mae and Freddie Mac standards, by your company, or by an industry group. Government agencies should not have to write guidance for effective practices by depository institutions on how to avoid acquiring loans or securities backed by loans that have predatory features. You should be doing that yourselves.

In fact, this subject would seem to be fertile ground for an industry initiative under the auspices of the CBA and/or RMA. The industry can and should take the opportunity to lead in addressing the predatory lending issue. Given where we are in this debate, the opportunity exists now for the industry to distinguish itself and to demonstrate what it is doing well.

You in this room, and the institutions you represent, have a challenge. How would you answer the four questions I have asked?

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Interpretive Letters

882—February 22, 2000

12 USC 92

Re: Insurance Agency Activities in Kentucky and Florida Under 12 USC 92

Dear [ ]:

This is in response to your letter requesting confirmation that (the [ ] "agency"), a wholly owned subsidiary of [ ] National Bank, [*City, State*] (the "bank"),[1] may sell insurance through satellite offices of the agency in the states of Kentucky and Florida, in addition to the agency's "place of 5,000" location in Kentucky, as permitted under Kentucky and Florida law pursuant to 12 USC 92. We have addressed similar issues concerning the use of satellite offices in previous opinions of this office and you may rely on the standards contained in those opinions to establish the permissibility under section 92 of the satellite offices the agency proposes to operate.

In our *First Union Letter*, for example, we provided an extensive analysis of the scope of activities permissible under 12 USC 92. Our letter considers the plain language of the statute, the legislative history, the contemporaneous practices of banks and insurance agents in 1916 when the law was enacted, the OCC's longstanding interpretive ruling under section 92, and recent judicial opinions construing the scope of section 92.[2]

In applying section 92 in the modern context, we found in the *First Union Letter* that section 92, by its literal terms, consistent with congressional intent and as construed by relevant case law, does not subject national banks soliciting and selling insurance to unique restrictions or disabilities relative to insurance agents generally in a particular state. Further, given the flexibility with which banks and insurance agents operated in 1916, we found it to be entirely consistent with section 92's authority and purpose to allow national bank insurance agencies to employ the same variety of marketing resources and tools as are used today by other insurance agencies.

[1] The agency is a wholly owned subsidiary of [ ], a wholly owned subsidiary of the Bank.

[2] *See Interpretive Letter No. 753* (November 4, 1996), *reprinted in* [1996–1997 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–107.

In the *Louisiana Letter*,[3] we considered whether the principles of section 92 set forth in the *First Union Letter* would permit a bank insurance agency that is located in a "place of 5,000" to establish auxiliary or "satellite" offices in locations outside the "place of 5,000." Louisiana law expressly permitted insurance agencies, including a bank-established agency, to conduct business at locations in addition to the agency's business location shown on its insurance license. We concluded that, for a national bank in Louisiana, the use of the same methods and facilities available to licensed insurance agencies generally includes the ability of the national bank insurance agency to establish auxiliary locations of the agency outside of the "place of 5,000" and to engage in insurance sales activities at those locations.

In the *Illinois/Michigan Letter*,[4] we applied the principles of section 92 set forth in the *First Union Letter* and the *Louisiana Letter* and concluded that the insurance agency subsidiary of a national bank located in a "place of 5,000" in Illinois could establish satellite offices in both Illinois and Michigan. We have also concluded that the same insurance agency subsidiary located in Illinois could establish satellite offices in New York.[5]

You may rely on these precedents to establish the permissibility of the satellite offices the agency proposes to operate in Kentucky and Florida. To the extent that the agency's situation is fundamentally the same as those addressed in our previous letters, the agency is authorized, under 12 USC 92, to operate the satellite offices.

If you should have any questions, please feel free to contact Virginia Rutledge at (202) 874–5210.

Julie L. Williams
First Senior Deputy Comptroller and Chief Counsel

[3] *Interpretive Letter No. 844* (October 20, 1998), *reprinted in* [1998–1999 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–299.

[4] *Interpretive Letter No. 864* (May 19, 1999), *reprinted in* [Current Binder] Fed. Banking L. Rep. (CCH) ¶ 81–358.

[5] *Interpretive Letter No. 874* (December 1, 1999), *reprinted in* [Current Binder] Fed. Banking L. Rep. (CCH) ¶ 81–368. *See also Interpretive Letter No. 873* (December 1, 1999), *reprinted in* [Current Binder] Fed. Banking L. Rep. (CCH) ¶ 81–367 (a limited liability company that qualified as a section 92 insurance agency in a "place of 5,000"in New York, and in which the national bank owned a 50 percent noncontrolling investment, could establish satellite offices in New York) (the "*New York letters*").

883—March 3, 2000

12 USC 24(7)

Dear [ ]

This is in response to your letter of January 14, 2000, in which you notify the OCC of the intent of *[Bank, City, State]* ("bank"), to acquire a noncontrolling interest in a newly formed limited liability company. We conclude that, subject to the conditions discussed below, the bank may proceed with these acquisitions.

Bank's Proposal

The bank, an indirect, wholly owned subsidiary of [ ] Corporation, engages primarily in the issuance of consumer and business credit cards, including purchasing cards issued to federal, state, and local government and agencies. The bank also offers credit card processing and related merchant services in connection with credit card transactions.

The bank proposes to make a 50 percent noncontrolling equity investment in a newly formed Delaware limited liability company (LLC). The remaining interest in the LLC will be owned by [ ], Inc. (" "), a *[State]* corporation with its principal place of business in *[City, State]*. [ ], a wholly owned subsidiary of the [ ], Inc., engages principally in the development of Internet-based procurement systems for state and local governments.

The bank and [ ] propose to establish the LLC as part of their overall strategy of providing government credit card customers with the most convenient channels for accessing services and products. The LLC will enter into contracts with federal, state, and local governments and agencies to provide a package of Internet-based services, which include (1) developing web sites that facilitate electronic procurement transactions, (2) hosting these Web sites, and (3) providing related merchant processing services (collectively "Internet services"). The bank and [ ] have agreed to jointly market the Internet services to government agencies throughout the country.

Analysis

Your letter raises the issue of the authority of a national bank to make a noncontrolling investment in a limited liability company. The OCC has in a variety of circumstances concluded that it is lawful for a national bank to own, indirectly through an operating subsidiary, a minority interest in an entity or enterprise, such as a corporation, provided four criteria or standards are met.[1] These standards, which have been distilled from our previous decisions in the area of permissible noncontrolling investments for national banks and their subsidiaries, are:

(1) the activities of the entity or enterprise must be limited to activities that are part of, or incidental to, the business of banking;

(2) the bank must be able to prevent the enterprise from engaging in activities which are impermissible for national banks or be able to withdraw its investment;

(3) the bank's loss exposure must be limited, as a legal and accounting matter, and the bank must not have open-ended liability for the obligations of the enterprise; and

(4) the investment must be convenient or useful to the bank in carrying out its business and not a mere passive investment unrelated to that bank's banking business.

Each of these four factors is discussed below and applied to your application.

1. The activities of the enterprise in which the investment is made must be limited to activities that are part of, or incidental to, the business of banking.

The OCC has found each of the activities included in the Internet services to be part of, or incidental to, the business of banking and, therefore, authorized for national banks under 12 USC 24(Seventh). We have previously determined that a national bank may provide a "package" of Internet-based services which includes developing and hosting Web sites for government agencies and providing related merchant processing services.[2]

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[1] *See e.g.,* Interpretive Letter No. 855, *reprinted in* [1998–1999 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–312 (March 1, 1999).

[2] Interpretive letter from Julie L. Williams, first senior deputy comptroller and chief counsel (March 3, 2000) (finding bank may develop and host Web sites for government agencies) ("*Williams letter*") (to be published). *See also* Interpretive Letter No. 856, *reprinted in* [1998–1999 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–313 (March 5, 1999); Corporate Decision No. 97–60 (July 1, 1997) (national bank operating subsidiary maintaining and operating an Internet Web site which provides information in pre-owned automobiles to potential buyers); OCC Conditional Approval No. 221 (December 4, 1996) (national bank making a minority investment in a company that provides an electronic "gateway" through which customers of bank will be able to obtain home banking and other financial services from their respective financial institutions through various electronic access devices).

In the *Williams letter,* we concluded that hosting Web sites for government agencies and providing an electronic communications pathway for product ordering and payment are finder activities authorized for national banks. The provision of these services brings potential purchasers and suppliers together for a transaction that they themselves negotiate and consummate. Accordingly, we conclude that the components of the proposed Internet services that involve hosting of Web sites for government agencies are permissible finder activities authorized for national banks pursuant to 12 USC 24(Seventh).[3] Moreover, the provision of related merchant processing services is also clearly part of the business of banking.[4]

We have also approved the development of Web sites for government agencies as incidental to other Internet-based services where the ability to develop the Web sites was critical to the successful marketing of the package of services and the development was only a minor part of the entire Internet package offered.[5] Here, the development of Web sites is needed to successfully market the Internet services. Other providers of similar Internet-based services for government agencies include Web site development in their package of services.[6] Without the Web development component, the LLC will be at a competitive disadvantage relative to other providers of Internet commerce services to government agencies. Additionally, the Web site development feature is only a minor part of the entire package offered by the LLC (on average gross profits from Web site development will be less than 30 percent of the gross profits of the entire Internet services package).[7] Under these circumstances, we find the Web site development services to be incidental to the other Internet services, and therefore authorized.

2. The bank must be able to prevent the enterprise from engaging in activities that do not meet the foregoing standard, or be able to withdraw its investment.

This is an obvious corollary to the first standard. It is not sufficient that the enterprise's activities are permissible at the time of the bank's initial investment. They must also remain permissible for as long as the bank retains a membership interest in the enterprise. The bank represents that the LLC's incorporating and operating agreements will include a limitation on the activities of the LLC. These agreements will limit the activities in which the LLC may engage to those activities that are part of, or incidental to, the business of banking. Moreover, the bank represents that it will have an effective veto over any activities that are not permissible for a national bank. Therefore, the second standard is satisfied.

3. The bank's loss exposure must be limited, as a legal and accounting matter, and the bank must not have open-ended liability for the obligations of the enterprise.

a. *Loss exposure from a legal standpoint*

A primary concern of the OCC is that national banks not be subjected to undue risk. Where an investing bank will not control the operations of the entity in which the bank holds an interest, it is important that a national bank's investment not expose it to unlimited liability. As a legal matter, investors in a Delaware limited liability company will not incur liability with respect to the liabilities or obligations of the limited liability company solely by reason of

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[3] *Williams letter, supra*.

[4] Conditional Approval No. 289 (October 2, 1998) (national banks may acquire a minority interest in a firm that, among other things, provides accounts receivable processing and accounts payable processing); Conditional Approval No. 248 (June 27, 1997) (national bank operating subsidiary may acquire a minority interest in an entity that provides merchant credit and debit card processing services); Interpretive Letter No. 731, *reprinted in* [1995–1996 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81,048 (July 1, 1996) (national banks as part of the banking business may collect and process accounts relating to an electronic toll collection system).

[5] *Williams letter, supra*. See also Interpretive Letter No. 875 (October 31, 1999) (to be published), available at http://www.occ.treas.gov/interp/jan00/int875.pdf.

[6] *Williams letter*, *supra*. *See also* Richard W. Walker, "Government Agencies Use EC Web Technologies' ecBuyer Electronic Commerce Software," *Gov't Computer News,* September 20, 1999, p. 45; Frank Tiboni, "HCFA Updates Web Site," *Gov't Computer News,* August 23, 1999, p. 6; J.B. Miles, "A Variation of Online-Auction Model Would Pay Off for Agencies," *Gov't Computer News,* August 16, 1999, p. 46; J.B. Miles, "Online Malls Are Fast, Secure and Right at Your Desk," *Gov't Computer News,* March 23, 1998, p. 79.

[7] Full function products provided as an incidental part of a package of banking services cannot dominate the banking services being provided. *See* Interpretive Letter No. 737, *reprinted in* [1996–1997 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–101 (August 19, 1996); Interpretive Letter No. 516, *reprinted in* [1990–1991 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,220 (July 12, 1990); letter from Michael J. O'Keefe, district counsel, midwestern district (July 13, 1987) (unpublished); Interpretive Letter No. 345, *supra*. The OCC has two alternative tests for determining when sale of full function products as part of a package of banking services is sufficiently subordinate to those banking services. The older OCC test is whether the cost of the full function product is less than 30 percent of the cost of the entire package. Interpretive Letter No. 742, *reprinted in* [1996–1997 Transfer Binder] Fed. Banking. L. Rep (CCH) ¶ 81–106 (August 19, 1996). As an alternative to the cost test, a more recent letter adopted a test based on the percentage of "gross profits" (sales less cost of goods sold) that is derived from the sale of the hardware. Interpretive Letter No. 754, *reprinted in* [1996–1997 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–120 (November 6, 1996). Specifically, this letter held that where the gross profits generated by a full function product provided in connection with a banking service do not exceed thirty percent of the total gross profits from that service, the sale of the full function product is incidental to the permitted banking service.

being a member or manager of the limited liability company. Del. Code Ann. Tit. 6 ′ 18–303 (1993). Thus, the bank's loss exposure for the liabilities of the LLC will be limited by statute.

b. *Loss exposure from an accounting standpoint*

In assessing a bank's loss exposure as an accounting matter, the OCC has previously noted that the appropriate accounting treatment for a bank's 20–50 percent ownership share of investment in a limited liability company is to report it as an unconsolidated entity under the equity method of accounting. Under this method, unless the bank has guaranteed any of the liabilities of the entity or has other financial obligations to the entity, losses are generally limited to the amount of the investment, including loans and other advances shown on the investor's books. *See generally* Accounting Principles Board, Op. 18 § 19 (1971) (equity method of accounting for investments in common stock).

As proposed, the bank will have a noncontrolling interest in the LLC. The bank believes, and its accountants have advised, that the appropriate accounting treatment for the bank's investment is the equity method.[8] Thus the bank's loss from an accounting perspective would be limited to the amount invested in the LLC, and the bank will not have any open-ended liability for the obligations of the LLC. The bank's loss exposure is limited, as a legal and accounting matter. Therefore, the third standard is satisfied.

4. The investment must be convenient or useful to the bank in carrying out its business and not a mere passive investment unrelated to that bank's banking business.

A national bank's investment in an enterprise or entity that is not an operating subsidiary of the bank must also satisfy the requirement that the investment have a beneficial connection to that bank's business, *i.e.,* it must be convenient or useful to the investing bank's business activities and not constitute a mere passive investment unrelated to the bank's banking business. Twelve USC 24 gives national banks incidental powers that are "necessary" to carry on the business of banking. "Necessary" has been judicially construed to mean "convenient or useful." *Arnold Tours Inc.* v. *Camp*, 472 F. 2d 427, 432 (1st Cir. 1972). Therefore, a consistent thread running through our precedents concerning stock ownership is that it must be convenient or useful to the bank in conducting that bank's banking business. The investment must benefit or facilitate that business and cannot be a mere passive or speculative investment.

This requirement is met in this case. The bank's investment in the LLC is an integral part of the bank's merchant credit card strategy. By investing in the LLC, the bank will be offering its government card customers additional purchasing channels, thus improving the overall service capabilities of the bank and the attractiveness of the bank's government card and merchant processing products and services. In addition, the bank's investment in the LLC will result in additional merchant processing income. Therefore, the fourth standard is satisfied.

Conclusion

Based upon the information and representations you have provided, and for the reasons discussed above, we conclude that the bank may acquire and hold a noncontrolling interest in the LLC in the manner and as described herein, subject to the following conditions:

(1) The LLC will engage only in activities that are part of, or incidental to, the business of banking;

(2) The bank will have veto power over any activities and major decisions of the LLC that are inconsistent with condition number one, or will withdraw from the LLC in the event it engages in an activity that is inconsistent with condition number one;

(3) The bank will account for the investments in the LLC under the equity method of accounting; and,

(4) The LLC will be subject to OCC supervision, regulation, and examination.

Please be advised that the conditions of this approval are deemed to be "conditions imposed in writing by the agency in connection with the granting of any application or other request" within the meaning of 12 USC 1818 and, as such, may be enforced in proceedings under applicable law.

This approval is granted based on a thorough review of all information available, including the representations and commitments made in the application and by the bank's representatives.

If you have any questions, please contact Steven V. Key, attorney, Bank Activities and Structure Division, at (202) 874–5300.

Julie L. Williams
First Senior Deputy Comptroller and Chief Counsel

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[8] OCC's Chief Accountant has concluded that the bank's investment in the LLC should be recorded as investments in "unconsolidated subsidiaries and associated companies" on the bank's Consolidated Reports of Condition and Income ("Call Reports"). Such classification is consistent with the Call Report Instructions. *See* Instructions to Schedule RC–M, item 8.b.

884—January 13, 2000

12 USC 9

Re: Collective Investment Funds under 12 CFR 9.18(a)(2)(ii)

Dear [ ]:

This replies to your request on behalf of [ ] (the "bank") concerning investing assets of certain employee benefit plan accounts held by a national bank as directed agent or non-discretionary custodian in collective investment funds established and maintained pursuant to 12 CFR 9.18. As part of the 1996 revisions to part 9, the OCC added section 9.18(a)(2)(ii) which provides a national bank may invest in part 9 collective investment funds the assets of specified employee benefit accounts that the "bank holds in any capacity (including agent)." For the reasons discussed more fully below, we concur with your position that section 9.18(a)(2)(ii) permits the investment of assets in part 9 collective investment funds of tax-exempt employee benefit plan accounts held by the bank in any capacity, provided the fund itself qualifies for an exemption from federal tax.

Background

The Bank's Proposal

The bank represents that it acts as a directed agent or a non-discretionary custodian to certain tax-exempt, employee benefit plan accounts ("EB accounts"). Another entity acts as the named fiduciary to the EB accounts and makes the investment decisions. The EB accounts may include corporate pension and profit-sharing plans, which are tax-exempt by reason of being described in section 401(a) of the Internal Revenue Code, as well as government plans.[1] The bank has no investment discretion over the assets. Prior to investment in a collective investment fund, the bank would not consider the assets part 9 "fiduciary" assets, and would not be considered holding the assets in a "fiduciary capacity" for purposes of part 9. The bank proposes to offer several investment options for the EB accounts, including investment in collective investment funds established by the bank under section 9.18(a)(2).

[1] All determinations concerning the federal taxation status of the EB accounts are the responsibility of the bank. The bank represents that section 401(a) plans generally are subject to the fiduciary responsibilities of ERISA. The government plans are not subject to ERISA, although by contract the bank states that ERISA standards may be imposed.

The bank represents that once the investment is made, the bank, as trustee of the collective investment fund is a "fiduciary" with respect to those assets held in the collective investment fund. The bank also represents that the collective investment fund would operate in accordance with any applicable requirements of part 9 generally, and section 9.18 in particular. The bank believes that section 9.18(a)(2)(ii) by its terms permits the investment of certain tax-exempt employee benefit plan account assets, such as the EB accounts, the bank "holds in any capacity (including agent)."[2]

Discussion

Part 9 governs the fiduciary activities of national banks. In 1995–96, the OCC undertook a comprehensive revision of part 9 and issued a final rule effective January 29, 1997. The primary goal in revising part 9, as stated in the preamble to the final rule, was to modernize and update part 9 by removing unnecessary regulatory burden and facilitating the continued development of national banks' fiduciary business consistent with safe and sound banking practices and national banks' fiduciary obligations.[3] Likewise, the preamble to the proposed rule indicated that the specific revisions to section 9.18 were intended for the same purpose.[4] The OCC had not rewritten section 9.18 since 1972.

While retaining the general structure of former section 9.18 with respect to (a)(1) and (a)(2) funds, the 1995–96 revisions relocated the substance of former section 9.18(b)(2) to section 9.18(a).[5] The revisions eliminated the former rule's specific references to tax provisions to clarify that the OCC promulgated the regulation solely on the authority of federal banking law and not in conjunction with federal tax laws.[6] National banks, not the OCC, are

[2] Bank counsel has noted that, while not expressly authorized, Massachusetts law permits banks with trust powers to collectively invest funds held as custodian as part of "business customarily engaged in by trust departments of banks in this commonwealth."

[3] 61 *Fed. Reg.* 68544 (Dec. 30, 1996).

[4] 60 *Fed. Reg.* 66168 (Dec. 21, 1995).

[5] The most explicit reference to the change in language is in the proposed rule preamble which states that the revision to section 9.18(a) "provides guidance on the circumstances under which a bank may place employee benefit and other tax-exempt trust assets in either an (a)(1) or an (a)(2) fund, and on the circumstances under which a bank may place trusts for which the bank is not the trustee in an (a)(2) fund." 60 *Fed. Reg.* at 66169.

