Comptroller of the Currency
Administrator of National Banks

Quarterly Journal

Volume Twenty-One
No. 4

Office of the Comptroller of the Currency
December 2002

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 U.S. 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 $120 a year by writing to Publications—QJ, Comptroller of the Currency, Attn: Accounts Receivable, 250 E St., SW, MS 4-8, Washington, DC, 20219.** The *Quarterly Journal* is on the Web at http://www.occ.treas.gov/qj/qj.htm.

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Comptroller of the Currency

The Administrator of National Banks

Volume 21, Number 4
December 2002

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Condition and Performance of Commercial Banks

Summary

Earnings at national banks set another record in the third quarter, as both net interest income and noninterest income showed double-digit gains over the same quarter a year ago. Return on assets set another record, and return on equity rose above 17 percent in the quarter for the first time. Larger banks especially benefited from strong growth in core deposits and an extension of record-low interest rates. Continued strength in the housing market raised both lending and fee income.

On the minus side, asset quality continued to erode, with most of the deterioration concentrated in commercial and industrial (C&I) loans at the larger banks. Overcapacity throughout the manufacturing sector continues to exert downward pressure on corporate profits and thus C&I credit quality. Although the real estate sector has remained strong, real estate markets in a number of cities appears vulnerable to price corrections, with possible consequences for banks.

Key Trends

During the third quarter, net income at national banks grew by 9 percent over the previous quarter and 57 percent over the same quarter of 2001. Until this year, net income had never reached $12.5 billion in any quarter, and return on assets had never reached 1.5 percent. But net income has topped $12.5 billion, and return on assets has topped 1.5 percent, in each of the first three quarters of 2002.

Table 1—Major revenue components all rise; drop in provisioning holds down costs

National banks

Major income components ($ millions change 2001-2002)

	Q2 yr-to-yr	% Change	Q3 yr-to-yr	% Change
Revenues				
Net interest income	4,190	13.7%	3,963	12.6%
Real gains/losses securities	51	10.7%	616	105.5%
Noninterest income	2,049	8.3%	3,683	15.1%
Expenses				
Provisioning	1,475	23.6%	–321	–3.9%
Noninterest expense	881	2.7%	737	2.2%
Net income	3,160	28.7%	5,604	57.2%

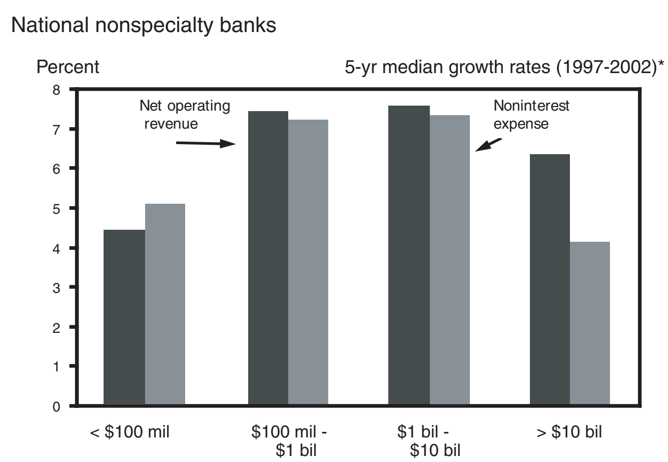
Source: Integrated Banking Information System (OCC)

All major categories of revenues and expenses show this trend. Net interest income rose 2 percent on the quarter and 13 percent on the year, as low short-term interest rates and wide spreads between short- and long-term rates continued to be favorable. Noninterest income rose 6 percent on the quarter and 15 percent on the year. Return on equity rose above 17 percent for the first time this quarter and now stands at 16.2 percent for the year to date, just shy of the all-time high recorded in 1993. Provisions rose from the previous quarter, but fell year-over-year, despite persistent problems in credit quality. Realized gains and losses on security sales rose substantially both on the quarter and on the year, as banks appeared to be taking the opportunity to sell securities that had appreciated in the low-interest-rate environment.

Large banks have been the primary beneficiaries of these favorable trends. Net income rose 23 percent on the year for nonspecialty small banks[1] (assets under $1 billion), but 64 percent for large banks (assets over $1 billion). Particularly notable are the differences in realized gains and losses on the sale of securities, and changes in provisioning. While small banks were increasing their provisions by 16 percent year-over-year, their larger counterparts were decreasing their provisions by 13 percent.

[1] Nonspecialty category excludes credit card and trust banks.