[6] *See* 60 *Fed. Reg.* at 66169 (preamble to proposed rule). Former section 9.18(a) stated: "Where not in contravention of local law, funds held by a national bank as fiduciary may be invested collectively. . ." Former section 9.18(a)(2) stated: "In a fund consisting solely of assets of retirement, pension, profit sharing, stock bonus or other trusts which are exempt from Federal income taxation under the Internal Revenue Code." In part, former section 9.18(b)(2)

responsible for ensuring appropriate exemptions from applicable federal tax laws in order to satisfy the requirements of section 9.18.[7] The former rule did not contain the specific language "holds in any capacity (including agent)" as in current section 9.18(a)(2)(ii). The OCC has not addressed the meaning of this particular language since the issuance of the revised part 9.

The relevant portions of section 9.18(a) provide as follows:

> (a) *In general.* Where consistent with applicable law, a national bank may invest assets that it holds as fiduciary in the following collective investment funds: [footnote omitted]
>
> > (1) A fund maintained by the bank, or by one or more affiliated banks, [footnote omitted] exclusively for the collective investment and reinvestment of money contributed to the fund by the bank, or by one or more affiliated banks, in its capacity as trustee, executor, administrator, guardian, or custodian under a uniform gifts to minors act.
> >
> > (2) A fund consisting solely of assets of retirement, pension, profit sharing, stock bonus, or other trusts that are exempt from Federal income tax.
> >
> > > (i) A national bank may invest assets of retirement, pension, profit sharing, stock bonus, or other trusts exempt from Federal income tax and that the bank holds in its capacity as trustee in a collective investment fund established under paragraph (a)(1) or (a)(2) of this section.
> > >
> > > (ii) A national bank may invest assets of retirement, pension, profit sharing, stock bonus, or other employee benefit trusts exempt from Federal income tax and that *the bank holds in any capacity (including agent)*, in a collective investment fund established under this paragraph (a)(2) if the fund itself qualifies for exemption from Federal income tax (emphasis added).

A plain reading of section 9.18(a)(2) permits the bank's suggested interpretation. The language of section 9.18(a) generally authorizes national banks to invest assets it holds as fiduciary in two types of collective investment funds, so-called (a)(1) and (a)(2) funds. As represented by the bank, the assets invested in the (a)(2) collective investment fund are "fiduciary" assets for purposes of part 9.[8] Under section 9.18(a)(2), the national bank must meet certain requirements with respect to the type of assets and their tax-exempt status. If the requirements are met, then section 9.18(a)(2)(ii) provides that a bank may invest in the fund tax-exempt retirement, pension, or other assets as specified, including employee benefit plan assets, that the bank "holds in any capacity (including agent)," as long as the fund itself also qualifies for an exemption from federal income tax.

Conclusion

Accordingly, we concur with the bank's view that under an existing or newly established (a)(2) fund consisting of retirement and other assets exempt from federal income tax, section 9.18(a)(2) permits a national bank to invest in the (a)(2) fund assets of employee benefit plan accounts exempt from federal income tax that the bank holds in the capacity of directed agent or non-discretionary custodian, such as the EB accounts, if the fund itself is exempt from federal income taxation. This result is particularly appropriate because the bank, as trustee of the fund acts as a fiduciary to the assets once they are invested in a collective investment fund. Likewise, this meaning is consistent with the purpose and language of the revised part 9.

These conclusions are based on the facts and representations made in the materials submitted by the bank and the discussions with representatives of the bank. Any material change in facts or circumstances could affect the conclusions stated in this letter.

Julie L. Williams
First Senior Deputy Comptroller and Chief Counsel

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stated: "Assets of retirement, pension, profit sharing, stock bonus, or other trusts which are exempt from Federal income taxation by reason of being described in section 401 of the Code may be invested in collective investment funds established under the provisions of paragraph (a)(2) of this section if the fund qualifies for tax exemption under Revenue Ruling 56–267, and following rulings."

[7] Similarly, the OCC does not provide any opinion on the status of the described collective investment funds under the federal securities laws.

[8] As proposed by the bank, the assets invested in the section 9.18(a)(2)(ii) funds are tax-exempt, employee benefit plan assets generally subject to ERISA and held "in trust" by another entity prior to their investment by the bank. As employee benefit plan assets subject to ERISA and exempt from federal taxation as qualified retirement plans, federal law mandates and circumscribes precise requirements. These facts are materially different from those in *Investment Co. Institute v. Camp*, 401 U.S. 617 (1971). In *Camp*, the assets were not subject to ERISA or held in trust at all prior to investment by the bank, were not exempt from taxation, and were tendered directly by retail customers authorizing the bank to act as managing agent for the individual customer. Thus, *Camp's* principal concern, the offering to the public of a mutual fund for purely investment opportunities, is absent here.

885—March 20, 2000

12 CFR 5.34

Mr. Michael E. Bleier
General Counsel
Mellon Bank, N.A.
One Mellon Bank Center
Pittsburgh, PA 15258

Dear Mr. Bleier:

This responds to your letter dated February 15, 2000, and your subsequent telephone conversations with OCC staff, concerning the OCC's May 4, 1994, approval letter ("approval letter") permitting Mellon Bank, N.A. ("bank") to acquire the Dreyfus Corporation ("Dreyfus"). You have requested that the bank be relieved from certain commitments noted in the approval letter, and from certain conditions of approval listed in the approval letter. For the reasons described below, the OCC grants your request.

The specific commitments and approval conditions from which you have requested relief are included on the list attached to this letter. As you have noted, these commitments and conditions have become obsolete and unnecessary as a result of the Gramm-Leach-Bliley Act of 1999 (GLBA).[1] In GLBA, Congress has comprehensively addressed banks' involvement with businesses such as Dreyfus. GLBA has clarified the permissible activities, corporate structures, and applicable safeguards that will govern in the bank's relationship with Dreyfus. The bank should be permitted to organize its business with Dreyfus subject to the requirements of GLBA in the same manner as the bank's competitors. By relieving the bank from these commitments and approval conditions, the OCC is simply recognizing that the bank should now be subject to the framework established by Congress in GLBA, rather than the provisions of the OCC's 1994 approval letter.

This result is also consistent with the OCC's supervisory experience with the bank since 1994. The OCC has not identified a continuing supervisory need for these commitments and conditions. We are satisfied that the provisions of GLBA, other applicable laws and regulations, and applicable regulatory guidelines, are sufficient to govern the bank's activities in this area.

I trust that this is responsive to your request. Please contact me if you have any questions.

Julie L. Williams
First Senior Deputy Comptroller and Chief Counsel

[1] Public Law No. 106–102, November 12, 1999.

Attachment

Bank Commitments

Each of the mutual funds in the Dreyfus Family of Mutual Funds ("the Dreyfus Funds") would use an independent third party to act as distributor, or principal underwriter, of the Dreyfus Funds' shares.

Dreyfus will not be named as the organizer or sponsor of any new Dreyfus Funds, nor provide the seed capital to fund these new mutual funds.

No officer, director, or employee of the bank will serve as such with respect to the Dreyfus Funds and no officer, director, or employee of the Dreyfus Funds will serve as such in the bank.

The bank represents that it will not make any changes in the Policy Statement without prior notice to the OCC and the Federal Reserve Board. The bank states that it will not make the change if notified of objections by either agency within thirty days of the notification.

Approval Conditions

The bank and the subsidiaries will maintain an adequate level of equity capital. In assessing the appropriate level of capitalization, the bank should include within its evaluation the various risks incurred, e.g., liquidity, fiduciary, operational, and legal. The subsidiaries also will comply with applicable SEC capital requirements.

The bank's aggregate direct and indirect investments in and advances to the subsidiaries shall not exceed an amount equal to the bank's legal lending limit.

The bank and the subsidiaries are subject to the Interagency Statement (2/15/94) regarding sales of nondeposit investment products as described on pages 19–20 of [the Mellon/Dreyfus approval] letter. With respect to other sales activities, the subsidiaries will provide the disclosures as described on page 20 of [the Mellon/Dreyfus approval] letter.

The bank and the subsidiaries must comply with each of the voluntary commitments in the bank's Policy Statement on Mutual Funds, as the same may be amended from time to time.

The bank and the subsidiaries will comply fully with all applicable laws, regulations, orders and directives of regulatory bodies and with the rules of all self-regulatory bodies including the NASD.

886—March 27, 2000

12 USC 24

Re: [Bank, City, and State]

Dear [ ]:

This letter responds to your request on behalf of the [ ] ("bank" or "[ ]") dated October 11, 1999, to allow the bank's subsidiary to continue underwriting credit life, accident, disability, and health products ("credit-related insurance products") in connection with consumer and mortgage loans made by the bank and affiliated and unaffiliated financial institution lenders as part of, or incidental to, the business of banking. You also provided supplemental information in November 1999 addressing the impact of the newly enacted Gramm-Leach-Bliley Act on your request. We have considered your request in light of the Gramm-Leach-Bliley Act ("GLBA").

While the GLBA generally prohibits insurance underwriting for national banks and their subsidiaries, the authorized product exception in section 302 preserves providing insurance as principal under certain circumstances. Because credit-related insurance is a unique product that the OCC prior to January 1, 1999, authorized national banks and their subsidiaries to underwrite for their own loans and loans originated by other entities, the authorized product exception applies in this case. Accordingly, based on the information provided and the reasons discussed herein, we conclude that the bank's subsidiary may continue underwriting the credit-related insurance products.

I. Background

The bank's subsidiary [ ] ("sub.") currently engages in underwriting credit life, accident, disability and health insurance products in connection with loans made by the bank, its affiliates, and unaffiliated financial institutions. As part of acquisitions at the holding company level, the OCC conditionally approved [ ]'s acquiring [sub.] as an operating subsidiary by letter dated October 31, 1997.[1] The OCC approved [sub.]'s continued operations and gave the bank two years to establish the legal permissibility of certain insurance activities, including underwriting credit-related insurance products for unaffiliated lenders.

[Sub.], a licensed life insurance company, is authorized to underwrite credit life and health insurance products in thirteen states and has been providing credit-related insurance products as underwriter to unaffiliated financial institutions for 14 years. [Sub.] presently has a relationship with seven financial institution lenders other than [ ] and its affiliates. Based on premiums written, approximately 75 percent of [sub.]'s aggregate credit-related insurance business is for [ ] and its affiliates. For credit-related insurance products on unsecured consumer credit, approximately 27 percent of the business is written with non-affiliates. For credit-related insurance products on secured mortgage loans, approximately 8 percent is underwritten with non-affiliates.

[1] *See* Conditional Approval No. 259 (October 31, 1997).

II. Discussion

A. GLBA Preserves the Ability of National Banks and their Subsidiaries to Engage in Certain Insurance Underwriting Activities

Under Section 302 of the GLBA, national banks and their subsidiaries may provide "authorized products" but may not otherwise provide insurance as principal. The statutory language provides in relevant part:

> (a) In General—. . .a national bank and the subsidiaries of a national bank may not provide insurance in a State as principal except that this prohibition shall not apply to authorized products.
>
> (b) Authorized Products—For the purposes of this section, a product is authorized if—
>
>> (1) as of January 1, 1999, the Comptroller of the Currency had determined in writing that national banks may provide such product as principal, or national banks were in fact lawfully providing such product as principal;
>>
>> (2) no court of relevant jurisdiction had, by final judgment, overturned a determination of the Comptroller of the Currency that national banks may provide such product as principal; and
>>
>> (3) the product is not title insurance, or an annuity contract the income of which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.[2]

The GLBA thus preserves the ability of national banks and their subsidiaries to underwrite insurance products previously authorized by the OCC.[3] Two questions arise in

[2] Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106–102, § 302(a) and (b) (November 12, 1999).

[3] The GLBA also sets new standards for the application of state law to insurance activities of depository institutions, including national banks and their subsidiaries. These standards apply to credit-related insurance underwriting activities by national banks and their subsidiaries.

this context: (1) what is the "product;" and (2) what was previously "authorized" by the OCC under the relevant test.

B. Credit-Related Insurance is a "Product" for Purposes of Section 302

Credit-related insurance products guarantee or secure payment of an outstanding obligation in a credit transaction in the event that the borrower is unable to pay. Credit-related insurance products often are sold in conjunction with installment loans, automobile loans, credit cards, and residential mortgages. There are various types of credit-related products, including credit life insurance, credit disability insurance (also known as credit accident and health insurance), and mortgage life and disability insurance.[4] For example, a credit life insurance product on a relatively small decreasing balance installment loan typically will pay off the balance due on the loan if the borrower should die before the loan is repaid. Similarly, if an insured debtor becomes totally disabled or is killed accidentally, a credit accident and health insurance product policy will pay the policy premiums during the period of disability or pay the loan off. The precise terms of credit-related insurance products may vary based on the terms and conditions of a particular loan.[5]

Credit-related insurance products provide benefits for both the borrower and the lender by easing the financial burden on each in the event of unforeseen circumstances, such as death, disability, or unemployment. Credit-related insurance exists as a unique kind of insurance product that is an integral part of certain credit transactions. Hence, underwriting credit-related insurance products serves as a risk management tool linked to the credit function of lending institutions.

Section 302 uses the term "product" to refer to general categories of insurance that serve different purposes. For example, section 302(c)(2) defines "insurance" to include a "product" that insures against loss, and lists as examples life insurance, title insurance, and property and casualty insurance, among others. Each of these general categories describes a product that protects against a different type of risk. Credit risk is such a category of risk. In another section, the GLBA singles out underwriting "credit-related insurance" as a separate product category from life, accident and health, and property and casualty insurance.[6] In this same way, credit-related insurance is a distinct category of insurance that is a "product" for purposes of section 302.

C. OCC Previously Authorized National Banks and their Subsidiaries to Underwrite Credit-Related Insurance Products

Section 302's language plainly states that a product is "authorized" if as of January 1, 1999, the OCC had determined in writing that national banks may provide the product as principal, or national banks were lawfully providing the product as principal and a court of competent jurisdiction had not overturned an OCC decision permitting national banks to offer the product. In addition, the product may not be title insurance or a specified type of annuity contract.

The OCC has established the authority of national banks and their subsidiaries to sell and underwrite credit-related insurance products as part of, or incidental to, the business of banking through a long line of precedents.[7] The OCC has concluded national banks and their subsidiaries may underwrite credit-related insurance products in connection with loans by the bank itself and by lenders other than the bank.[8] These underwriting activities are part of the business of banking because the activity (1) is functionally equivalent to or a logical outgrowth of a recognized banking activity; (2) responds to customer needs or otherwise benefits the bank or its customers; and (3) involves risks similar in nature to those already assumed by banks. National banks and their subsidiaries are familiar with and take into account the risks associated with credit-related insurance products. The risks are similar for all borrowers with the same risk characteristics regardless of the identity of the lender.

Therefore, prior to January 1, 1999, the OCC had "determined in writing" that national banks and their subsidiaries may provide credit-related insurance products as principal in connection with loans made by a financial

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[4] *See* 12 CFR 2.2(b); *see generally* G. Fagg, *Credit Life and Disability Insurance* (1986).

[5] Certain other insurance arrangements could also be considered "credit-related" where the existence of the insurance is integral to the borrower's ability to repay a loan in the event specified events occur.

[6] *See* section 103(k)(4)(I)(ii).

[7] *See, e.g.*, Corp. Decision No. 98 28 (May 11, 1998) (authorizing underwriting of credit life, disability, and involuntary unemployment insurance products); Corp. Decision No. 97–92 (October 17, 1997) (authorizing underwriting of credit disability and involuntary unemployment insurance products); Interpretive Letter No. 283 (March 16, 1984) (authorizing sales, as agent, of credit-related insurance products including life, disability, involuntary unemployment, and vendors single interest); Interpretive Letter No. 277 (December 13, 1983) (authorizing underwriting of credit life insurance products); *see also* 12 CFR Part 2 (Sales of Credit Life Insurance). *IBAA v. Heimann*, 613 F.2d 1164 (D.C. Cir. 1979), *cert. denied*, 449 U.S. 823 (1980) (confirming OCC's authority to adopt its credit life insurance regulation at 12 CFR Part 2).

[8] *See, e.g.*, Corp. Decision No. 97–92 (October 17, 1997).

institution lender other than the bank itself. These determinations had not been overturned by any court as of January 1, 1999 (or thereafter). Hence, the underwriting of credit-related insurance products satisfies section 302's statutory requirements as an authorized product exception.

III. Conclusion

Despite the GLBA's general prohibition on national banks and their subsidiaries underwriting insurance, the authorized product exception of section 302 preserves the ability of national banks and their subsidiaries to provide as principal certain insurance products previously authorized by the OCC. Credit-related insurance is this kind of distinct product. The OCC previously had authorized national banks and their subsidiaries to provide credit-related insurance products as principal as part of the business of banking, or incidental thereto. Thus, national banks and their subsidiaries may offer credit-related insurance products in connection with their own loans and those of affiliated and nonaffiliated financial institution lenders. The GLBA preserved this authority for national banks and their operating subsidiaries.

Accordingly, based on the facts and representations made in the materials submitted by the bank and discussions with counsel, the OCC concludes that the bank's subsidiary, MIC, may continue to underwrite credit-related insurance products for the bank, its affiliates, and other unaffiliated lenders.

Julie L. Williams
First Senior Deputy Comptroller and Chief Counsel

887—April 30, 2000

Dear [ ]:

This responds to a letter written by [ ], Esq., dated March 21, 2000, on behalf of [ ] (the "bank"). [ ]'s letter requested confirmation that the bank lawfully acquired a noncontrolling interest in [ ] (" "), a *[State]* business trust established to purchase, own, and lease commercial aircraft. Subject to the conditions imposed below, we conclude that the bank may hold this investment in [ ].

Introduction

[ ] was established in April 1999 to purchase, own, and lease commercial aircraft. In May 1999, [ ] purchased a portfolio of 36 commercial aircraft and related leases from [co.].[1] [ ] financed the purchase by issuing approximately $1.2 billion in non-recourse debt and by selling its beneficial interest to a third party for approximately $40 million. The beneficial interest entitles the owner to any profits and any residual interest in the aircraft remaining after payment in full of all interest and principal on the debt. In October 1999, the bank purchased, for $3.94 million, 5 percent of the beneficial interest in [ ] from the third party. The bank expects to reflect income under Generally Accepted Accounting Principles (GAAP)—although the bank has projected that it will not receive any actual cash distributions from [ ] until at least 2016—and tax benefits from its ownership of the beneficial interest in [ ].

Legal Discussion

The OCC has traditionally recognized the authority of national banks to organize and perform any of their lawful activities in a reasonable and convenient manner not prohibited by law. In interpretive letters, the OCC has concluded that national banks are legally permitted to make a noncontrolling investment in an enterprise provided four criteria or standards are met. These standards, which have been distilled from our previous decisions in the area of permissible noncontrolling investments for national banks and their subsidiaries, are:[2]

(1) the activities of the enterprise in which the investment is made must be limited to activities that are part of or incidental to the business of banking (or otherwise authorized for a national bank);

(2) the bank must be able to prevent the enterprise or entity from engaging in activities that do not meet the foregoing standard or be able to withdraw its investment;

(3) the bank's loss exposure must be limited, as a legal and accounting matter, and the bank must not have open-ended liability for the obligations of the enterprise; and

(4) the investment must be convenient or useful to the bank in carrying out its business and not a mere passive investment unrelated to that bank's banking business.

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[1] [Co.] continues to service the aircraft leases.

[2] See Interpretive Letter No. 694, *reprinted in* [1995–1996 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81,009 (December 13, 1995); Interpretive Letter No. 692, *reprinted in* [1995–1996 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81,007 (November 1, 1995); letter of William B. Glidden, assistant director, Legal Advisory Services Division (April 28, 1988) (unpublished) (national bank may own minority interest in a business trust created to provide electronic data processing services).

Based upon the facts presented, an investment in [ ] would appear to satisfy these four standards.

1. The activities of the enterprise in which the investment is made must be limited to activities that are part of or incidental to the business of banking (or otherwise authorized for a national bank).

Our precedents on noncontrolling ownership have recognized that the enterprise in which the bank holds an interest must confine its activities to those that are part of, or incidental to, the business of banking.[3] In the present case, [ ] engages in aircraft leasing, an activity permissible for national banks.[4] Thus, the first standard is satisfied.

2. The bank must be able to prevent the enterprise or entity from engaging in activities that do not meet the foregoing standard or be able to withdraw its investment.

The activities of the enterprise in which a national bank may invest must be part of, or incidental to, the business of banking not only at the time the bank first acquires its ownership but for as long as the bank has an ownership interest. This standard may be met if the bank is able to exercise a veto power over the activities of the enterprise, or is able to dispose of its interest.[5]

The Amended and Restated Trust Agreement of [ ] ("trust agreement") limits [ ]'s activities to aircraft leasing and those activities necessary to engage in aircraft leasing. *See* Sections 2.03, 2.04(a), 5.02(e). Provisions of the trust agreement allow any beneficial interest holder to bring a proceeding to set aside and enjoin the performance of any activity not required or authorized by the trust agreement.[6] Therefore, the second standard is satisfied.

[3] *See, e.g.*, Interpretive Letter No. 380, *reprinted in* [1988–1989 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,604 n.8 (December 29, 1986) (since a national bank can provide options clearing services to customers it can purchase stock in a corporation providing options clearing services); letter from Robert B. Serino, deputy chief counsel (November 9, 1992) (since the operation of an ATM network is "a fundamental part of the basic business of banking," an equity investment in a corporation operating such a network is permissible).

[4] *See* 12 CFR Part 23 (1999).

[5] *See, e.g.*, Interpretive Letter No. 711, *reprinted in* [1995–1996 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–026 (February 3, 1996); Interpretive Letter No. 625, *reprinted in* [1993–1994 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,507 (July 1, 1993).

[6] Additionally, the bank has represented that it will dispose of its interest in [ ] if necessary.

3. The bank's loss exposure must be limited, as a legal and accounting matter, and the bank must not have open-ended liability for the obligations of the enterprise.

a. Loss exposure from a legal standpoint

A primary concern of the OCC is that national banks should not be subjected to unlimited liability. Where an investing bank will not control the operations of the entity in which the bank holds an interest, it is important that the national bank's investment not expose it to unlimited liability. In the case of a [ ] business trust, a beneficial interest holder's liability is limited by state law, and the trust agreement does not alter state law.[7] Thus, the bank's loss exposure for the liabilities of [ ] is limited.

b. Loss exposure from an accounting standpoint

A national bank that acquires a 5 percent beneficial interest in [ ] should account for its investment using the equity method of accounting. Under the equity method of accounting, unless the bank has extended a loan to the entity, guaranteed any of its liabilities or has other financial obligations to the entity, losses are generally limited to the amount of the investment shown on the investor's books. Thus, the bank's loss from an accounting perspective will be limited to the amount invested in [ ], and the bank will not have any open-ended exposure to the liabilities of [ ]. Therefore, the third standard is satisfied.

4. The investment must be convenient or useful to the bank in carrying out its business and not a mere passive investment unrelated to that bank's banking business.

A national bank's investment in an enterprise or entity that is not a subsidiary of the bank must also satisfy the requirement that the investment have a beneficial connection to the bank's business, *i.e.*, be convenient or useful to the investing bank's business activities, and not constitute a mere passive investment unrelated to that bank's banking business. Twelve USC 24(Seventh) gives national banks incidental powers that are "necessary" to carry on the business of banking. "Necessary" has been judicially construed to mean "convenient or useful."[8] Our precedents on bank noncontrolling investments have indicated that the investment must be convenient or useful to the bank in conducting *that bank's* business. The investment

[7] [ ] law provides that "[e]xcept to the extent otherwise provided in the governing instrument of the business trust, the beneficial owners shall be entitled to the same limitation of personal liability extended to stockholders of private corporations for profit organized under the general corporation law of the State." [ ] Code Ann. Tit. [ ].

[8] *See Arnold Tours, Inc.* v. *Camp*, 472 F.2d 427, 432 (1st Cir. 1972).

must benefit or facilitate that business and cannot be a mere passive or speculative investment.[9]

A national bank's investment in [ ] may benefit or facilitate that bank's business in different ways. For example, a national bank's investment in [ ] would allow the bank to expand its business into new areas of banking—personal property leasing—by accessing the expertise of those with years of experience in aircraft leasing. Through this access, the bank would gain a level of experience which it may, in the future, leverage for its own benefit. Moreover, the investment in [ ] may allow the national bank to better manage its tax liability by deferring a portion of its federal income tax. In doing so, the bank may be able to conserve cash, to improve its liquidity, and to conduct its banking business more efficiently. Thus, the fourth standard is met.

Supervisory Concerns

Separate and distinct from the question of legal permissibility, the OCC also considers the safety and soundness of equity investments made by national banks.[10] If the OCC determines that an investment is not safe and sound for a particular national bank, it can require the bank to take such action with respect to that investment as is necessary to ensure that the institution operates in a safe and sound manner.

In the present case, the OCC has determined that it is not consistent with safety and soundness for the bank to account for the investment as an asset. The nature of the cash flow—the bank has projected that it will not receive any actual cash flow from [ ] until at least 2016—is distant and uncertain. For this reason, the bank must charge off its investment in [ ] in whole as of March 31, 2000. Should the bank receive actual cash distributions from [ ] at some point in the future, the bank may recognize these distributions as income.

[9] *See, e.g.*, Interpretive Letter No. 875 (October 31, 1999) (to be published); Interpretive Letter No. 543, *reprinted in* [1990–1991 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,255 (February 13, 1991); Interpretive Letter No. 427, *reprinted in* [1988–1989 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,651 (May 9, 1988); Interpretive Letter No. 421, *reprinted in* [1988–1989 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,645 (March 14, 1988); Interpretive Letter No. 380, *supra*.

[10] Legal analysis and safety and soundness analysis are two different inquiries. Lending by national banks provides a good analogy to the present case. Making loans is clearly within a national bank's legal authority. However, loans must still be prudently made. If they are not, they may be criticized by examiners who can require the bank to classify the loans as losses.

Conclusion

For the reasons discussed above, we conclude that the bank 's noncontrolling minority interest in [ ] is permissible, and the bank may hold this investment subject to the following conditions.

1. [ ] will engage only in activities that are permissible for a national bank.
2. The bank will have veto power over any activities and major decisions of [ ] that are inconsistent with condition (1) above, or will dispose of its interest in [ ] in the event the enterprise engages in an activity that is inconsistent with condition (1) above.
3. The bank must charge off its investment in [ ] as of March 31, 2000. The bank may recognize income from its investment in [ ] only when actual cash distributions are received from [ ].
4. [ ] will be subject to OCC supervision and examination.

Please be advised that the conditions of this approval are deemed to be "conditions imposed in writing by the agency in connection with the granting of any application or other request" within the meaning of 12 USC 1818 and, as such, may be enforced in proceedings under applicable law.

This approval is granted based on a thorough review of all information available, including the representations and commitments made in the bank's letters and by the bank's representatives. If you have any further questions, you may contact Steven Key, attorney, Bank Activities and Structure Division, at (202) 874–5300, or Maria Yee-Fong, national bank examiner, at (818) 240–9192.

Julie L. Williams
First Senior Deputy Comptroller and Chief Counsel

888—May 14, 2000

12 USC 24(7)

Joseph R. Bielawa
Vice President and Assistant General Counsel
The Chase Manhattan Bank
Legal Department
270 Park Avenue, 39th Floor
New York, New York 10017

Dear Mr. Bielawa:

This responds to your request for confirmation of the legal permissibility of a proposed electronic storage and re-

trieval system, offered to external clients, for financial and nonfinancial documents. Chase Bank of Texas, National Association, ("bank") and its affiliates (collectively referred to as "Chase")[1] have developed a system to facilitate the conversion of Chase from a paper-based check processing environment to an imaged-based environment. The bank proposes to use the excess capacity in this specialized system, beyond what is necessary for Chase's internal needs, to allow external clients to load, store, and retrieve nonfinancial and financial documents. For the reasons below, and based on the representations and information provided, we find that such activities are permitted by the National Bank Act and are consistent with precedent of the Office of the Comptroller of the Currency (OCC).

A. Background

Electronic imaging systems use digital technology to capture, index, store, and retrieve electronic images of paper documents. This technology is becoming increasingly important to the banking industry.[2] The core technological system developed for the Chase imaging project, initiated in 1995, is the archive (the "Chase archive" or "archive") which has the capability to load, store, and retrieve images of checks and statements. The archive uses special cameras to capture images on high-speed check sorting image devices. This system reduces the number of times a check physically needs to be handled to, in most cases, one time, instead of 12. The Chase archive also provides a central repository for check images and statements and reduces much of the manual intervention inherent in most check operations.

[1] "Chase" collectively refers to the bank and nonbank subsidiaries of The Chase Manhattan Corporation that have benefited from the implementation of the conversion, primarily: The Chase Manhattan Bank, New York, NY; Chase Manhattan Bank USA, N.A., Wilmington, DE; Chase Manhattan Private Bank, N.A., Tampa, FL; Chase Manhattan Bank and Trust Company, N.A., Los Angeles, CA; Chase Manhattan Bank Delaware, Wilmington, DE; and Chase Bank of Texas San Angelo, N.A.

[2] *See, generally*, OCC Bulletin 94–8 (January 27, 1994); Interpretive Letter No. 805, *reprinted in* [1997–1998 Transfer Binder] Fed. Banking Law. Rep. (CCH) ¶ 81–252 (October 9, 1997). Moreover, imaging may become even more central. P. Murphy, "Top Ten Technology Trends," *Bank Director* (Fourth Quarter, 1998). The banking industry may develop a system of electronic check presentment based in part upon imaging technology. *See, e.g.*, S. Marjanovic, "Bank Group Chases Dream of Paperless Checking," *The American Banker* (December 8, 1998). Imaging technology may also be used to enhance the efficiency of lock-box services and other cash management services offered to corporate clients. *See, e.g.*, A. Keeton, "Bank of America Going Paperless on Payments," *The Wall Street Journal* (November 1, 1999).

1. Design of the Chase Archive

In designing the system, the project's technology supplier recommended a system running on massively parallel computers, utilizing large scale robotic tape systems and high feature/functionality disk systems so that Chase's capacity and performance requirements would be matched.[3] The computer platform was selected because of the volume of checks processed by Chase on a daily basis and the peak demand nature of that processing that compresses operational timeframes.

Even though the archive comprises one logical system, the archive is designed to perform the following three distinct functions:

- Loading—Activities involved with receiving, loading and accounting for all the various load files from multiple sources.
- Storing—The storage and maintenance (including system backups) of the images and data.
- Retrieving—The on-line and batch retrieval of the stored items.

Each of these functions has its own configuration needs that had to be considered in designing a system to accommodate Chase's processing needs during peak periods. While a certain configuration may have created sufficient capacity for one function, when mixed with the configuration needs of the other two functions, additional capacity of a function had to be added to obtain the overall required performance. Thus, the bank asserts that retained excess capacity was unavoidably created in meeting Chase's image processing needs.

In determining the mix of configuration needs, it was decided that all three functions would take place across a [ ] period, with each function occupying approximately [ ]. The design point became the ability to load a day's work within [ ] at [ ] ( ) percent utilization, thus allowing sufficient time for unforeseen errors and delays in processing.[4]

[3] This platform consists of computers (repackaged into a modular unit to be connected in frames). The frame sits upon a high-speed switch, which allows the processors to communicate with each other and for systems within multiple frames to communicate with each other. While each system acts independently, together they comprise one logical system, i.e., massively parallel.

[4] The [ ] ( ) percent utilization factor is a standard system practice of building in an idle capacity buffer because it provides for a more efficient design than one that operates at 100 percent capacity. The buffer allows the system to accommodate spikes in activity as well as growth in usage without adding additional hardware. It also serves to minimize the risks to the bank's substantial capital investment in the archive, the bank's check processing abil-

With regard to load capacity, once it was decided that the design point was the ability to load a day's work in [ ] at [ ] ( ) percent utilization, the appropriate hardware necessary to accommodate the load during peak periods of late evening and early morning was selected. This capacity power far exceeds the processing power that is required during the rest of the day, leaving excess capacity in the archive's loading function every day when it is idle or significantly underutilized.

On storage capacity, the Chase archive has both disk and tape storage in order to handle the differing storage needs of the particular client or application.[5] Disk-based systems permit retrievals in subseconds, but are more expensive. Conversely, tape-based retrievals occur in seconds, but are less costly. Thus, the archive is designed to provide the most appropriate mix of disk and tape storage.

A significant amount of disk capacity is necessary to process the load files that are transmitted to the archive by Chase.[6] Once the files arrive, they are copied to the disk and then loaded to magnetic tape for long-term storage. Once the files are loaded, they are deleted from the disk. This activity occurs during peak load time; the rest of the time this disk storage capacity remains idle and sits empty.

Thus, for long-term storage, the archive also uses multiple automated tape silos, containing up to 6,000 high capacity tape cartridges and up to 40 tape drives or transports and a robot arm that retrieves requested tapes and loads them into an available drive.[7] The amount of tape storage capacity is not solely determined by the amount of information to be stored. The determining factor is the speed of information retrieval from the tapes during peak times.[8] The bank needs to have sufficient tape drives available to handle the volume during peak times, thus creating the excess capacity.

2. Use of the Chase Archive

The capacity of the archive's retrieval functions was dictated upon the ability to process checks during peak retrievals. As mentioned above, this resulted in excess storage capacity. For every year the bank uses the archive, it will only consume 7 percent of its total capacity. At the end of seven years, the bank will have only consumed half of the available capacity.

While the Chase archive was designed primarily to handle the 12 million checks Chase currently processes, the bank discovered that the archive has the ability to load, store, and retrieve any document. The systems and technology were insensitive to the size or type of images and could load, store, and retrieve virtually any document, including blueprints, data files, and computer reports, in addition to checks. The bank considered that this competency, coupled with the immense capacity of the archive, created an opportunity to realize more fully the potential value of the system. After polling both internal and external clients, the bank determined that there was a market for the archive's services and began offering the archive services to other Chase business units for purposes other than check processing. Currently, 10 Chase units use the system, with 11 others in process of implementation. The bank also began marketing the archive's services, known as "I-Vault," to external clients for the storage and retrieval of financial documents. However, excess capacity still remains even after this expanded deployment of I-Vault.

The bank reports that limiting I-Vault's usage to financial documents has impaired its ability to market effectively I-Vault's services externally because it prevents the bank from promoting and providing I-Vault's maximum potential value to customers, *i.e.*, its capacity to load, store, and retrieve any document, not just financial documents. The bank has found that limiting its processing to financial

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ity, and the Chase franchise/brand should the project fail. Image processing is contingent upon all of the bank's daily processing; *i.e.*, as checks are received they must be prepared for capture, then captured, then balanced before the resulting files can be released. Because the Chase archive is at the "end of the line," any and all delays in the process will impact the "start" time for the load process. Hence, the design point was for the archive always to be in a position to accommodate both the day to day volume changes and the normal processing delays.

[5] For example, checks may be stored on tape for six months while statements may be stored on disk for one year.

[6] Disk technology provides the highest levels of speed, protection, redundancy, and intelligence in the market place. It is particularly suitable for special functions. For example, the archive uses disk storage for the following: storage of the operating system, languages, and utilities; storage of the archive index data base; temporary working space to load transmitted image files; and temporary storage for those images that require a high-speed retrieval rate for a short period such as: exception items required to be dispositioned on Day Two, non-sufficient funds (NSFs), large item review, stop payments.

[7] A typical configuration would be eight tape drives to a silo and three silos to an archive. Each silo is operated by one internal robot with two hands that retrieve and load tapes as directed.

[8] A robot arm can only service a limited number of requests within an hour. In the Chase archive, the ratio between robotic arms and tape drive is one to eight. This means that for every eight drives, there is one robot, which equates to one silo. This configuration leaves a tape capacity of 5,500 cartridges per silo. The total number of drives deployed is 40, which equates to five robots and silos. This ratio is necessary to accommodate check retrievals during peak times and high volume spikes. During these times, most of the drives are utilized. At other times, there is significant unused retrieval capacity when the drives are underutilized, significantly underutilized, or completely idle.

documents has confused customers because there is no "bright line" as to what would qualify as a financial document for purposes of I-Vault. In many cases, the financial or nonfinancial nature depends on the context in which the document is generated. Customers have indicated that there would be more demand for I-Vault services if it could provide a complete solution to their document storage and retrieval needs. As a result, some interested customers ultimately decided against relying upon I-Vault for their storage and retrieval needs. Consequently, the bank believes that unless the I-Vault services are expanded to include non-financial documents and data, it will be unable to obtain full economic value from its investment in the archive.

The bank expects that 90 to 95 percent of the customers that would use I-Vault for nonfinancial documents would be existing Chase customers. It commits that any new customers would be screened pursuant to "know your customer" standards. The bank also commits that the contract for I-Vault services would contain provisions prohibiting the storage of illegal materials and limiting the bank's liability. The addition of external customers also would not conflict with the bank's ability to meet its processing demands during peak periods. Prior to accepting a client's storage business, the bank would analyze the client's requirements to ensure that they would not conflict with Chase's needs. If an external client's needs could not be managed within Chase's timeframes, the bank would not accept the client. Finally, the bank has committed to take a number of measures to ensure that the integrity of the bank documents stored in the archive would not be comprised by the addition of more external documents. The bank would permit customer encryption of stored data to assure privacy and security,[9] and would provide appropriate firewall and password security to the archive.

B. Discussion

The National Bank Act provides that national banks shall have the power:

> [t]o exercise. . .all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; and by obtaining, issuing, and circulating notes . . .

12 USC 24(Seventh).

The Supreme Court has expressly held that the "business of banking" is not limited to the enumerated powers in 12 USC 24(Seventh), but encompasses more broadly activities that are part of the business of banking. See *NationsBank of North Carolina, N.A.* v. *Variable Life Annuity Co.*, 115 S. Ct. 810, 814 n.2 (1995) (*VALIC*). The *VALIC* decision further established that banks may engage in the activities that are incidental to the enumerated powers as well as the broader "business of banking."

Prior to *VALIC*, the standard that was often considered in determining whether an activity was incidental to banking was the one advanced by the First Circuit Court of Appeals in *Arnold Tours, Inc.* v. *Camp*, 472 F.2d 427 (1st Cir. 1972) (*"Arnold Tours"*). The *Arnold Tours* standard defined an incidental power as one that is "convenient or useful in connection with the performance of one of the bank's established activities pursuant to its express powers under the National Bank Act." *Arnold Tours* at 432 (emphasis added). Even prior to *VALIC*, the *Arnold Tours* formula represented the narrow interpretation of the "incidental powers" provision of the National Bank Act. OCC Interpretive Letter No. 494 (December 20, 1989). The *VALIC* decision, however, has established that the *Arnold Tours* formula provides that an incidental power includes one that is convenient and useful to the "business of banking," as well as a power incidental to the express powers specifically enumerated in 12 USC 24(Seventh).

1. Permissible Imaging Services

The providing of electronic imaging of financial and nonfinancial documents for the bank and its internal clients are legally permissible under 12 USC 24(Seventh). The provision of electronic imaging and retrieval services to banks and other financial institutions is clearly part of the business of banking.[10] Many banks and financial institutions use and are developing a competency in electronic imaging systems to process and store their documents efficiently.[11]

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[9] Customers would encrypt the images at capture prior to providing them to the bank. The bank would not have the decryption key and would be unable to view the images. Customers would be responsible for the distribution and security of access at their locations.

[10] *See* Interpretive Letter No. 805, *supra* (business of banking includes providing electronic imaging services for other banks and financial institutions).

[11] *See, e.g.*, OCC Bulletin 94–8, *supra*, and remarks of Comptroller Eugene A. Ludwig before the Women in Housing and Finance Technology Symposium (December 4, 1996). Changes in technology require banks to develop new core competencies that, in time, can become part of an expanded business of banking. *See* Conditional Approval No. 267 (January 12, 1998) (acting as a certification authority is part of the business of banking because it involves an exercise of the core competence of verifying the identity of a sender of an electronic message). Moreover, banks already have a core competence in safekeeping of items and documents. *Id. Cf. Colorado Nat'l Bank v. Bedford*, 310 U.S. 41 (1949). Sometime in the future, banks may well develop such a high degree of competence in the processing, storage, and retrieval of images, in order to support new approaches to payments processing, that imaging

Likewise, the marketing of I-Vault to nonfinancial institution customers to load, store, and retrieve financial documents is legally permissible. In a variety of contexts, the OCC has concluded that providing banking or financial recordkeeping services to customers either directly or by means of electronic technology is part of the business of banking.[12] More specifically, OCC has found that providing image processing services to non-banks for financial data and documents is part of the business of banking.[13]

Finally, OCC has also found that, as a permissible incidental activity, national banks may market good faith excess capacity in their imaging processing equipment to nonfinancial institutions for use in processing nonfinancial data and documents.[14] Thus, the core issue here is whether the bank's archive has good faith excess capacity. For the reasons below, we conclude that the bank's proposal to expand I-Vault's product offering to include the electronic loading, storage, and retrieval of nonfinancial documents for nonfinancial institutions involves the marketing of good faith excess capacity.