Figure 1—Expense control at large banks key to better performance

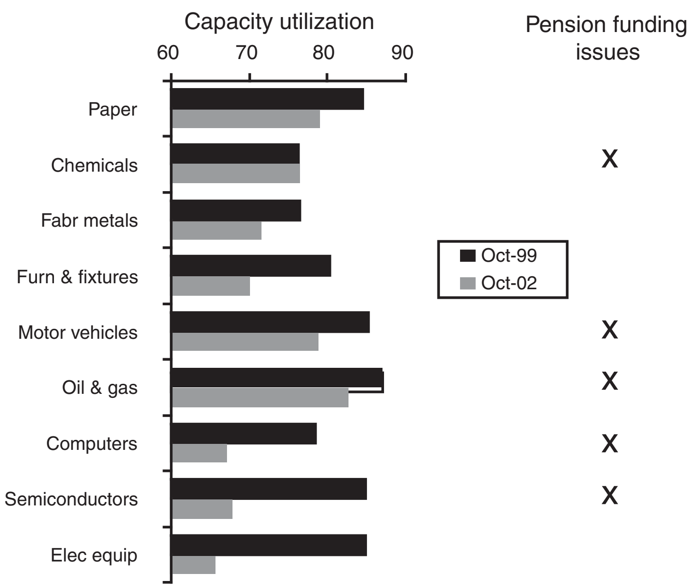


Source: Integrated Banking Information System (OCC)

*Banks held constant over the five-year period. 2002 data as of September 30, 2002. All other data as of year-end.

Much of the earnings advantage enjoyed by large banks over the last several years has come from better control of expenses. Figure 1 shows trends in net operating revenue and noninterest expense for the four size categories of national banks. For the smallest banks (under $100 million in assets) noninterest expense grew faster than net operating revenues between 1997 and 2002. For the largest banks on the other hand (over $10 billion in assets), revenues rose much faster than noninterest expenses, leading to a sharp improvement in the operating efficiency ratio. As a result, for banks under $1 billion in assets, return on equity (ROE) hit a post-1991 low in 2001, and has risen only modestly so far in 2002. At the same time, banks over $1 billion have seen a near record in ROE so far this year.

Figure 2—Overcapacity in many sectors raises risk to lenders



Note: Bank exposure data as of 2002Q2.

Source: Federal Reserve Board/Haver Analytics; Credit Analytics (OCC), Credit Suisse First Boston

Banks across the board have benefited from the rise in core deposits over the last year and a half. Core deposits grew at a 7.2 percent annual rate between the first quarter of 2000 and the second quarter of 2001, and at a 9.7 percent annual rate over the next five quarters. Year-to-date growth in core deposits, adjusted for inflation, now stands at a 15-year high.

In the third quarter, credit quality continued to deteriorate in the C&I sector, particularly at large banks. For many sectors, a worldwide overhang of excess capacity continues to depress profits and discourage business investment. Figure 2 shows the drop in capacity utilization for many manufacturing industries since the peak of the business cycle three years ago. Nearly all of these industries show a sharp drop, which has put downward pressure on prices and thus corporate profits.

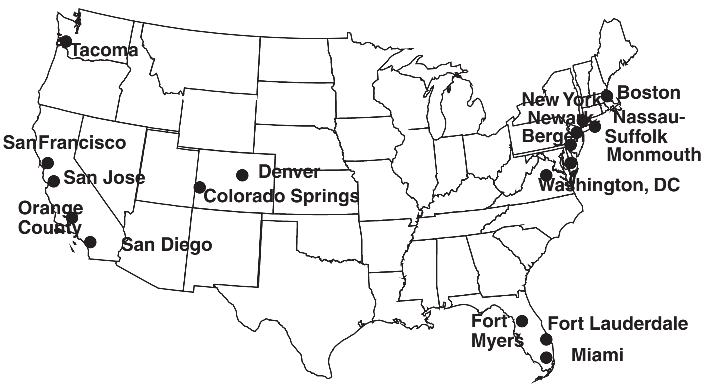
The column at the right in Figure 2 indicates that many of the same industries also face pressure to increase funding for their defined-benefit pension programs. With U.S. equity markets due for a third consecutive year of negative returns, most defined-benefit pension plans have been losing money; for the Standard & Poor's 500 companies, these plans are now about 20 percent underfunded. The need to make up the shortfall will put pressure on already stressed companies.

The U.S. corporate sector continues to suffer as a result of weakness in the economies of our major trading partners. Weak demand abroad contributes to the stuttering recovery at home. Moreover, weak corporate earnings in Europe and Japan have meant an increase in nonperforming loans made by U.S. banks to foreign borrowers. Over the last six quarters, for example, U.S. national banks have seen their ratio of C&I loans noncurrent rise by 96 basis points for domestic borrowers, but by 205 basis points for foreign borrowers.