2. Test for Good Faith Excess Capacity

The OCC and the courts have long held that if a bank acquires excess capacity in good faith to meet the needs of the bank or its customers, the bank may use the excess capacity profitably even though the specific activities involving the excess capacity are not, themselves, part of or incidental to the business of banking. This doctrine has been applied to excess capacity in real estate,[15] electronic facilities,[16] and non-electronic facilities.[17] Further, this doctrine applies to the acquisitions of companies as well as equipment and facilities.[18]

The excess capacity doctrine recognizes that a bank acquiring an asset in good faith to conduct its banking business should, under its incidental powers, be permitted to make full economic use of the acquired property if use of the property for purely banking purposes would leave the property underutilized. The underlying rationale is essentially that of avoidance of economic waste. The market price of the acquired property necessarily reflects its potential full economic use and if a bank cannot obtain that full economic value from owning the property, the bank would incur economic waste and could be unable to purchase the property it needs for its banking business. Thus, in the leading case of *Brown* v. *Schleier, supra*, the court observed:

> Nor do we perceive any reason why a national bank, when it purchases or leases property for the erection of a banking house, should be compelled to use it exclusively for banking purposes. If the land which it purchases or leases for the accommodation of its business is very valuable, it should be accorded the same rights that belong to other land owners of improving it in a way that will yield the largest income, lessen its own rent, and render that part of its funds which are invested in realty most productive.

Similarly, the OCC has said regarding excess computer capacity:

> If a bank . . . has legitimately acquired data processing equipment with excess capacity, it need not allow the excess capacity to go unused. Thus, the bank . . . may, incident to its legitimate acquisition of that equipment, sell the excess time even where the data processing

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processing and storage may become part of the business of banking. See footnote 2, *supra*.

[12] *See* Interpretive Letter No. 856, *reprinted in* [1998–1999 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–313 (March 5, 1999) (data set storage and retrieval functions when provided by a national bank in conjunction with Internet and payment services to small business customers is part of the business of banking); Conditional Approval No. 282 dated July 31, 1998 (national bank's storage and retrieval of information relating to billing and payment processing services that it would be providing to the health care industry is part of the business of banking; Interpretive Letter No. 836, *reprinted in* [1998–1999 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–290 (March 12, 1996) (national bank's storage, processing, and retrieval of documents in conjunction with payment processing services it would be providing to hospitals and physicians was legally permissible; Interpretive Letter No. 653, *reprinted in* [1994–1995 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,601 (Dec. 22, 1994) (national bank authorized to keep financial and other records of its customers' sales and disbursements arising from finder banking services provided by the bank).

[13] Interpretive Letter No. 805, *supra.*

[14] *Id.*

[15] See *Brown* v. *Schleier*, 118 F. 981, 984 (8th Cir. 1902), aff'd, 194 U.S. 18 (1904); *Wingert* v. *First National Bank*, 175 F. 739 (4th Cir. 1909); *Perth Amboy National Bank* v. *Brodsky*, 207 F. Supp. 785, 788 (S.D.N.Y. 1962); and unpublished letter from Comptroller James J. Saxon, dated February 16, 1965.

[16] Interpretive Letter No. 742, *reprinted in* [1996–1997 Transfer Binder] Fed. Banking L. Rep. (CCH) 81–106 (August 19, 1996) (excess capacity in Internet access); Interpretive Letter No. 677, *reprinted in* [1994–1995 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,625 (June 28, 1995) (excess capacity in software production and distribution); unpublished letter from William Glidden, dated June 6, 1986 (excess capacity in electronic security system); unpublished letter from Stephen Brown, dated December 20, 1989 (excess capacity in long line communications); and 12 CFR 7.1019.

[17] Unpublished letter from Mary Wheat, dated April 7, 1988 (excess capacity in acquired printing equipment); unpublished letter from William Glidden, dated July 11, 1989 (excess capacity in messenger services); and unpublished letter from Peter Liebesman, dated December 13, 1983 (excess capacity in mail-sorting machine).

[18] *See* Interpretive Letter No. 811 *reprinted in* [1997–1998 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–259 (December 18, 1997) (excess capacity in printing company). *See also* OCC Interpretive Letter No. 677, *supra.*

services thus sold will not be data processing functions which are, of themselves, part of the business of banking. This allows a bank . . . to lower its costs of performing those data processing services which [are part of the banking business, thus making its] banking business more profitable and competitive.

Unpublished letter from Peter Liebesman, dated December 13, 1983 (hereinafter: the "Liebesman letter").

In its excess capacity letters, the OCC has recognized that good faith excess capacity can arise for several reasons. First, the excess capacity may be unavoidable where "due to the characteristics of the [desired equipment or facilities] available on the market, the capacity of the most practical optimal equipment [or facilities] available to meet the bank's needs may also exceed its precise needs." Interpretive Letter No. 742, *supra*.[19] Second, with equipment, this can occur because the equipment is not marketed in a size that meets the specific needs of the bank. Third, the retention of excess capacity may also be necessary for future expansion or to meet the expected future needs of the bank.[20] Finally, the excess capacity may be needed to meet situations of fluctuating need for capacity because a bank engages in batch processing of transactions or because the demand for the underlying services fluctuates so that the bank must have capacity to meet peak period demand, but consequently has periods when the capacity is underutilized.[21]

Based upon the discussion above, we find that the bank acquired the excess capacity of the Chase archive in good faith. The excess capacity resulted from the development and acquisition of the most practical and optimal equipment that would meet the bank's precise check processing needs that have a significant peak demand character. The archive's excess capacity arises from the distinct requirements for the load, store, and retrieve functions to operate during peak periods. While each function may require less capacity on its own, the combination of all three in the archive necessitates additional capacity to counteract another function's peculiarities.

The bank's ability to offer I-Vault services to external customers is based solely on the existence of the archive. The expected revenue from offering I-Vault services to external customers for both financial and nonfinancial documents would not in and of itself have justified the bank's substantial investment in the archive. The primary benefits to the bank from the archive result from the efficiencies gained in check processing. The bank would not have made the investment in the archive solely to provide electronic document storage and retrieval to its customers.

Based on the above, it is clear that the excess capacity of the Chase archive was acquired in good faith to conduct its banking business and to accommodate future banking needs. The capacity of the platform created was the result of a complex equation that had to match processing ability and storage capacity during standard and peak times and to account for unforeseen spikes in volume and processing delays. The bank developed its unique platform as the most practical and optimal solution that could have been acquired to meet its check processing needs.

The bank would not significantly increase any business risks as a result of this proposal. It incurs similar risks in connection with other electronic services it provides to customers including: information reporting, account reconciliation, remittance banking data transmission, investor reporting, home banking, among others. Finally, the bank has procedures in place to ensure that technology risks are managed in accordance with OCC Bulletin 98–3 (February 4, 1998) regarding technology risk management.

C. Conclusion

As the bank has acquired the excess capacity in good faith and use of the bank archive for purely banking purposes leaves the property underutilized, we conclude that the bank is permitted, under its incidental powers, to make full economic use of the acquired property. The bank would accomplish this by including the loading, storage, and retrieval of non-financial documents for external customers. This result would be consistent with the rationale behind the excess capacity doctrine, which is the avoidance of economic waste.

We, therefore, confirm that it is legally permissible for the bank to use the retained excess capacity of its archive, developed in good faith as detailed above, to permit ex-

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[19] See also, Liebesman letter, *supra*; unpublished letter from Mary Wheat, dated April 7, 1988; and unpublished letter from William Glidden, dated June 6, 1986.

[20] Interpretive Letter No. 677, *supra*; and unpublished letter from Stephen Brown, dated December 20, 1989.

[21] Interpretive Letter No. [883] (March 3, 2000) (to be published) As noted in the preamble to the first OCC Interpretive Rule recognizing the excess capacity doctrine for technological activities, "banks must have the data processing capacity (equipment and manpower) to handle peak volumes within narrow time limits and. . . , accordingly, the equipment and personnel may be underutilized at certain times." 39 *Fed. Reg*. 14192 at 14193. *See also*, unpublished letter from Donald Melbye (August 4, 1978). The Federal Reserve Board, in considering amendments to its regulation on data-processing activities by bank holding companies similarly observed: "The record of this proceeding shows that data processors that process time-sensitive data must maintain sufficient capacity to meet peak demand. . . . Excess capacity necessarily results from these requirements, and the sale of excess capacity is necessary to reduce costs and remain competitive." 47 *Fed. Reg.* 37368 (Aug. 26, 1982)

ternal customers to load, store, and retrieve nonfinancial as well as financial documents.

Julie L. Williams
First Senior Deputy Comptroller and Chief Counsel

889—April 24, 2000

12 USC 24(7)

Dear [ ]:

This is in response to your letters of December 21, 1999, and February 17, 2000, requesting confirmation that several national banks ("banks")[1] may acquire indirectly through Star Systems, Inc. ("Star"), noncontrolling equity investments in Bank Network Services, Inc. ("BNS"), a newly formed Illinois corporation that will provide online securities trading and related services. The banks currently are noncontrolling investors in Star, an electronic funds transfer ("EFT") network, that plans to acquire a one-third interest in BNS. Banks wish to continue as noncontrolling investors in Star after its investment in BNS.[2] For the reasons set forth below, the banks may acquire and hold the indirect noncontrolling equity investments in BNS, in the manner and as described herein.

A. Background

Star is a Delaware corporation formed in 1999 by the merger of Star System, Inc., San Diego, California, a California nonprofit mutual benefit corporation, and Honor Technologies, Inc., a Delaware stock corporation headquartered in Maitland, Florida. The general activities of Star are to develop, operate, manage, and market to financial institutions, processors, retailers, and consumers, products and processing services for transactions conducted at electronic terminal devices. Banks' noncontrolling investment in Star has been previously approved by the OCC.[3]

BNS is a newly formed Illinois corporation headquartered in Chicago, Illinois. BNS intends to provide retail brokerage services, lending, and insurance-related services using the Internet to clients who have financial accounts with participating financial institutions. Financial institutions seeking to participate in BNS will be required to sign a participation agreement with BNS. Each participating financial institution will be able to choose among the services to be offered to its account holders, which will include, among others: (i) publicly traded equities; (ii) third-party mutual funds; (iii) options; and (iv) proprietary asset allocation, fund selection, and investment monitoring support tools. BNS expects to offer such services through various account types including: (i) individual brokerage accounts; (ii) various types of individual retirement accounts; (iii) custodial accounts; and (iv) margin accounts.[4]

BNS clients will access the BNS online brokerage service primarily through the Internet. Account sign-up may be accomplished online through the Internet or through account applications coordinated by the participating financial institution. Client access to the BNS brokerage Web site may be facilitated through the use of a hyperlink from the financial institution's own Web pages (*e.g.*, from an electronic banking platform)[5] or through links to and from

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[1] The national banks joining in this request are [ ]; [ ]; [ ]; and [ ].

[2] Certain bank holding companies that own equity interests in Star have filed a comparable application with the Board of Governors of the Federal Reserve System ("the Board") pursuant to section 4(c)(8) of the Bank Holding Company Act, 12 USC 1843(c)(8), and the Board's Regulation Y, 12 CFR 225.23. You supplied the OCC with a copy of that application and incorporated it by reference in your request letter. Accordingly, this letter relies in part upon facts and representations contained in that application. The Board approved the application by order dated February 18, 2000.

[3] For a more detailed description of the structure and operations of Star, as well as the permissibility of banks' investment in Star, *see* OCC Interpretive Letter No. 854 (February 25, 1999) ("Star 1999 letter").

[4] The participating financial institutions will not hold the BNS client accounts directly and BNS will not be a clearing broker for the financial institutions. The accounts of BNS clients will belong to and be the responsibility of BNS, a registered broker–dealer under the federal securities laws.

[5] The OCC has found that national banks may, as part of the finder authority (*see* 12 CFR 7.1002), establish hyperlinks between a bank's retail Web pages and the Web pages of third parties. *See, e.g.*, Conditional Approval No. 347 (January 29, 2000) (chartering AeroBank.com to deliver products and services to customers through a variety of electronic delivery channels, including the Internet); Interpretive Letter No. 875 (October 31, 1999) (national bank may operate a "virtual mall"; *i.e.* a bank-hosted set of Web pages with various links to third-party Web sites offering a range of financial and nonfinancial products and services).

The OCC previously has indicated that it expects national banks offering these hyperlinks to take reasonable steps to clearly distinguish between products and services that are offered by the bank and those offered by a third party or bank affiliate. Bank customers should be able to identify when they are dealing with the bank itself and when they are dealing with another party. In general, the bank should indicate that it does not provide, endorse, or guarantee any of the products or services available through the third party Web pages. For links to pages that provide nondeposit investment products, the disclosures also should alert customers to risks associated with these products, for example, by stating that the products are not insured by the FDIC, are not a deposit, and may lose value. Further, banks have responsibility for the appropriate placement of disclosures via electronic means on their Web page(s). *See, e.g.*, OCC Bulletin 98–31 (July 30, 1998) ("Guidance on Electronic Financial Services and Consumer Compliance"). The OCC will continue to work with banks as these aspects of electronic commerce and the Internet develop.

other Web sites, such as those of Star. In this way, participating financial institutions will assist in the promotion and marketing of BNS services and will earn fees and other revenues for their services. BNS also will provide marketing materials and marketing support for its participating financial institutions.

BNS will be registered as a broker dealer with the Securities and Exchange Commission ("SEC") pursuant to section 15 of the Securities and Exchange Act of 1934[6] and under all applicable state broker–dealer laws.[7] It also will be a member of the National Association of Securities Dealers, Inc. ("NASD").[8] As a registered broker–dealer, BNS will be subject to substantial regulatory requirements under the federal securities laws, applicable state laws, and the rules of the NASD.[9]

B. Analysis

A national bank may engage in activities that are part of or incidental to the business of banking by means of an operating subsidiary.[10] In a variety of circumstances, the OCC has permitted national banks to own, either directly, or indirectly through an operating subsidiary, a noncontrolling interest in an enterprise.[11] The OCC has concluded that national banks are legally permitted to make a noncontrolling investment in a company provided four criteria or standards are met.[12] These standards, which have been distilled from our previous decisions in the area of permissible noncontrolling investments for national banks and their subsidiaries, are:

(1) The activities of the enterprise in which the investment is made must be limited to activities that are part of, or incidental to, the business of banking (or otherwise authorized for a national bank).

(2) The bank must be able to prevent the enterprise from engaging in activities that do not meet the foregoing standard, or be able to withdraw its investment.

(3) The bank's loss exposure must be limited, as a legal and accounting matter, and the bank must not have open-ended liability for the obligations of the enterprise.

(4) The investment must be convenient or useful to the bank in carrying out its business and not a mere passive investment unrelated to that bank's banking business.

We conclude, as discussed below, that the banks' investment in Star will continue to satisfy these four criteria upon Star's acquisition of a one-third interest in BNS.

1. The activities of the enterprise in which the investment is made must be limited to activities that are part of, or incidental to, the business of banking (or otherwise authorized for a national bank).

The National Bank Act, in relevant part, provides that national banks shall have the power:

> [t]o exercise . . . all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; and by obtaining, issuing, and circulating notes . . .

The Supreme Court has held that this powers clause of 12 USC 24(Seventh) is a broad grant of power to engage in the business of banking, which is not limited to the five enumerated powers. Further, national banks are authorized to engage in an activity if it is incidental to the performance of the enumerated powers in section 24(Seventh) *or* if it is incidental to the performance of an activity that is part of the business of banking.[13] Since national banks must be able to make use of modern technology in performing their business, the OCC s Interpretive Ruling 7.1019 permits national banks to "perform, provide, or deliver through electronic means and facilities any activity, function, product, or service that [they are] otherwise authorized to perform, provide, or deliver."[14]

The general activities of BNS will be to provide retail brokerage services, lending, and insurance-related services using the Internet to clients who have financial accounts with participating financial institutions. The OCC has already found that all of the specific activities in which BNS will engage are permissible for national banks. Accordingly, this letter will only describe briefly the various activi-

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[6] 15 USC 78 *et seq.*

[7] For example, BNS states it will register as a broker-dealer in Illinois.

[8] *See, e.g.*, "Internet Guide for Registered Representatives" (Feb. 13, 1998) (guidance issued by NASD Regulation, Inc., to make members aware of compliance requirements and potential liabilities applicable to brokerage activities over the Internet).

[9] BNS represents it also will obtain any other permits or registrations, including insurance licenses, as may be required for its other business activities.

[10] 12 CFR 5.34.

[11] *See, e.g.*, Conditional Approval Letter No. 219 (July 15, 1996).

[12] *See* Interpretive Letter No. 692 (November 1, 1995); Interpretive Letter No. 694 (December 13, 1995).

[13] *NationsBank of North Carolina, N.A.* v. *Variable Annuity Life Ins. Co.,* 513 U.S. 215 (1995).

[14] 12 CFR 7.1019.

ties in which BNS will engage, with citations to OCC precedent for each activity. Please refer to the cited precedents for a more complete discussion of the legal authority for each activity.

As described in your proposal, the activities are as follows:

i. Buying and selling securities on an agency or riskless principal basis.[15]

ii. Investing and trading as principal in bank eligible securities.[16]

iii. Underwriting and dealing in bank eligible securities, including obligations of the United States, and securities of states and political subdivisions which meet the definition of general obligation securities as defined by the OCC.[17]

iv. Engaging in making, purchasing, selling, servicing, or warehousing loans or other extensions of credit, or interests therein, for its own account or for the account of others, including credit card loans.[18]

v. Buying, selling, and otherwise dealing in mortgages.[19]

vi. Providing insurance-related activities.[20]

vii. Providing investment and financial advisory services.[21]

viii. Engaging in securities brokerage services, related securities credit, and related activities including investment advice, both separately and combined.[22]

ix. Providing cash management services.[23]

Accordingly, the activities in which Star will engage, upon its acquisition of BNS, are permissible for national banks. Thus, the first standard is satisfied.

2. The banks must be able to prevent the enterprise from engaging in activities that do not meet the foregoing standard, or be able to withdraw their investment.

This is an obvious corollary to the first standard. It is not sufficient that the entity's activities are permissible at the time a bank initially acquires its interest; they must also remain permissible for as long as the bank retains an ownership interest.

As previously determined by the OCC, banks have the ability to withdraw their investments in Star should Star engage in activities that are impermissible for a national bank in which to invest.[24] By-laws governing Star provide that shareholders have the right to transfer their shares to other shareholders or to Star itself. Shares may also be transferred to non-shareholder depository institutions or depository institution holding companies, subject to a right of first refusal on the part of other shareholders and Star. The by-laws also recognize that a shareholder may transfer its shares if required to do so by a regulatory agency.[25] In addition, the license agreement between Star and BNS states that BNS may not provide any additional services until all required regulatory approvals, permits or authorizations have been obtained. This would include applicable OCC approvals. These provisions appear adequate to permit the banks to prevent BNS from undertaking activities impermissible for a national bank, or to permit banks to withdraw their investment in Star should Star, either directly or through BNS, undertake impermissible activities.

Accordingly, the second standard is satisfied.

3. The banks' loss exposure must be limited, as a legal and accounting matter, and the bank must not have open-ended liability for the obligations of the enterprise.

a. Loss exposure from a legal standpoint

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[15] *See* Interpretive Letter No. 647 (April 15, 1994); Interpretive Letter No. 622 (April 9, 1993); Interpretive Letter No. 626 (July 7, 1993); Interpretive Letter No. 371 (June 13, 1986).

[16] *See* 12 USC 24(Seventh); 12 CFR Part 1; Interpretive Letter No. 652 (September 13, 1994).

[17] 12 CFR 1.2(b); *see* 12 USC 24(Seventh); 12 CFR Part 1.

[18] *See* Interpretive Letter No. 852 (December 11, 1998).

[19] *See* letter from J. Michael Shepherd, senior deputy comptroller for Corporate and Economic Programs (January 11, 1990).

[20] *See* 12 CFR 7.1002. BNS may engage in insurance-related "finder" activities and receive a fee for these activities. These activities may include bringing together a potential purchaser of insurance and the seller of insurance by making inquiries as to interest, introducing or arranging meetings of interested parties, and otherwise bringing parties together for a transaction that the parties themselves negotiate and consummate. *See, e.g.*, Corp. Dec. No. 99–38 (October 29, 1999); Interpretive Letter No. 824 (February 27, 1998); Cond. Approval No. 221 (December 4, 1996). BNS contemplates that another party will act as an insurance agent or broker and actually conduct the insurance sales transactions, however, BNS represents it will comply with state insurance licensing and other requirements, as applicable. Further, to the extent BNS engages in any insurance activity subject to provisions in the Gramm-Leach-Bliley Act (Pub. L. No. 106–102, 113 Stat. 1338 (November 12, 1999)), or regulations promulgated thereunder, BNS represents it will conform and conduct its activities as required.

[21] *See* Interpretive Letter No. 668 (April 27, 1995).

[22] *See* Cond. Approval No. 164 (December 9, 1994); Interpretive Letter No. 647 (April 15, 1994).

[23] *See* Interpretive Letter No. 324 (August 17, 1999).

[24] *See* Star 1999 letter.

[25] *See generally* Proposed By-Laws, art. II, section 13.

A primary concern of the OCC is that national banks should not be subjected to undue risk. Where an investing bank will not control the operations of the entity in which the bank holds an interest, it is important that the national bank's investment not expose it to unlimited liability. Normally, this is not a concern when a national bank invests in a corporation, for it is generally accepted that a corporation is an entity distinct from its shareholders, with its own separate rights and liabilities, provided proper corporate separateness is maintained.[26] This is the case here. The corporate veils of Star and BNS will protect the banks from liability or loss associated with their ownership interests in Star and indirect ownership interest in BNS.[27]

b. Loss exposure from an accounting standpoint

In assessing a bank's loss exposure as an accounting matter, the OCC has previously noted that the appropriate accounting treatment for a bank's less than 20 percent ownership share or investment in a corporate entity is to report it as an unconsolidated entity under the equity or cost method of accounting. Under the equity method of accounting, unless the investor has extended a loan to the entity, guaranteed any of its liabilities, or has other financial obligations, the investor's losses are generally limited to the amount of the investment shown on the investor's books.[28] You have represented that the banks will continue to account for their ownership interests in Star according to generally accepted accounting principles, which will satisfy the OCC's requirements in this regard. In additional, Star will report its investment in BNS under the equity method of accounting.

Therefore, for both legal and accounting purposes, the banks' potential loss exposure arising from their respective investments in Star should be limited to the amount of those investments. Since that exposure will be quantifiable and controllable, the third standard is satisfied.

4. The investment must be convenient or useful to the bank in carrying out its business and not a mere passive investment unrelated to that bank's banking business.

A national bank's investment in an enterprise or entity must also satisfy the requirement that the investment have a beneficial connection to the bank's business, *i.e.*, be convenient or useful to the investing bank's business activities, and not constitute a mere passive investment unrelated to that bank's banking business. Twelve USC 24(Seventh) gives national banks incidental powers that are "necessary" to carry on the business of banking. "Necessary" has been judicially construed to mean "convenient or useful."[29] Our precedents on bank noncontrolling investments have indicated that the investment must be convenient or useful to the bank in conducting *that bank's* business. The investment must benefit or facilitate that business and cannot be a mere passive or speculative investment[30].

In this instance, the proposed acquisition of an ownership by Star in BNS is not merely evidence of a passive relationship, but rather would provide useful services to member financial institutions of Star and their account holders. BNS services would provide customers with convenient online services through links with their existing financial institutions. Customers of Star's member financial institutions who choose to participate in the BNS services will thus be benefited by being able to purchase a wider range of services from a single and convenient source. Participating financial institutions, such as banks, will be able to offer these online services through BNS without having to incur the expense of developing these services themselves. Thus, the investment is not a mere passive investment unrelated to banks' banking business.

Accordingly, the fourth standard is satisfied.

C. Conclusion

Based upon a thorough review of the information you provided, including the representations and commitments made both in your letters and in the Board filing incorporated therein by reference, and for the reasons discussed above, we conclude that the banks may continue to hold their noncontrolling equity investments in Star upon Star's acquisition of its interest in BNS, subject to the following conditions:

(1) BNS will engage only in activities that are permissible for a national bank;

(2) In the event that BNS engages in an activity that is inconsistent with condition number one, banks will either withdraw from Star or, alternatively, Star will divest its interest in BNS in accord with section B.2. of this letter;

(3) The banks will account for their respective investments in Star under the equity or cost method of accounting; and

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[26] 1 W. Fletcher, Cyclopedia of the Law of Private Corporations § 25 (rev. perm. ed. 1990).

[27] Del. Code Ann. tit. 8, § 102(b)(6) (Michie 1991).

[28] *See generally*, Accounting Principles Board, Op. 18 ¶ 19 (1971).

[29] *See Arnold Tours, Inc.* v. *Camp*, 472 F.2d 427, 432 (1st Cir. 1972).

[30] *See, e.g.*, Interpretive Letter No. 543 (February 13, 1991); Interpretive Letter No. 427 (May 9, 1988); Interpretive Letter No. 421 (March 14, 1988).

(4) BNS will be subject to OCC supervision and examination, subject to the limitations and requirements of 12 USC 1831v.

These conditions are conditions imposed in writing by the OCC in connection with its action on the banks' request for a legal opinion confirming that their respective investments are permissible under 12 USC 24(Seventh) and, as such, may be enforced in proceedings under applicable law.

If you have any questions, please contact senior attorney John Soboeiro in the Bank Activities and Structure Division, at (202) 874–5300, or senior attorney Suzette Greco in the Securities and Corporate Practices Division, at (202) 874–5210.

Julie L. Williams
First Senior Deputy Comptroller and Chief Counsel

Mergers—April 1 to June 30, 2000

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Mergers—April 1 to June 30, 2000

Most transactions in this section do not have accompanying decisions. In those cases, the OCC reviewed the competitive effects of the proposals by using its standard procedures for determining whether the transaction has minimal or no adverse competitive effects. The OCC found the proposals satisfied its criteria for transactions that clearly had no or minimal adverse competitive effects. In addition, the Attorney General either filed no report on the proposed transaction or found that the proposal would not have a significantly adverse effect on competition.

Nonaffiliated mergers (mergers consummated involving two or more nonaffiliated operating banks), from April 1 to June 30, 2000

Title and location (charter number)	Total assets
Alabama	
SouthTrust Bank, National Association, Birmingham (014569)	43,203,109,000
and Security National Bank of San Antonio, San Antonio (015136)	174,544,000
merged on April 14, 2000 under the title of SouthTrust Bank, National Association, Birmingham (014569)	43,406,969,000
California	
First National Bank, Goodland (014163)	251,194,000
and The Kirk State Bank, Kirk	20,288,000,000
merged on April 3, 2000 under the title of First National Bank, Goodland (014163)	20,539,194,000
Nebraska	
Bank of Monroe, Monroe	18,940,000
merged February 15, 2000 under the title of Cornerstone Bank, National Association, York (002683)	284,950,000
AmFirst Bank, National Association, McCook (008031)	58,283,000
and Park National Bank, Estes Park (020921)	28,270,000
merged on June 23, 2000 under the title of AmFirst Bank, National Association, McCook (008031)	86,553,000
North Carolina	
First Charter National Bank, Concord (003903)	1,676,978,000
and Cabarrus Bank of North Carolina, Concord	171,922,000
and Community Bank & Trust Co., Rutherfordton	111,488,000
merged on May 18, 2000 under the title of First Charter National Bank, Concord (003903)	2,159,703,000
Ohio	
The Huntington National Bank, Columbus (007745)	28,760,019,000
and The Empire National Bank of Traverse City, Traverse City (014934)	503,795,000
merged on June 23, 2000 under the title of The Huntington National Bank, Columbus (007745)	29,496,436,000
Pennsylvania	
The Citizens National Bank, Lansford (007051)	266,069,000
and Citizens Bank and Trust Company, Palmerton	131,988,000
merged on April 28, 2000 under the title of The Citizens National Bank, Lansford (007051)	397,057,000

Nonaffiliated mergers—thrift (mergers consummated involving nonaffiliated national banks and savings and loan associations), from April 1 to June 30, 2000

Title and location (charter number)	Total assets
California	
Western Sierra National Bank, Cameron Park (018029)	148,265,000
and Sentinel Community Bank, Sonora	92,000,000
merged on May 31, 2000 under the title of Western Sierra National Bank, Cameron Park (018029)	240,265,000
Missouri	
The Exchange National Bank of Jefferson City, Jefferson City (013142)	336,551,000
and City National Savings Bank, FSB, Jefferson City	92,895,000
merged on June 16, 2000 under the title of The Exchange National Bank of Jefferson City, Jefferson City (013142)	425,722,000
Ohio	
The First National Bank of Zanesville, Zanesville (000164)	1,272,005,000
and Milton Federal Savings Bank, West Milton	259,743,000
merged on June 20, 2000 under the title of The First National Bank of Zanesville, Zanesville (000164)	1,525,346,000

Affiliated mergers (mergers consummated involving affiliated operating banks), from April 1 to June 30, 2000

Title and location (charter number)	Total assets
California	
Sierra National Bank, Tehachapi (017510)	87,293,000
and Sierra State Bank (State Interim Bank), Porterville	240,000
merged on May 19, 2000 under the title of Sierra National Bank, Tehachapi (017510)	87,293,000
Western Sierra National Bank, Cameron Park (018029)	143,482,000
and Roseville 1st National Bank, Roseville (022518)	64,943,000
merged on May 5, 2000 under the title of Western Sierra National Bank, Cameron Park (018029)	208,425,000
Delaware	
First Union Home Equity Bank National Association, Charlotte (022559)	1,016,764,000
and First Union Bank of Delaware, Wilmington	1,202,001,000
merged on June 27, 2000 under the title of First Union National Bank of Delaware, Wilmington (022559)	2,219,533,000
Chase Manhattan Bank USA, National Association, Wilmington (023160)	35,397,783,000
and Chase Manhattan Bank Delaware, Wilmington	1,386,272,000
merged on June 1, 2000 under the title of Chase Manhattan Bank USA, National Association, Wilmington (023160)	36,784,055,000
Georgia	
Georgia First Bank, National Association, Gainesville (023837)	211,304,000
and Lanier National Bank, Gainesville (021901)	121,219,000
merged on May 8, 2000 under the title of Century South Bank of Northeast Georgia, National Association, Gainesville (023837)	332,523,000
Illinois	
First National Bank in DeKalb, DeKalb (014008)	273,680,000
and Castle Bank Harvard, National Association, Harvard (023261)	65,401,000
and Castle Bank National Association, Sandwich (023817)	193,311,000
merged on June 24, 2000 under the title of Castle Bank, National Association, DeKalb (014008)	523,263,000
First National Bank of Nokomis, Nokomis (014436)	51,149,000
and Ayars State Bank, Moweaqua	24,545,000
merged on June 30, 2000 under the title of First National Bank of Nokomis, Nokomis (014436)	75,694,000
Kansas	
TeamBank, National Association, Freeman (003350)	318,938,000
and The First National Bank and Trust Company, Parsons (001951)	58,001,000
merged on June 26, 2000 under the title of TeamBank, National Association, Paola (003350)	378,629,000
Massachusetts	
First Massachusetts Bank, National Association, Worcester (023043)	1,086,764,000
and Family Bank, National Association, Haverhill (024040)	4,375,570,000
merged on May 12, 2000 under the title of First Massachusetts Bank, National Association, Worcester (023043)	5,462,434,000
First Massachusetts Bank, National Association, Worcester (023043)	5,529,014,000
and The Glastonbury Bank and Trust Company, Glastonbury	338,337,000
merged on May 12, 2000 under the title of First Massachusetts Bank, National Association, Worcester (023043)	5,867,351,000
Minnesota	
TCF National Bank Minnesota, Minneapolis (023253)	3,775,155,000
and TCF National Bank Illinois, Burr Ridge (023254)	3,426,983,000
and Great Lakes National Bank Michigan, Ann Arbor (023255)	2,425,418,000
and TCF National Bank Wisconsin, Milwaukee (023256)	694,531,000
merged on April 1, 2000 under the title of TCF National Bank, Minneapolis (023253)	10,267,404,000
Community First National Bank, Fergus Falls (002030)	805,721,000
and Northland Security Bank, Ramsey	26,199,000
merged on May 5, 2000 under the title of Community First National Bank, Fergus Falls (002030)	831,920,000
U.S. Bank National Association, Minneapolis (013405)	70,449,952,000
and Wyoming Trust and Management Company, Gillette	967,000
merged on April 26, 2000 under the title of U.S. Bank National Association, Minneapolis (013405)	70,450,919,000

Affiliated mergers (continued)

Title and location (charter number)	Total assets
Marquette Bank, National Association, Golden Valley (022831)	1,405,528,000
and Marquette Bank South Dakota, National Association, Sioux Falls (015537)	541,885,000
merged on April 14, 2000 under the title of **Marquette Bank, National Association, Golden Valley** (022831)	1,927,413,000
Bremer Bank, National Association, Alexandria (023285)	288,104,000
and Bremer Bank, National Association, Breckenridge (023287)	76,338,000
merged on June 1, 2000 under the title of **Bremer Bank, National Association, Alexandria** (023285)	364,302,000
New Hampshire	
Farmington National Bank, Farmington (013764)	282,783,000
and Bank of New Hampshire, Manchester	4,668,422,000
merged on May 12, 2000 under the title of **Bank of New Hampshire, National Association, Farmington** (013764)	4,951,205,000
North Carolina	
Wachovia Bank, National Association, Winston-Salem (001559)	63,557,835,000
and Bank of Canton, Canton	412,094,000
merged on May 11, 2000 under the title of **Wachovia Bank, National Association, Winston-Salem** (001559)	64,067,044,000
First Charter National Bank, Concord (003903)	2,159,703,000
and Lincoln Bank of North Carolina, Lincolnton	499,441,000
merged on June 15, 2000 under the title of **First Charter National Bank, Concord** (003903)	2,659,218,000
Ohio	
Firstar Bank, National Association, Cincinnati (000024)	36,506,629,000
and Firstar Bank Arkansas, NA, North Little Rock (023540) on March 7, 2000	1,781,070,000
and Mercantile Bank Midwest, Des Moines on May 12, 2000	3,598,239,000
and Mercantile Bank of Kentucky, Paducah on April 14, 2000	909,899,000
and Mercantile Bank of Illinois, Springfield on April 14, 2000	2,238,232,000
merged on those respective dates under the title of **Firstar Bank, National Association, Cincinnati** (000024)	45,034,069,000
National City Bank, Cleveland (000786)	34,003,107,000
and National City Illinois Interim Trust Company, Chicago (024073)	6,245,000
merged on June 30, 2000 under the title of **National City Bank, Cleveland** (000786)	34,009,352,000
Metropolitan National Bank, Youngstown (023595)	252,764,000
and First County Bank, National Association, Chardon (023599)	67,652,000
merged on April 26, 2000 under the title of **Metropolitan National Bank, Youngstown** (023595)	320,416,000
Pennsylvania	
Mellon Bank, N. A., Pittsburgh (006301)	39,422,432,000
and Mellon Bank (MD) National Association, Rockville (023240)	330,153,000
merged on April 1, 2000 under the title of **Mellon Bank, N. A., Pittsburgh** (006301)	39,752,585,000
Rhode Island	
Fleet National Bank, Providence (000200)	49,329,272,000
and Fleet Trust and Investment Services Company, National Association, Stuart (020451) on April 3, 2000	6,587,000
and Bank of Boston—Florida, National Association, Boca Raton (017277)	37,718,000
and Fleet Bank, F.S.B., Boca Raton (033924)	131,326,000
and Fleet Bank—NH, Manchester (019821) on May 1, 2000	2,035,595,000
merged on those respective dates under the title of **Fleet National Bank, Providence** (000200)	51,540,498,000
Tennessee	
National Bank of Commerce, Memphis (013681)	4,838,658,000
and NBC National Bank, Knoxville (024052)	1,077,329,000
merged on May 8, 2000 under the title of **National Bank of Commerce, Memphis** (013681)	5,915,987,000
Texas	
Inwood National Bank, Dallas (015292)	350,180,000
and Provident Bank—Dallas, Dallas	220,608,000
merged on May 12, 2000 under the title of **Inwood National Bank, Dallas** (015292)	553,589,000

Affiliated mergers (continued)

Title and location (charter number)	Total assets
Norwest Bank Texas, National Association, San Antonio (014208)	10,453,665,000
and Wells Fargo Bank (Texas), National Association, Houston (017612)	7,321,874,000
and Norwest Bank El Paso, National Association, El Paso (002521)	1,122,842,000
merged on April 14, 2000 under the title of Wells Fargo Bank Texas, National Association, San Antonio (014208)	18,536,621,000
Wells Fargo Bank Texas, National Association, San Antonio (014208)	18,898,381,000
and Prime Bank, Houston	1,207,423,000
merged on June 24, 2000 under the title of Wells Fargo Bank Texas, National Association, San Antonio (014208)	20,263,656,000
Extraco Banks, National Association, Temple (013778)	543,352,000
and Guaranty Bank & Trust Company, Gatesville	113,781,000
merged on March 31, 2000 under the title of Extraco Banks, National Association, Temple (013778)	647,720,000
First Victoria National Bank, Victoria (010360)	1,000
and New Mid-Coast National Bank, Edna (024071)	1,000
Mid-Coast Savings Bank, SSB, Edna	1,000
merged on April 14, 2000 under the title of First Victoria National Bank, Victoria (010360)	1,000
The Frost National Bank, San Antonio (005179)	6,885,699,000
and The United States National Bank of Galveston, Galveston (012475)	133,552,000
merged on May 26, 2000 under the title of The Frost National Bank, San Antonio (005179)	6,997,961,000
Swiss Avenue National Bank, Dallas (024082)	244,878,000
and Bank of Texas, National Association, Dallas (018307)	586,755,000
merged on May 12, 2000 under the title of Bank of Texas, National Association, Dallas (024082)	831,633,000
The First National Bank of San Augustine, San Augustine (006214)	51,619,000
and Community Interim Bank & Trust, SSB, San Augustine	5,000
merged on May 19, 2000 under the title of The First National Bank of San Augustine, San Augustine (006214)	51,619,000
Vermont	
The Stratevest Group, National Association, Burlington (023042)	37,635,000
and Evergreen Bank, National Association, Glens Falls (000980)	1,000
merged on March 31, 2000 under the title of The Stratevest Group, National Association, Burlington (023042)	37,635,000
The Howard Bank, National Association, Burlington (018049)	834,618,000
and Granite Savings Bank and Trust Company, Barre	140,184,000
merged on June 23, 2000 under the title of The Howard Bank, National Association, Burlington (018049)	974,802,000
Connecticut River Bank, National Association, Springfield (023137)	107,778,000
and Peoples Bank of Littleton, Littleton	54,514,000
merged on June 30, 2000 under the title of Connecticut River Bank, National Association, Springfield (023137)	162,292,000
Washington	
Baker Boyer National Bank, Walla Walla (003956)	310,657,000
and Bank of Commerce, Milton-Freewater	63,167,000
merged on April 1, 2000 under the title of Baker Boyer National Bank, Walla Walla (003956)	373,824,000
Wisconsin	
Norwest Bank Wisconsin, National Association, Milwaukee (015057)	1,895,949,000
and Norwest Bank La Crosse, National Association, La Crosse (005047)	305,132,000
and Norwest Bank Hudson, National Association, Hudson (023750)	38,215,000
merged on June 24, 2000 under the title of Wells Fargo Bank Wisconsin National Association, Milwaukee (015057)	2,239,296,000

Affiliated mergers—thrift (mergers consummated involving affiliated national banks and savings and loan associations), from April 1 to June 30, 2000

Title and location (charter number)	Total assets
North Carolina	
First National Bank and Trust Company, Asheboro (008953)	407,354,000
and Richmond Savings Bank, SSB, Rockingham	124,715,000
merged on June 26, 2000 under the title of First National Bank and Trust Company, Asheboro (008953)	531,326,000
Tennessee	
National Bank of Commerce, Memphis (013681)	6,310,404,000
and Hillsborough Savings Bank, SSB, Hillsborough	152,211,000
merged on June 30, 2000 under the title of National Bank of Commerce, Memphis (013681)	7,545,051,000
Wisconsin	
Bremer Bank, National Association, Menomonie (023300)	392,776,000
and Northwest Savings Bank, Amery	93,617,000
merged on May 1, 2000 under the title of Bremer Bank, National Association, Menomonie (023300)	493,409,000

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Changes in the corporate structure of the national banking system, by state, January 1 to June 30, 2000

	In operation January 1, 2000	Organized and opened for business	Merged	Voluntary liquidations	Payouts	12 USC 214 Converted to non-national institutions	12 USC 214 Merged with non-national institutions	In operation June 30, 2000
Alabama	25	1	0	0	0	0	2	24
Alaska	4	0	0	0	0	0	0	4
Arizona	19	1	1	0	0	1	0	19
Arkansas	51	1	1	0	0	2	0	49
California	97	1	3	1	0	0	3	90
Colorado	60	1	1	0	0	0	1	59
Connecticut	9	0	0	0	0	0	0	9
Delaware	20	1	0	0	0	0	0	22
District of Columbia	7	0	0	0	0	0	0	7
Florida	96	1	4	1	0	0	6	86
Georgia	72	3	1	0	0	0	8	66
Hawaii	1	0	0	0	0	0	0	1
Idaho	2	0	0	0	0	0	0	2
Illinois	212	0	4	0	0	0	2	206
Indiana	39	0	0	0	0	1	1	37
Iowa	48	1	0	0	0	0	0	49
Kansas	109	3	1	0	0	1	3	108
Kentucky	59	3	1	0	0	0	0	61
Louisiana	19	0	0	0	0	0	0	19
Maine	7	1	0	0	0	0	0	8
Maryland	17	1	1	0	0	0	0	17
Massachusetts	23	2	2	0	0	0	0	23
Michigan	37	0	2	0	0	0	0	35
Minnesota	138	2	1	0	0	0	0	140
Mississippi	20	0	0	0	0	0	0	20
Missouri	51	2	2	0	0	0	1	50
Montana	19	0	0	0	0	0	0	19
Nebraska	92	0	1	0	0	0	3	87
Nevada	8	0	0	0	0	0	0	8
New Hampshire	7	0	0	0	0	0	0	7
New Jersey	27	1	0	0	0	0	2	26
New Mexico	19	0	1	0	0	0	1	17
New York	67	1	1	0	0	1	0	66
North Carolina	10	0	0	0	0	0	0	9
North Dakota	18	0	0	1	0	0	0	17
Ohio	99	1	1	0	0	0	1	98
Oklahoma	116	1	3	0	0	3	0	111
Oregon	05	1	0	0	0	0	1	5
Pennsylvania	97	1	0	0	0	0	0	98
Rhode Island	03	0	1	0	0	0	0	2
South Carolina	21	3	0	0	0	0	0	24
South Dakota	24	0	1	0	0	0	0	23
Tennessee	33	1	1	0	0	0	5	28
Texas	384	2	8	0	0	4	3	371
Utah	8	1	0	0	0	0	0	9
Vermont	12	2	0	0	0	0	1	13
Virginia	37	1	0	0	0	1	0	37
Washington	18	1	0	0	0	0	1	18
West Virginia	26	0	0	0	0	0	1	25
Wisconsin	57	1	3	0	0	0	0	54
Wyoming	21	0	0	0	0	0	0	21
Totals:	2470	43	46	3	0	14	46	2404

Notes: The column "organized and opened for business" includes all state banks converted to national banks as well as newly formed national banks. The column titled "merged" includes all mergers, consolidations, and purchases and assumptions of branches in which the resulting institution is a nationally chartered bank. Also included in this column are immediate FDIC-assisted "merger" transactions in which the resulting institution is a nationally chartered bank. The column titled "voluntary liquidations" includes only straight liquidations of national banks. No liquidation pursuant to a purchase and assumption transaction is included in this total. Liquidations resulting from purchases and assumptions are included in the "merged" column. The column titled "payouts" includes failed national banks in which the FDIC is named receiver and no other depository institution is named as successor. The column titled "merged with non-national institutions" includes all mergers, consolidations, and purchases and assumptions of branches in which the resulting institution is a non-national institution. Also included in this column are immediate FDIC-assisted "merger" transactions in which the resulting institution is a non-national institution.

Applications for new, full-service national bank charters, approved and denied, by state, January 1 to June 30, 2000

Title and location	Approved	Denied
California		
California First National Bank, Santa Ana	April 13	
Georgia		
Futurus Bank, National Association, Alpharetta	February 14	
pointpathbank, National Association, Columbus	April 3	
SouthernBank, National Association, Buford	March 15	
United National Bank, Cairo	January 18	
Illinois		
National City Illinois Interim Trust Company, Chicago	May 8	
Iowa		
American National Bank, Sac City	March 23	
Maryland		
Bay National Bank, Baltimore	February 22	
Minnesota		
F & M Community Bank, National Association, Chatfield	June 1	
First National Bank of Hinckley, Hinckley	April 6	
Missouri		
NorthStar Bank, National Association, Kansas City	January 20	
New Jersey		
1st Colonial National Bank, Collingswood	February 17	
New York		
Evergreen Bank, National Assocation, Glens Falls	January 26	
South Carolina		
Islands Community Bank, National Association, Beaufort	February 1	
SunBank, National Association, Murrells Inlet	March 23	
Texas		
Kilgore National Bank, Kilgore	May 8	
Utah		
Heber Valley National Bank, Heber City	January 13	
Virginia		
Interbank, National Association, Fredericksburg	June 6	

Applications for new, limited-purpose national bank charters, approved and denied, by state, January 1 to June 30, 2000

Title and location	Type of bank	Approved	Denied
Delaware			
U.S. Bank Trust, National Association, Wilmington	Trust (non-deposit)	May 17	
Georgia			
First Retail Bank, National Association, Flowery Branch	Credit card	March 17	
Illinois			
Great Lakes Trust Company, National Association, Blue Island	Trust (non-deposit)	May 18	
Minnesota			
ReliaStar National Trust Company, Minneapolis	Trust (non-deposit)	March 8	
Pennsylvania			
Fulton Financial Advisors, National Association, Lancaster	Trust (non-deposit)	January 19	
Rhode Island			
Talbots Classics National Bank, Lincoln	Credit card	March 31	
West Virginia			
Security National Trust Co., Wheeling	Trust (non- deposit)	March 27	

New, full-service national bank charters issued, January 1 to June 30, 2000

Title and location	Charter number	Date opened
Alabama		
Alabama Trust Bank, National Association, Sylacauga	023896	April 14
Colorado		
First National Bank of Steamboat Springs, Steamboat Springs	023859	March 27
Georgia		
United National Bank, Cairo	023981	May 26
pointpathbank, National Association, Columbus	023964	June 22
The National Bank of Georgia, Athens	023937	May 8
Illinois		
National City Illinois Interim Trust Company, Chicago	024073	June 30
Iowa		
American National Bank, Sac City	024050	June 29
Kentucky		
Henderson National Bank, Henderson	023955	February 22
Maryland		
Bay National Bank, Baltimore	023992	May 12
Missouri		
NorthStar Bank, National Association, Kansas City	023986	April 25
New Jersey		
1st Colonial National Bank, Collingswood	023993	June 29
New York		
Evergreen Bank, National Association, Glens Falls	024012	March 31
Ohio		
The Citizens National Bank of Southwestern Ohio, Dayton	023927	January 24
Oklahoma		
Oklahoma National Bank, Tulsa	023935	January 20
South Carolina		
First National Bank of Spartanburg, Spartanburg	023953	March 27
Lowcountry National Bank, Beaufort	023922	May 10
Greenville First Bank, National Association, Greenville	023919	January 10
Utah		
Heber Valley National Bank, Heber City	024009	May 1
Virginia		
Bank of Powhatan, National Association, Powhatan	023943	March 20
Washington		
Hometown National Bank, Longview	023868	May 15
Wisconsin		
New National Bank of Commerce in Superior, Superior	023941	January 1

New, limited-purpose national bank charters issued, January 1 to June 30, 2000

Title and location	Charter number	Date opened
Arizona		
Bank of Hawaii Credit Card, National Association, Phoenix	024001	May 8
Arkansas		
Simmons First Trust Company, National Association, Pine Bluff	023968	January 1
Delaware		
U.S. Bank Trust National Association, Wilmington	024090	June 1
Kansas		
First Trust Company of Onaga, National Association, Onaga	023914	March 31
Massachusetts		
FIRSTFED Trust Company, National Association, Swansea	023952	February 1
Minnesota		
ReliaStar National Trust Company, Minneapolis	024033	March 17
Oregon		
Bank of America Oregon, National Association, Portland	023994	February 15
Pennsylvania		
Fulton Financial Advisors, National Association, Lancaster	023988	May 1

State-chartered banks converted to full-service national banks, January 1 to June 30, 2000

Title and location	Effective date	Total assets
Florida		
Skylake National Bank (023499)		
conversion of The Skylake State Bank, North Miami Beach	January 1	93,719,000
Kansas		
National Family Bank (023966)		
conversion of The Munden State Bank, Munden	March 15	3,390,000
Firstar Bank Midwest, National Association (024094)		
conversion of Firstar Bank Midwest, Overland Park	June 16	4,037,005,000
Minnesota		
The Lake Bank, National Association (024048)		
conversion of Commercial State Bank of Two Harbors, Two Harbors	May 1	63,163,000
Missouri		
Mercantile Bank of Trenton, National Association (023973)		
conversion of Mercantile Bank of Trenton, Trenton	October 22	74,262,000
Texas		
Swiss Avenue National Bank (024082)		
conversion of Swiss Avenue State Bank, Dallas	May 12	244,878,000
Vermont		
First Vermont Bank, National Association (024042)		
conversion of First Vermont Bank and Trust Company, Brattleboro	June 23	750,894,000
Franklin Lamoille Bank, National Association (024041)		
conversion of Franklin-Lamoille Bank, St. Albans	June 23	316,786,000

State-chartered banks converted to limited-purpose national banks, January 1 to June 30, 2000

Title and location	Effective date	Total assets
California		
Bank of America Community Development Bank, National Association (024077)		
conversion of Bank of America Community Development Bank, Walnut Creek	June 15	710,463,000
Kentucky		
Unified Trust Company, National Association		
conversion of First Lexington Trust Company, Lexington (024047)	June 26	1,000

Nonbanking institutions converted to full-service national banks, January 1 to June 30, 2000

Title and location	Effective date	Total assets
Kentucky		
Peoples Bank, National Association (024037)		
conversion of Peoples Bank, National Association, Ashland	March 10	1,000
Maine		
Peoples Heritage Bank, National Association (024096)		
conversion of Peoples Heritage Savings Bank, Portland	June 1	13,919,528,000
Massachusetts		
Family Bank, National Association (024040)		
conversion of Family Bank, FSB, Haverhill	May 12	4,375,570,000
Tennessee		
NBC National Bank (024052)		
conversion of NBC Bank, FSB, Knoxville	May 8	1,077,329,000

Applications for national bank charters, by state and charter type, January 1 to June 30, 2000

	Received	Approved	Denied	Charters issued					
				New, full-service national bank charters issued	New, limited-purpose national bank charters issued	Full-service national charters issued to converting state-chartered banks	Limited-purpose national charters issued to converting state-chartered banks	Full-service national charters issued to converting non-banking institutions	Limited-purpose national charters issued to converting non-banking institutions
Alabama	0	0	0	1	0	0	0	0	0
Alaska	0	0	0	0	0	0	0	0	0
Arizona	1	0	0	0	1	0	0	0	0
Arkansas	0	0	0	0	1	0	0	0	0
California	6	1	0	0	0	0	1	0	0
Colorado	1	0	0	1	0	0	0	0	0
Connecticut	1	0	0	0	0	0	0	0	0
Delaware	2	1	0	0	1	0	0	0	0
District of Columbia	0	0	0	0	0	0	0	0	0
Florida	2	0	0	0	0	1	0	0	0
Georgia	2	5	0	3	0	0	0	0	0
Hawaii	0	0	0	0	0	0	0	0	0
Idaho	0	0	0	0	0	0	0	0	0
Illinois	2	2	0	1	0	0	0	0	0
Indiana	0	0	0	0	0	0	0	0	0
Iowa	1	1	0	1	0	0	0	0	0
Kansas	2	0	0	0	1	2	0	0	0
Kentucky	3	0	0	1	0	0	1	1	0
Louisiana	0	0	0	0	0	0	0	0	0
Maine	1	0	0	0	0	0	0	1	0
Maryland	2	1	0	1	0	0	0	0	0
Massachusetts	1	0	0	0	1	0	0	1	0
Michigan	0	0	0	0	0	0	0	0	0
Minnesota	3	3	0	0	1	1	0	0	0
Mississippi	0	0	0	0	0	0	0	0	0
Missouri	2	1	0	1	0	1	0	0	0
Montana	0	0	0	0	0	0	0	0	0
Nebraska	0	0	0	0	0	0	0	0	0
Nevada	0	0	0	0	0	0	0	0	0
New Hampshire	0	0	0	0	0	0	0	0	0
New Jersey	0	1	0	1	0	0	0	0	0
New Mexico	0	0	0	0	0	0	0	0	0
New York	0	1	0	1	0	0	0	0	0
North Carolina	1	0	0	0	0	0	0	0	0
North Dakota	0	0	0	0	0	0	0	0	0
Ohio	0	0	0	1	0	0	0	0	0
Oklahoma	0	0	0	1	0	0	0	0	0
Oregon	0	0	0	0	1	0	0	0	0
Pennsylvania	0	1	0	0	1	0	0	0	0
Rhode Island	0	1	0	0	0	0	0	0	0
South Carolina	0	2	0	3	0	0	0	0	0
South Dakota	0	0	0	0	0	0	0	0	0
Tennessee	2	0	0	0	0	0	0	1	0
Texas	4	1	0	0	0	1	0	0	0
Utah	0	1	0	1	0	0	0	0	0
Vermont	0	0	0	0	0	2	0	0	0
Virginia	2	1	0	1	0	0	0	0	0
Washington	0	0	0	1	0	0	0	0	0
West Virginia	0	1	0	0	0	0	0	0	0
Wisconsin	1	0	0	1	0	0	0	0	0
Wyoming	0	0	0	0	0	0	0	0	0
Total	43	25	0	21	8	8	2	4	0

*These figures may also include new national banks chartered to acquire a failed institution, trust company, credit card bank, and other limited charter national banks.

Failed national bank acquired by other than national banks, January 1 to June 30, 2000

Title and location (charter number)	Effective date
California	
Monument National Bank, Ridgecrest (018156)	June 2

Voluntary liquidations of national banks, January 1 to June 30, 2000

Title and location (charter number)	Effective date	Total assets
California		
Mission Trust Company, National Association, Pasadena (023549)	March 6	0
Florida		
Citibank (Florida), National Association, Dania (021940)	February 4	1,000,000
North Dakota		
First National Bank, Hettinger (008991)	June 7	0

National banks merged out of the national banking system, January 1 to June 30, 2000

Title and location	Charter number	Effective date
Alabama		
SouthTrust Bank, National Association, Birmingham	014569	June 6
SunTrust Bank, National Association, Florence	003981	January 1
California		
Sierra National Bank, Tehachapi	017510	May 19
National Business Bank, Torrance	023179	December 30, 1999
Colorado		
The Burns National Bank of Durango, Durango	009797	January 20
Florida		
SunTrust Bank, South Florida, National Association, Fort Lauderdale	014732	January 1
SunTrust Bank, North Florida, National Association, Jacksonville	017299	January 1
SunTrust Bank, Mid-Florida, National Association, Lakeland	016786	January 1
SunTrust Bank, Miami, National Association, Miami	012047	January 1
STI Capital Management, National Association, Orlando	021888	January 1
SunTrust Bank, Central Florida, National Association, Orlando	016108	January 1
Georgia		
SunTrust Bank, Northeast Georgia, National Association, Athens	001639	January 1
SunTrust Bank, Southeast Georgia, National Association, Brunswick	004944	January 1
SunTrust Bank, West Georgia, National Association, Columbus	004691	January 1
SunTrust Bank, Augusta, National Association, Evans	001860	January 1
SunTrust Bank, South Georgia, National Association, Leesburg	014907	January 1
SunTrust Bank, Middle Georgia, National Association, Macon	010270	January 1
SunTrust Bank, Northwest Georgia, National Association, Rome	002368	January 1
SunTrust Bank, Savannah, National Association, Savannah	013472	January 1
Illinois		
The Merchants National Bank of Aurora, Aurora	003854	February 11
Grand National Bank, Wauconda	014935	April 14
Indiana		
Forethought National Trustbank, Batesville	023246	November 12, 1999
Kansas		
The First National Bank in Alma, Alma	013601	January 6
Peoples National Bank, Clay Center	003345	January 6
The Farmers National Bank of Oberlin, Oberlin	007298	January 6
Missouri		
First Business Bank of Kansas City, National Association, Kansas City	021489	March 7
Nebraska		
First National Bank & Trust Company in Aurora, Aurora	014017	April 29
Pinnacle Bank, National Association, Columbus	007949	May 26
Pinnacle Bank, National Association, Ogallala	014374	May 26
New Jersey		
The Farmers and Merchants National Bank of Bridgeton, Bridgeton	009498	November 30, 1999
Broad National Bank, Newark	012771	July 31, 1999
New Mexico		
First National Bank of Clovis, Clovis	008397	January 1
Ohio		
The Mahoning National Bank of Youngstown, Youngstown	002350	April 15
Oregon		
Douglas National Bank, Roseburg	014860	May 8

National banks merged out of the national banking system, January 1 to June 30, 2000—Continued

Title and location	Charter number	Effective date
Tennessee		
SunTrust Bank, Chattanooga, National Association, Chattanooga	014611	January 1
SunTrust Bank, East Tennessee, National Association, Knoxville	018101	January 1
First American National Bank, Nashville	003032	December 31, 1999
SunTrust Bank, National Association, Nashville	013103	January 1
SunTrust Bank, South Central Tennessee, National Association, Pulaski	006093	January 1
Texas		
Banco Popular, National Association (Texas), Houston	016754	January 1
The First National Bank of San Augustine, San Augustine	006214	May 19
Citizens National Bank, Victoria	016890	June 22
Vermont		
Vermont National Bank, Brattleboro	001430	March 24
Washington		
Kittitas Valley Bank, National Association, Ellensburg	018790	January 3
West Virginia		
The Matewan National Bank, Williamson	010370	April 14

National banks converted out of the national banking system, January 1 to June 30, 2000

Title and location (charter number)	Effective date	Total assets
Arizona		
Nordstrom National Credit Bank, Scottsdale (022195)	March 1	38,400,369,000
Arkansas		
The First National Bank of Huntsville, Huntsville (008952)	February 24	82,393,000
First National Bank and Trust Company, Rogers (010750)	May 1	560,000,000
Indiana		
The First National Bank of Mitchell, Mitchell (006433)	April 7	44,120,000
Kansas		
Gold Bank, National Association, Marysville (018165)	December 16, 1999	325,335,000
New York		
Republic National Bank of New York, New York (015569)	December 31, 1999	49,190,000,000
Oklahoma		
The Security National Bank and Trust Company of Norman, Norman (021429)	May 25	247,984,000
American National Bank and Trust Company of Shawnee, Shawnee (013930)	May 19	135,279,000
Bank South, National Association, Tulsa (023564)	May 25	23,447,000
Texas		
First National Bank in Burkburnett, Burkburnett (013668)	January 22	97,795,000
Falcon International Bank, Laredo (022835)	February 1	123,609,000
Plaza Bank, National Association, San Antonio (022792)	May 30	38,156,000
First National Bank, Seminole (016806)	March 3	43,237,000
Virginia		
Valley Bank, National Association, Roanoke (022763)	March 1	136,645,000

Federal branches and agencies of foreign banks in operation, January 1 to June 30, 2000

	In operation January 1, 2000	Opened January 1–June 30	Closed January 1–June 30	In operation June 30, 2000
Federal branches				
California	1	0	0	1
Connecticut	1	0	0	1
District of Columbia	1	0	0	1
New York	41	0	0	41
Washington	1	0	0	1
Limited federal branches				
California	8	0	0	8
District of Columbia	1	0	0	1
New York	3	0	0	3
Federal agency				
Illinois	1	0	0	1
Total United States	58	0	0	58

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Tables are provided by the Economic Analysis Division and include data for nationally chartered, FDIC-insured commercial banks that file a quarter-end call report. Data for the current period are preliminary and subject to revision. Figures in the tables may not sum to totals because of rounding.

Assets, liabilities, and capital accounts of national banks
June 30, 1999 and June 30, 2000
(Dollar figures in millions)

	June 30, 1999	June 30, 2000	Change June 30, 1999–June 30, 2000 fully consolidated	
	Consolidated foreign and domestic	Consolidated foreign and domestic	Amount	Percent
Number of institutions	2,409	2,302	(107)	(4.44)
Total assets	$3,193,148	$3,363,723	$170,575	5.34
Cash and balances due from depositories	197,348	192,812	(4,536)	(2.30)
Noninterest-bearing balances, currency and coin	139,453	144,565	5,111	3.67
Interest bearing balances	57,895	48,247	(9,647)	(16.66)
Securities	546,678	516,063	(30,615)	(5.60)
Held-to-maturity securities, amortized cost	55,618	44,389	(11,229)	(20.19)
Available-for-sale securities, fair value	491,060	471,674	(19,386)	(3.95)
Federal funds sold and securities purchased	106,178	109,743	3,565	3.36
Net loans and leases	2,007,146	2,160,790	153,643	7.65
Total loans and leases	2,044,447	2,200,052	155,604	7.61
Loans and leases, gross	2,046,278	2,201,663	155,385	7.59
Less: Unearned income	1,831	1,611	(220)	(12.00)
Less: Reserve for losses	37,301	39,262	1,961	5.26
Assets held in trading account	85,137	107,321	22,183	26.06
Other real estate owned	1,674	1,508	(166)	(9.94)
Intangible assets	70,406	78,390	7,984	11.34
All other assets	178,581	197,098	18,517	10.37
Total liabilities and equity capital	3,193,148	3,363,723	170,575	5.34
Deposits in domestic offices	1,755,761	1,788,873	33,112	1.89
Deposits in foreign offices	366,207	408,226	42,019	11.47
Total deposits	2,121,968	2,197,099	75,131	3.54
Noninterest-bearing deposits	429,596	426,947	(2,649)	(0.62)
Interest-bearing deposits	1,692,373	1,770,152	77,779	4.60
Federal funds purchased and securities sold	273,052	268,393	(4,659)	(1.71)
Demand notes issued to U.S. Treasury	26,771	30,613	3,842	14.35
Other borrowed money	279,854	349,527	69,673	24.90
With remaining maturity of one year or less	171,342	222,358	51,017	29.77
With remaining maturity of more than one year	108,512	127,168	18,656	17.19
Trading liabilities less revaluation losses	17,756	18,682	926	5.21
Subordinated notes and debentures	54,898	59,787	4,889	8.90
All other liabilities	141,982	154,094	12,112	8.53
Trading liabilities revaluation losses	48,622	51,658	3,036	6.24
Other	93,361	102,436	9,076	9.72
Total equity capital	276,867	285,529	8,662	3.13
Perpetual preferred stock	784	932	148	18.87
Common stock	16,615	14,712	(1,903)	(11.45)
Surplus	143,726	155,521	11,795	8.21
Net undivided profits and capital reserves	116,759	115,415	(1,343)	(1.15)
Cumulative foreign currency translation adjustment	(1,017)	(1,052)	(35)	NM

NM indicates calculated percent change is not meaningful.

Quarterly income and expenses of national banks
Second quarter 1999 and second quarter 2000
(Dollar figures in millions)

	Second quarter 1999	Second quarter 2000	Change Second quarter 1999–second quarter 2000 fully consolidated	
	Consolidated foreign and domestic	Consolidated foreign and domestic	Amount	Percent
Number of institutions	2,409	2,302	(107)	(4.44)
Net income	$11,005	$6,622	($4,383)	(39.83)
Net interest income	28,736	29,444	708	2.46
Total interest income	53,309	60,376	7,068	13.26
On loans	39,632	46,334	6,702	16.91
From lease financing receivables	1,895	1,940	45	2.35
On balances due from depositories	890	912	22	2.52
On securities	8,881	8,852	(29)	(0.33)
From assets held in trading account	673	786	112	16.68
On federal funds sold and securities repurchased	1,337	1,553	216	16.14
Less: Interest expense	24,573	30,932	6,360	25.88
On deposits	16,505	19,947	3,442	20.86
Of federal funds purchased and securities sold	3,039	3,812	773	25.42
On demand notes and other borrowed money*	4,199	6,172	1,973	46.99
On subordinated notes and debentures	829	1,001	172	20.73
Less: Provision for losses	3,686	5,054	1,368	37.13
Noninterest income	22,630	21,667	(963)	(4.26)
From fiduciary activities	2,430	2,353	(77)	(3.17)
Service charges on deposits	3,717	3,888	171	4.61
Trading revenue	1,187	1,327	139	11.75
From interest rate exposures	535	244	(291)	(54.34)
From foreign exchange exposures	634	771	137	21.67
From equity security and index exposures	37	289	251	NM
From commodity and other exposures	(19)	22	42	NM
Total other noninterest income	15,292	14,100	(1,192)	(7.80)
Gains/losses on securities	219	(983)	(1,203)	NM
Less: Noninterest expense	30,667	34,022	3,355	10.94
Salaries and employee benefits	12,091	12,146	54	0.45
Of premises and fixed assets	3,774	3,880	106	2.81
Other noninterest expense	14,802	17,997	3,195	21.58
Less: Taxes on income before extraordinary items	6,228	4,429	(1,799)	(28.88)
Income/loss from extraordinary items, net of income taxes	1	(0)	(1)	(100.81)
Memoranda:				
Net operating income	10,870	7,438	(3,431)	(31.57)
Income before taxes and extraordinary items	17,233	11,051	(6,181)	(35.87)
Income net of taxes before extraordinary items	11,005	6,622	(4,383)	(39.83)
Cash dividends declared	9,036	6,872	(2,164)	(23.95)
Net charge-offs to loan and lease reserve	3,243	3,632	389	11.99
Charge-offs to loan and lease reserve	4,169	4,567	398	9.54
Less: Recoveries credited to loan and lease reserve	926	935	9	0.98

*Includes mortgage indebtedness
NM indicates calculated percent change is not meaningful.

Year-to-date income and expenses of national banks
Through June 30, 1999 and through June 30, 2000
(Dollar figures in millions)

	June 30, 1999	June 30, 2000	Change June 30, 1999–June 30, 2000 fully consolidated	
	Consolidated foreign and domestic	Consolidated foreign and domestic	Amount	Percent
Number of institutions	2,409	2,302	(107)	(4.44)
Net income	$21,559	$18,161	($3,398)	(15.76)
Net interest income	57,466	58,380	915	1.59
Total interest income	107,238	117,629	10,391	9.69
On loans	80,489	90,361	9,872	12.26
From lease financing receivables	3,759	3,599	(160)	(4.25)
On balances due from depositories	1,737	1,648	(89)	(5.12)
On securities	17,195	17,608	413	2.40
From assets held in trading account	1,342	1,462	121	9.00
On federal funds sold and securities repurchased	2,717	2,952	234	8.63
Less: Interest expense	49,772	59,249	9,476	19.04
On deposits	33,498	38,212	4,714	14.07
Of federal funds purchased and securities sold	6,082	7,317	1,234	20.29
On demand notes and other borrowed money*	8,515	11,783	3,268	38.38
On subordinated notes and debentures	1,677	1,938	261	15.56
Less: Provision for losses	7,778	9,137	1,358	17.46
Noninterest income	45,160	46,436	1,276	2.82
From fiduciary activities	4,726	4,933	206	4.36
Service charges on deposits	7,219	7,610	390	5.41
Trading revenue	2,728	3,135	407	14.93
From interest rate exposures	1,202	1,025	(177)	(14.74)
From foreign exchange exposures	1,352	1,504	152	11.21
From equity security and index exposures	166	571	405	243.65
From commodity and other exposures	7	35	28	390.20
Total other noninterest income	30,487	30,759	272	0.89
Gains/losses on securities	587	(1,686)	(2,273)	(386.99)
Less: Noninterest expense	61,841	65,016	3,175	5.13
Salaries and employee benefits	24,349	24,593	244	1.00
Of premises and fixed assets	7,704	7,827	122	1.59
Other noninterest expense	29,788	32,596	2,808	9.43
Less: Taxes on income before extraordinary items	12,003	10,833	(1,170)	(9.75)
Income/loss from extraordinary items, net of income taxes	(31)	16	48	NM
Memoranda:				
Net operating income	21,204	19,418	(1,786)	(8.42)
Income before taxes and extraordinary items	33,594	28,978	(4,616)	(13.74)
Income net of taxes before extraordinary items	21,591	18,145	(3,446)	(15.96)
Cash dividends declared	14,230	13,542	(688)	(4.83)
Net charge-offs to loan and lease reserve	6,928	7,249	321	4.64
Charge-offs to loan and lease reserve	8,813	9,133	320	3.63
Less: Recoveries credited to loan and lease reserve	1,885	1,884	(1)	(0.07)

* Includes mortgage indebtedness
NM indicates calculated percent change is not meaningful.

Assets of national banks by asset size
June 30, 2000
(Dollar figures in millions)

	All national banks	National banks: Less than $100 million	National banks: $100 million to $1 billion	National banks: $1 billion to $10 billion	National banks: Greater than $10 billion	Memoranda: All commercial banks
Number of institutions reporting	2,302	1,162	963	131	46	8,477
Total assets	$3,363,723	$58,725	$253,097	$395,819	$2,656,082	$5,983,262
Cash and balances due from	192,812	2,967	11,498	20,600	157,747	340,474
Securities	516,063	16,055	64,403	91,822	343,782	1,046,529
Federal funds sold and securities purchased	109,743	2,304	5,667	16,179	85,593	243,264
Net loans and leases	2,160,790	34,626	158,944	239,327	1,727,892	3,642,120
Total loans and leases	2,200,052	35,091	161,228	243,736	1,759,996	3,704,044
Loans and leases, gross	2,201,663	35,173	161,503	243,823	1,761,165	3,707,248
Less: Unearned income	1,611	82	275	87	1,168	3,205
Less: Reserve for losses	39,262	466	2,283	4,409	32,104	61,924
Assets held in trading account	107,321	0	207	2,422	104,692	271,600
Other real estate owned	1,508	64	188	155	1,102	2,781
Intangible assets	78,390	249	1,655	5,810	70,676	102,297
All other assets	197,098	2,461	10,534	19,504	164,599	334,198
Gross loans and leases by type:						
Loans secured by real estate	889,778	20,186	98,380	129,177	642,035	1,626,812
1–4 family residential mortgages	453,609	9,380	43,436	61,177	339,617	787,529
Home equity loans	75,457	444	4,053	8,136	62,823	116,160
Multifamily residential mortgages	28,792	497	3,408	4,622	20,265	59,664
Commercial RE loans	218,124	5,869	34,646	40,028	137,581	447,247
Construction RE loans	73,359	1,617	8,673	13,311	49,757	150,390
Farmland loans	12,496	2,379	4,159	1,718	4,240	33,781
RE loans from foreign offices	27,941	0	6	183	27,751	32,040
Commercial and industrial loans	648,494	5,974	28,855	48,547	565,117	1,034,495
Loans to individuals	348,354	4,921	24,061	49,902	269,471	568,136
Credit cards	155,990	258	5,007	19,922	130,802	218,855
Installment loans	192,365	4,663	19,053	29,980	138,669	349,281
All other loans and leases	197,098	2,461	10,534	19,504	164,599	334,198
Securities by type:						
U.S. Treasury securities	50,985	1,449	4,838	6,020	38,678	102,117
Mortgage-backed securities	234,651	3,216	19,066	45,696	166,673	452,693
Pass-through securities	160,851	2,282	11,881	29,405	117,283	284,510
Collateralized mortgage obligations	73,801	933	7,185	16,291	49,391	168,183
Other securities	230,427	11,390	40,499	40,105	138,432	491,718
Other U.S. government securities	76,531	8,083	24,728	20,557	23,163	223,963
State and local government securities	39,840	2,532	11,000	8,144	18,165	90,154
Other debt securities	90,576	376	2,932	7,871	79,398	137,900
Equity securities	23,480	401	1,840	3,534	17,706	39,700
Memoranda:						
Agricultural production loans	20,967	3,558	5,048	3,003	9,358	47,013
Pledged securities	253,566	6,068	30,389	43,841	173,267	534,708
Book value of securities	528,386	16,373	65,804	93,549	352,660	1,068,222
Available-for-sale securities	483,997	13,060	53,444	75,216	342,277	926,116
Held-to-maturity securities	44,389	3,313	12,360	18,333	10,383	142,106
Market value of securities	515,252	15,999	64,168	91,424	343,660	1,043,320
Available-for-sale securities	471,674	12,742	52,043	73,489	333,399	904,423
Held-to-maturity securities	43,578	3,257	12,125	17,935	10,261	138,897

Past-due and nonaccrual loans and leases of national banks by asset size
June 30, 2000
(Dollar figures in millions)

	All national banks	National banks: Less than $100 million	$100 million to $1 billion	$1 billion to $10 billion	Greater than $10 billion	Memoranda: All commercial banks
Number of institutions reporting	2,302	1,162	963	131	46	8,477
Loans and leases past due 30–89 days	$23,424	$436	$1,685	$2,938	$18,365	$39,429
Loans secured by real estate	9,657	204	776	1,045	7,631	15,968
1–4 family residential mortgages	6,390	123	411	517	5,339	9,845
Home equity loans	565	3	26	75	461	835
Multifamily residential mortgages	123	2	17	17	87	259
Commercial RE loans	1,310	43	224	256	786	2,781
Construction RE loans	741	17	68	150	506	1,419
Farmland loans	148	16	31	31	70	323
RE loans from foreign offices	381	0	0	0	381	505
Commercial and industrial loans	4,666	134	408	666	3,458	8,807
Loans to individuals	7,314	96	455	1,067	5,697	11,875
Credit cards	3,618	6	162	505	2,945	5,266
Installment loans	3,696	90	293	562	2,751	6,610
All other loans and leases	1,787	2	45	160	1,579	2,780
Loans and leases past due 90+ days	5,790	97	396	815	4,481	9,519
Loans secured by real estate	1,421	44	164	204	1,009	2,619
1–4 family residential mortgages	864	23	80	119	644	1,518
Home equity loans	68	1	3	9	54	108
Multifamily residential mortgages	20	0	5	3	12	45
Commercial RE loans	276	11	52	49	163	558
Construction RE loans	143	2	12	16	114	248
Farmland loans	35	7	13	9	6	121
RE loans from foreign offices	16	0	0	0	16	21
Commercial and industrial loans	633	38	89	80	427	1,306
Loans to individuals	3,328	15	131	511	2,671	5,064
Credit cards	2,368	3	88	374	1,903	3,217
Installment loans	960	13	43	137	768	1,846
All other loans and leases	407	0	12	20	375	530
Nonaccrual loans and leases	17,187	231	898	1,203	14,855	27,120
Loans secured by real estate	6,259	106	445	645	5,063	9,860
1–4 family residential mortgages	3,180	34	161	222	2,762	4,705
Home equity loans	185	1	8	15	161	261
Multifamily residential mortgages	87	2	5	9	71	164
Commercial RE loans	1,559	33	202	281	1,042	2,848
Construction RE loans	445	10	32	91	313	844
Farmland loans	155	26	37	28	65	339
RE loans from foreign offices	649	0	0	(0)	649	699
Commercial and industrial loans	8,221	108	353	457	7,303	13,241
Loans to individuals	1,554	15	78	53	1,408	2,435
Credit cards	436	1	38	5	393	895
Installment loans	1,118	14	40	48	1,015	1,540
All other loans and leases	1,153	2	23	48	1,080	1,583

Liabilities of national banks by asset size
June 30, 2000
(Dollar figures in millions)

	All national banks	National banks				Memoranda: All commercial banks
		Less than $100 million	$100 million to $1 billion	$1 billion to $10 billion	Greater than $10 billion	
Number of institutions reporting	2,302	1,162	963	131	46	8,477
Total liabilities and equity capital	$3,363,723	$58,725	$253,097	$395,819	$2,656,082	$5,983,262
Deposits in domestic offices	$1,788,873	$49,253	$202,332	$260,725	$1,276,562	$3,288,563
Deposits in foreign offices	408,226	0	459	2,714	405,053	685,411
Total deposits	2,197,099	49,253	202,791	263,439	1,681,615	3,973,973
Noninterest to earnings	426,947	7,932	32,114	46,849	340,051	723,982
Interest bearing	1,770,152	41,321	170,677	216,590	1,341,564	3,249,991
Other borrowed funds	667,215	2,362	23,045	87,910	553,898	1,128,512
Subordinated notes and debentures	59,787	4	149	2,264	57,369	82,216
All other liabilities	154,094	575	2,827	7,339	143,353	295,080
Equity capital	285,529	6,530	24,285	34,867	219,847	503,481
Total deposits by depositor:						
Individuals and corporations	1,943,584	44,518	184,731	245,877	1,468,457	3,531,282
U.S., state, and local governments	76,820	3,961	14,405	12,381	46,073	157,877
Depositories in the U.S.	81,062	401	2,136	2,882	75,643	110,362
Foreign banks and governments	82,554	0	233	935	81,386	147,064
Certified and official checks	10,204	373	1,287	1,354	7,191	18,918
All other foreign office deposits	2,875	0	0	10	2,865	8,470
Domestic deposits by depositor:						
Individuals and corporations	1,669,450	44,518	184,482	243,823	1,196,627	3,057,017
U.S., state, and local governments	76,820	3,961	14,405	12,381	46,073	157,877
Depositories in the U.S.	28,090	401	2,116	2,858	22,715	45,311
Foreign banks and governments	5,584	0	43	309	5,232	10,805
Certified and official checks	8,929	373	1,287	1,354	5,915	17,553
Foreign deposits by depositor:						
Individuals and corporations	274,133	0	249	2,054	271,830	474,265
Depositories in the U.S.	52,972	0	20	25	52,928	65,052
Foreign banks and governments	76,970	0	190	626	76,155	136,259
Certified and official checks	1,276	0	0	0	1,275	1,365
All other deposits	2,875	0	0	10	2,865	8,470
Deposits in domestic offices by type:						
Transaction deposits	362,885	14,929	51,491	42,081	254,384	666,181
Demand deposits	302,400	7,925	30,340	34,611	229,525	521,120
NOW accounts	59,442	6,863	20,728	7,311	24,540	142,617
Savings deposits	776,090	10,044	56,887	118,436	590,724	1,313,860
Money market deposit accounts	530,756	5,396	33,999	77,190	414,171	884,492
Other savings deposits	245,335	4,648	22,888	41,246	176,553	429,368
Time deposits	649,897	24,280	93,955	100,208	431,454	1,308,520
Small time deposits	391,012	17,111	62,956	64,007	246,937	774,673
Large time deposits	258,886	7,169	30,999	36,201	184,517	533,847

Off-balance-sheet items of national banks by asset size
June 30, 2000
(Dollar figures in millions)

	All national banks	National banks				Memoranda: All commercial banks
		Less than $100 million	$100 million to $1 billion	$1 billion to $10 billion	Greater than $10 billion	
Number of institutions reporting	2,302	1,162	963	131	46	8,477
Unused commitments	$2,936,617	$81,720	$197,581	$243,335	$2,413,981	$4,172,965
Home equity lines	117,857	339	4,038	9,983	103,497	161,163
Credit card lines	1,712,202	77,245	168,771	184,405	1,281,781	2,288,761
Commercial RE, construction and land	76,406	1,049	7,159	11,887	56,311	146,921
All other unused commitments	1,030,151	3,087	17,612	37,059	972,393	1,576,120
Letters of credit:						
Standby letters of credit	145,715	149	1,450	5,239	138,876	243,780
Financial letters of credit	116,728	98	947	3,955	111,728	202,016
Performance letters of credit	28,987	52	503	1,284	27,148	41,765
Commercial letters of credit	21,266	29	634	671	19,932	31,571
Securities borrowed and lent:						
Securities borrowed	20,464	29	634	5,571	14,229	28,520
Securities lent	74,669	15	471	7,886	66,297	486,762
Financial assets transferred with recourse:						
Mortgages—outstanding principal balance	38,999	45	96	5,448	33,409	62,903
Mortgages—amount of recourse exposure	8,360	32	88	474	7,766	13,618
All other—outstanding principal balance	267,398	1	1,957	34,063	231,376	314,344
All other—amount of recourse exposure	15,779	0	154	3,020	12,605	20,687
Spot foreign exchange contracts	270,289	0	24	50	270,215	382,159
Credit derivatives (notional value)						
Reporting bank is the guarantor	34,321	0	5	7	34,309	156,406
Reporting bank is the beneficiary	51,618	0	0	0	51,618	205,353
Derivative contracts (notional value)	14,661,921	16	1,726	28,325	14,631,854	39,302,072
Futures and forward contracts	4,936,167	6	147	1,394	4,934,619	10,327,211
Interest rate contracts	2,342,444	6	94	1,117	2,341,227	5,518,619
Foreign exchange contracts	2,551,991	0	53	277	2,551,661	4,682,810
All other futures and forwards	41,732	0	0	0	41,732	125,781
Option contracts	2,847,340	10	594	9,831	2,836,904	7,656,517
Interest rate contracts	2,235,449	10	544	9,681	2,225,215	6,004,199
Foreign exchange contracts	384,522	0	50	2	384,470	897,026
All other options	227,369	0	1	149	227,220	755,293
Swaps	6,792,476	0	980	17,092	6,774,403	20,956,586
Interest rate contracts	6,457,255	0	980	16,370	6,439,906	19,904,720
Foreign exchange contracts	261,169	0	0	656	260,513	886,265
All other swaps	74,052	0	0	67	73,985	165,601
Memoranda: Derivatives by purpose						
Contracts held for trading	13,460,329	0	78	5,894	13,454,357	37,257,328
Contracts not held for trading	1,115,653	16	1,643	22,424	1,091,569	1,682,986
Memoranda: Derivatives by position						
Held for trading—positive fair value	146,901	0	0	139	146,762	411,868
Held for trading—negative fair value	141,027	0	0	44	140,983	402,294
Not for trading—positive fair value	4,754	0	17	100	4,637	8,106
Not for trading—negative fair value	8,032	0	6	238	7,788	11,521

Quarterly income and expenses of national banks by asset size
Second quarter 2000
(Dollar figures in millions)

	All national banks	National banks				Memoranda: All commercial banks
		Less than $100 million	$100 million to $1 billion	$1 billion to $10 billion	Greater than $10 billion	
Number of institutions reporting	2,302	1,162	963	131	46	8,477
Net income	$6,622	$201	$840	$1,029	$4,551	$14,702
Net interest income	29,444	622	2,596	3,779	22,447	51,072
Total interest income	60,376	1,108	4,808	7,439	47,021	105,936
On loans	46,334	807	3,644	5,455	36,428	78,471
From lease financing receivables	1,940	3	30	79	1,827	2,753
On balances due from depositories	912	10	26	46	831	1,674
On securities	8,852	246	1,012	1,596	5,998	17,292
From assets held in trading account	786	(0)	1	16	769	2,335
On fed. funds sold & securities repurchased	1,553	42	96	247	1,169	3,410
Less: Interest expense	30,932	485	2,213	3,660	24,574	54,864
On deposits	19,947	454	1,877	2,270	15,346	36,711
Of federal funds purchased & securities sold	3,812	11	126	612	3,062	6,931
On demand notes & other borrowed money*	6,172	20	207	739	5,206	9,780
On subordinated notes and debentures	1,001	0	3	39	959	1,441
Less: Provision for losses	5,054	39	213	478	4,323	7,191
Noninterest income	21,667	360	1,291	2,341	17,675	35,604
From fiduciary activities	2,353	29	171	412	1,741	5,388
Service charges on deposits	3,888	75	266	415	3,131	5,836
Trading revenue	1,327	0	7	17	1,303	3,036
From interest rate exposures	244	0	7	10	228	994
From foreign exchange exposures	771	0	0	3	768	1,336
From equity security and index exposures	289	0	0	7	282	522
From commodity and other exposures	22	0	0	(2)	24	183
Total other noninterest income	14,100	256	847	1,497	11,501	21,343
Gains/losses on securities	(983)	(1)	(9)	(100)	(872)	(1,044)
Less: Noninterest expense	34,022	667	2,436	3,881	27,037	55,159
Salaries and employee benefits	12,146	291	1,023	1,403	9,429	21,854
Of premises and fixed assets	3,880	74	294	431	3,081	6,573
Other noninterest expense	17,997	303	1,119	2,046	14,528	26,731
Less: Taxes on income before extraord. items	4,429	73	388	631	3,338	8,577
Income/loss from extraord. items, net of taxes	16	22	(0)	(6)	0	13
Memoranda:						
Net operating income	7,438	202	847	1,111	5,278	15,564
Income before taxes and extraordinary items	11,051	274	1,228	1,660	7,890	23,282
Income net of taxes before extraordinary items	6,622	201	840	1,029	4,551	14,706
Cash dividends declared	6,872	112	482	841	5,437	11,246
Net loan and lease losses	3,632	26	169	369	3,067	5,232
Charge-offs to loan and lease reserve	4,567	36	224	461	3,847	6,643
Less: Recoveries credited to loan & lease resv.	935	9	55	91	780	1,412

* Includes mortgage indebtedness

Year-to-date income and expenses of national banks by asset size
Through June 30, 2000
(Dollar figures in millions)

	All national banks	National banks: Less than $100 million	$100 million to $1 billion	$1 billion to $10 billion	Greater than $10 billion	Memoranda: All commercial banks
Number of institutions reporting	2,302	1,162	963	131	46	8,477
Net income	$18,161	$411	$1,655	$2,542	$13,554	$34,241
Net interest income	58,380	1,216	5,103	7,405	44,655	101,128
Total interest income	117,629	2,158	9,363	14,287	91,821	206,252
On loans	90,361	1,562	7,070	10,508	71,220	152,837
From lease financing receivables	3,599	7	59	149	3,383	5,127
On balances due from depositories	1,648	19	52	81	1,496	3,147
On securities	17,608	484	1,996	3,099	12,029	34,226
From assets held in trading account	1,462	0	2	30	1,430	4,350
On fed. funds sold & securities repurchased	2,952	87	184	419	2,262	6,565
Less: Interest expense	59,249	942	4,260	6,882	47,165	105,124
On deposits	38,212	883	3,630	4,327	29,372	70,477
Of federal funds purchased & securities sold	7,317	20	235	1,136	5,925	13,188
On demand notes & other borrowed money*	11,783	39	389	1,340	10,015	18,691
On subordinated notes and debentures	1,938	0	6	79	1,853	2,768
Less: Provision for losses	9,137	70	406	869	7,792	12,973
Noninterest income	46,436	711	2,525	5,045	38,154	74,042
From fiduciary activities	4,933	59	332	816	3,726	10,875
Service charges on deposits	7,610	140	511	783	6,175	11,391
Trading revenue	3,135	3	24	50	3,058	6,891
From interest rate exposures	1,025	3	23	33	966	2,717
From foreign exchange exposures	1,504	0	1	4	1,499	2,676
From equity security and index exposures	571	0	0	14	557	1,146
From commodity and other exposures	35	0	0	0	35	352
Total other noninterest income	30,759	509	1,659	3,396	25,195	44,885
Gains/losses on securities	(1,686)	(4)	(17)	(165)	(1,500)	(1,772)
Less: Noninterest expense	65,016	1,321	4,786	7,439	51,470	107,112
Salaries and employee benefits	24,593	580	2,031	2,767	19,216	44,254
Of premises and fixed assets	7,827	145	578	839	6,264	13,207
Other noninterest expense	32,596	596	2,178	3,832	25,990	49,651
Less: Taxes on income before extraord. items	10,833	145	764	1,430	8,494	19,084
Income/loss from extraord. items, net of taxes	16	22	(0)	(6)	0	13
Memoranda:						
Net operating income	19,418	391	1,667	2,674	14,686	35,564
Income before taxes and extraordinary items	28,978	533	2,419	3,978	22,048	53,312
Income net of taxes before extraordinary items	18,145	388	1,655	2,548	13,554	34,228
Cash dividends declared	13,542	248	979	2,427	9,888	22,761
Net loan and lease losses	7,249	43	361	771	6,075	10,273
Charge-offs to loan and lease reserve	9,133	63	471	957	7,642	13,135
Less: Recoveries credited to loan & lease resv.	1,884	20	111	186	1,567	2,862

* Includes mortgage indebtedness

Quarterly net loan and lease losses of national banks by asset size
Second quarter 2000
(Dollar figures in millions)

	All national banks	National banks				Memoranda: All commercial banks
		Less than $100 million	$100 million to $1 billion	$1 billion to $10 billion	Greater than $10 billion	
Number of institutions reporting	2,302	1,162	963	131	46	8,477
Net charge-offs to loan and lease reserve	$3,632	$26	$169	$369	$3,067	$5,232
Loans secured by real estate	217	2	8	40	167	314
1–4 family residential mortgages	129	1	5	27	95	187
Home equity loans	29	0	0	4	25	36
Multifamily residential mortgages	8	0	0	0	7	7
Commercial RE loans	30	(0)	2	6	23	53
Construction RE loans	3	0	0	2	(0)	10
Farmland loans	(0)	0	0	0	(1)	3
RE loans from foreign offices	19	0	0	(0)	19	18
Commercial and industrial loans	1,153	13	28	37	1,075	1,705
Loans to individuals	2,112	12	130	284	1,686	2,986
Credit cards	1,603	5	109	234	1,254	2,232
Installment loans	510	7	21	50	432	754
All other loans and leases	150	0	3	8	139	226
Charge-offs to loan and lease reserve	4,567	36	224	461	3,847	6,643
Loans secured by real estate	309	3	13	51	242	448
1–4 family residential mortgages	167	2	8	32	125	241
Home equity loans	38	(0)	0	6	32	48
Multifamily residential mortgages	8	0	1	0	7	9
Commercial RE loans	62	1	3	9	49	101
Construction RE loans	9	0	1	3	5	18
Farmland loans	2	0	1	1	1	7
RE loans from foreign offices	22	0	0	0	22	22
Commercial and industrial loans	1,344	16	44	57	1,227	2,019
Loans to individuals	2,712	16	163	341	2,191	3,864
Credit cards	1,897	6	127	262	1,501	2,662
Installment loans	815	10	36	79	690	1,201
All other loans and leases	203	0	4	12	187	313
Recoveries credited to loan and lease reserve	935	9	55	91	780	1,412
Loans secured by real estate	92	1	5	11	75	133
1–4 family residential mortgages	38	1	3	5	30	54
Home equity loans	9	(0)	0	1	8	13
Multifamily residential mortgages	0	0	0	0	0	2
Commercial RE loans	32	1	2	3	27	48
Construction RE loans	6	0	0	1	5	8
Farmland loans	2	0	0	0	2	4
RE loans from foreign offices	3	0	0	0	3	4
Commercial and industrial loans	191	4	16	20	152	313
Loans to individuals	599	4	32	57	506	878
Credit cards	294	1	18	28	247	430
Installment loans	305	3	15	29	258	448
All other loans and leases	53	0	2	4	47	87

Year-to-date net loan and lease losses of national banks by asset size
Through June 30, 2000

(Dollar figures in millions)

	All national banks	National banks				Memoranda: All commercial banks
		Less than $100 million	$100 million to $1 billion	$1 billion to $10 billion	Greater than $10 billion	
Number of institutions reporting	2,302	1,162	963	131	46	8,477
Net charge-offs to loan and lease reserve	7,249	43	361	771	6,075	10,273
Loans secured by real estate	430	2	12	67	349	588
1–4 family residential mortgages	272	2	8	45	217	370
Home equity loans	65	0	1	8	56	78
Multifamily residential mortgages	1	0	1	(1)	1	2
Commercial RE loans	59	(0)	2	11	46	91
Construction RE loans	3	0	0	2	1	16
Farmland loans	(12)	(0)	1	0	(13)	(9)
RE loans from foreign offices	42	0	0	(0)	42	41
Commercial and industrial loans	2,063	19	49	76	1,918	2,996
Loans to individuals	4,466	22	293	617	3,535	6,269
Credit cards	3,309	9	248	495	2,557	4,621
Installment loans	1,157	13	45	122	978	1,648
All other loans and leases	291	0	6	12	273	420
Charge-offs to loan and lease reserve	9,133	63	471	957	7,642	13,135
Loans secured by real estate	617	5	22	88	503	856
1–4 family residential mortgages	342	3	12	54	273	471
Home equity loans	81	0	1	11	70	102
Multifamily residential mortgages	9	0	1	0	8	12
Commercial RE loans	120	1	6	17	96	182
Construction RE loans	15	1	1	4	9	31
Farmland loans	3	0	1	1	1	9
RE loans from foreign offices	47	0	0	0	47	48
Commercial and industrial loans	2,439	27	81	111	2,221	3,660
Loans to individuals	5,666	30	359	736	4,540	8,012
Credit cards	3,886	11	286	551	3,039	5,485
Installment loans	1,780	20	74	186	1,501	2,527
All other loans and leases	410	0	10	22	378	607
Recoveries credited to loan and lease reserve	1,884	20	111	186	1,567	2,862
Loans secured by real estate	188	3	10	21	154	268
1–4 family residential mortgages	71	1	4	9	56	101
Home equity loans	17	0	0	2	14	25
Multifamily residential mortgages	8	0	0	1	7	11
Commercial RE loans	61	1	3	6	50	91
Construction RE loans	12	0	1	2	8	16
Farmland loans	15	0	0	0	14	18
RE loans from foreign offices	5	0	0	0	5	6
Commercial and industrial loans	377	8	31	35	302	664
Loans to individuals	1,200	8	66	120	1,006	1,743
Credit cards	577	2	38	56	482	864
Installment loans	623	7	29	64	524	879
All other loans and leases	119	0	3	10	105	187

Number of national banks by state and asset size
June 30, 2000

	All national banks	National banks: Less than $100 million	$100 million to $1 billion	$1 billion to $10 billion	Greater than $10 billion	Memoranda: All commercial banks
All institutions	2,302	1,162	963	131	46	8,477
Alabama	24	12	12	0	0	158
Alaska	3	1	0	2	0	6
Arizona	17	7	5	3	2	45
Arkansas	46	16	30	0	0	194
California	83	30	45	6	2	316
Colorado	58	38	17	2	1	187
Connecticut	7	3	4	0	0	22
Delaware	16	4	7	2	3	32
District of Columbia	5	2	3	0	0	6
Florida	82	33	42	7	0	264
Georgia	65	36	27	1	1	343
Hawaii	1	0	1	0	0	9
Idaho	1	0	1	0	0	17
Illinois	200	89	99	8	4	721
Indiana	32	8	18	4	2	154
Iowa	48	26	20	2	0	442
Kansas	107	78	27	2	0	375
Kentucky	58	26	29	3	0	250
Louisiana	19	10	6	1	2	153
Maine	6	1	4	1	0	16
Maryland	17	6	9	2	0	76
Massachusetts	13	5	6	2	0	44
Michigan	34	14	19	0	1	173
Minnesota	135	79	50	3	3	500
Mississippi	19	7	11	1	0	99
Missouri	49	28	17	3	1	363
Montana	18	14	2	2	0	85
Nebraska	85	60	22	3	0	289
Nevada	8	2	2	3	1	30
New Hampshire	6	2	2	1	1	17
New Jersey	25	3	13	8	1	77
New Mexico	17	6	8	3	0	52
New York	63	17	37	8	1	149
North Carolina	9	2	3	1	3	71
North Dakota	17	7	8	2	0	111
Ohio	93	43	34	10	6	218
Oklahoma	107	70	33	4	0	295
Oregon	4	1	2	1	0	44
Pennsylvania	94	25	59	7	3	192
Rhode Island	2	0	0	1	1	6
South Carolina	24	17	6	1	0	79
South Dakota	22	12	8	1	1	100
Tennessee	28	8	17	1	2	194
Texas	367	237	121	6	3	736
Utah	9	2	4	2	1	54
Vermont	11	3	8	0	0	18
Virginia	35	13	19	3	0	148
Washington	16	13	3	0	0	83
West Virginia	25	10	11	4	0	79
Wisconsin	51	25	24	2	0	317
Wyoming	21	11	8	2	0	50
U.S. territories	0	0	0	0	0	18

Total assets of national banks by state and asset size
June 30, 2000
(Dollar figures in millions)

	All national banks	National banks: Less than $100 million	National banks: $100 million to $1 billion	National banks: $1 billion to $10 billion	National banks: Greater than $10 billion	Memoranda: All commercial banks
All institutions	$3,363,723	$58,725	$253,097	$395,819	$2,656,082	$5,983,262
Alabama	3,688	701	2,988	0	0	181,287
Alaska	4,499	57	0	4,442	0	5,447
Arizona	51,588	237	2,140	12,579	36,633	55,351
Arkansas	8,612	966	7,646	0	0	26,194
California	170,759	1,519	15,103	19,481	134,655	300,090
Colorado	25,117	1,851	4,383	5,732	13,151	44,584
Connecticut	921	209	713	0	0	2,849
Delaware	85,969	222	2,173	4,493	79,081	128,910
District of Columbia	579	61	518	0	0	694
Florida	24,505	1,918	10,449	12,138	0	56,066
Georgia	23,198	1,821	6,240	4,943	10,193	160,770
Hawaii	298	0	298	0	0	23,591
Idaho	214	0	214	0	0	2,284
Illinois	230,691	4,597	24,363	28,260	173,470	354,059
Indiana	45,080	386	6,553	6,450	31,691	69,022
Iowa	13,399	1,327	4,650	7,421	0	43,238
Kansas	18,375	3,656	8,166	6,552	0	36,267
Kentucky	24,317	1,609	5,406	17,302	0	50,993
Louisiana	35,092	613	1,202	5,672	27,606	50,493
Maine	5,777	40	1,403	4,333	0	9,249
Maryland	5,973	339	2,418	3,216	0	45,966
Massachusetts	8,938	262	1,280	7,396	0	102,822
Michigan	16,346	649	4,238	0	11,459	131,814
Minnesota	158,123	3,655	12,733	5,573	136,161	179,857
Mississippi	10,011	335	2,920	6,756	0	30,545
Missouri	44,274	1,444	5,470	17,569	19,791	80,771
Montana	3,515	570	369	2,577	0	10,453
Nebraska	16,370	2,787	5,240	8,343	0	29,181
Nevada	24,111	77	320	13,677	10,037	36,242
New Hampshire	19,512	53	380	4,913	14,166	21,647
New Jersey	56,280	155	3,863	23,452	28,810	117,861
New Mexico	12,248	299	2,703	9,245	0	16,176
New York	384,762	1,168	11,469	15,299	356,826	1,198,838
North Carolina	911,407	74	1,169	2,768	907,396	988,721
North Dakota	6,797	287	2,553	3,956	0	12,248
Ohio	267,527	2,067	9,655	21,049	234,756	329,700
Oklahoma	24,122	3,559	6,228	14,335	0	40,688
Oregon	8,024	4	553	7,467	0	15,117
Pennsylvania	153,205	1,442	17,069	15,002	119,692	195,773
Rhode Island	152,644	0	0	5,310	147,334	162,303
South Carolina	4,639	793	1,986	1,861	0	22,470
South Dakota	27,955	437	2,585	6,969	17,964	35,862
Tennessee	65,931	575	4,811	7,848	52,696	86,683
Texas	131,390	11,811	28,426	15,917	75,236	183,553
Utah	27,189	46	788	9,076	17,279	71,453
Vermont	3,224	185	3,039	0	0	7,594
Virginia	13,240	653	4,810	7,777	0	56,484
Washington	1,602	620	982	0	0	14,619
West Virginia	13,247	543	2,400	10,304	0	22,326
Wisconsin	12,990	1,590	6,751	4,649	0	76,210
Wyoming	5,450	454	1,279	3,717	0	8,534
U.S. territories	0	0	0	0	0	49,316

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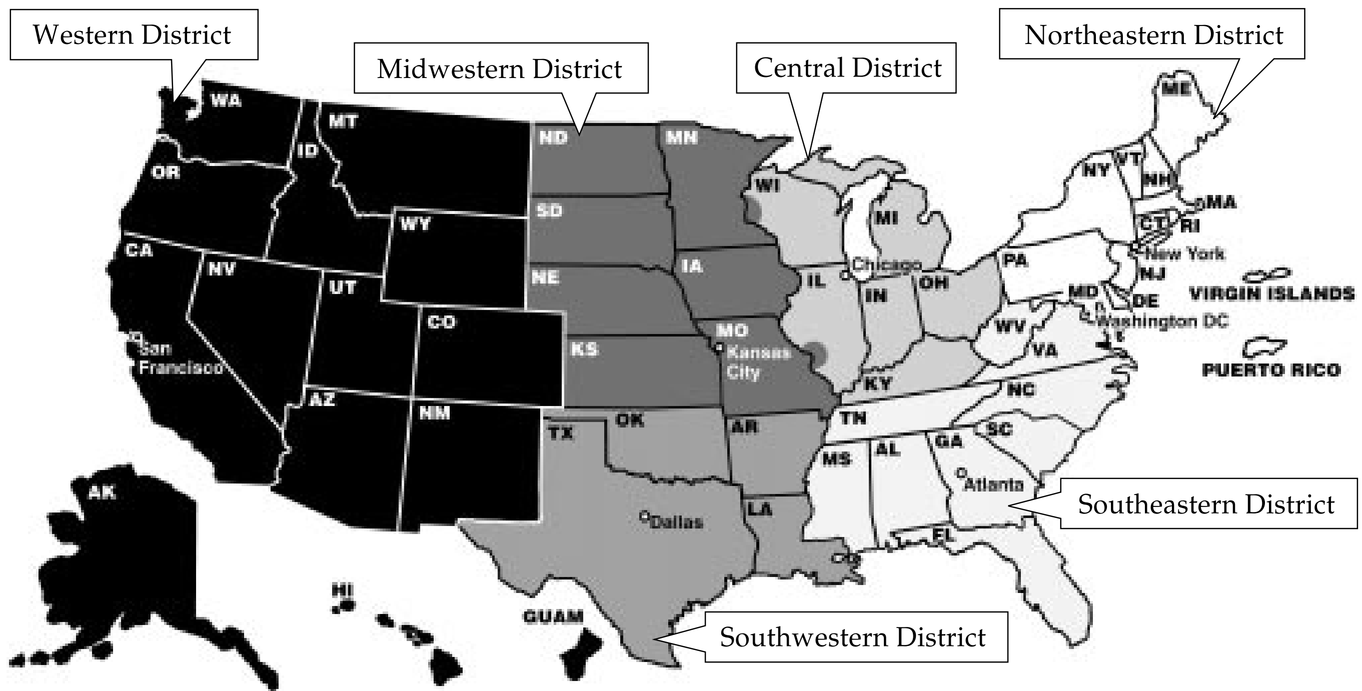

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