The real estate sector remains crucial to continued income gains in the banking system. The commercial real estate market has shown increasing signs of weakness, although it remains much stronger than it was during the recession of 1990–91. For example, the noncurrent ratio for business real estate loans (defined as commercial real estate, construction, and multifamily lending) stands at 1.02 percent so far in 2002, up from a low of 0.76 percent in 1999 and 2000, but down from nearly 10 percent in 1991.

Figure 3—Potential housing bubbles

MSAs identified by multiple studies as vulnerable to residential real estate correction



Note: Metropolitan statistical areas (MSAs) marked have been identified as vulnerable to correction and have national banks.

Source: OCC GBFA review of six housing studies

But the big question mark remains residential real estate. House prices have continued to increase in all regions, raising the question of whether home prices are due for a fall. While analysts are not labeling the current situation a national housing bubble, several reports have identified possible regional bubbles. Figure 3 shows the 16 metropolitan statistical areas (MSAs) identified as vulnerable to a home price correction by at least two of six recent studies. Not surprisingly, the high-tech centers of San Francisco, San Jose, Tacoma, Boston, and New Jersey appear on many lists. Other fast-growth areas in California, the Northeast, and Florida are also on the list for a possible correction.

Key indicators, FDIC-insured national banks
Annual 1998–2001, year-to-date through September 30, 2002, third quarter 2001, and third quarter 2002

(Dollar figures in millions)

	1998	1999	2000	2001	Preliminary 2002YTD	2001Q3	Preliminary 2002Q3
Number of institutions reporting	2,456	2,364	2,230	2,137	2,092	2,169	2,092
Total employees (FTEs)	974,871	983,186	948,652	966,538	983,333	947,512	983,333
Selected income data ($)							
Net income	$37,584	$42,539	$38,901	$44,285	$43,213	$9,796	$15,399
Net interest income	110,985	114,557	115,905	125,653	105,605	31,411	35,374
Provision for loan losses	15,242	15,550	20,559	29,003	24,013	8,224	7,904
Noninterest income	81,311	92,570	96,101	99,458	81,370	24,425	28,108
Noninterest expense	122,606	125,812	128,542	131,155	100,058	33,003	33,740
Net operating income	35,525	42,364	40,152	43,056	41,765	9,414	14,618
Cash dividends declared	25,414	29,870	32,327	27,739	30,943	7,081	9,352
Net charge-offs to loan and lease reserve	14,492	14,179	17,241	25,184	23,693	6,584	7,698
Selected condition data ($)							
Total assets	3,183,313	3,271,180	3,414,298	3,635,295	3,846,111	3,543,818	3,846,111
Total loans and leases	2,015,585	2,127,927	2,227,069	2,272,837	2,392,315	2,235,067	2,392,315
Reserve for losses	36,810	37,684	40,021	45,579	47,661	43,166	47,661
Securities	516,120	537,315	502,297	575,935	641,075	526,337	641,075
Other real estate owned	1,833	1,572	1,553	1,794	1,961	1,806	1,961
Noncurrent loans and leases	19,513	20,818	27,161	34,589	38,352	32,631	38,352
Total deposits	2,137,908	2,154,230	2,250,402	2,384,413	2,490,044	2,296,007	2,490,044
Domestic deposits	1,785,818	1,776,084	1,827,064	2,001,253	2,114,022	1,908,241	2,114,022
Equity capital	274,120	277,889	293,656	340,736	366,841	329,119	366,841
Off-balance-sheet derivatives	10,953,514	12,077,568	15,502,911	20,291,557	25,129,592	19,304,005	25,129,592
Performance ratios (annualized %)							
Return on equity	14.29	15.55	13.69	13.88	16.26	12.28	17.04
Return on assets	1.24	1.35	1.18	1.26	1.54	1.12	1.62
Net interest income to assets	3.67	3.63	3.50	3.56	3.77	3.59	3.73
Loss provision to assets	0.50	0.49	0.62	0.82	0.86	0.94	0.83
Net operating income to assets	1.17	1.34	1.21	1.22	1.49	1.08	1.54
Noninterest income to assets	2.69	2.94	2.90	2.82	2.91	2.79	2.96
Noninterest expense to assets	4.05	3.99	3.88	3.72	3.58	3.78	3.56
Loss provision to loans and leases	0.79	0.76	0.95	1.28	1.37	1.46	1.34
Net charge-offs to loans and leases	0.75	0.70	0.80	1.11	1.35	1.17	1.30
Loss provision to net charge-offs	105.12	109.66	119.24	115.16	101.35	124.91	102.67
Performance ratios (%)							
Percent of institutions unprofitable	5.94	7.11	6.95	7.35	6.69	8.16	6.55
Percent of institutions with earnings gains	61.60	62.14	66.64	56.86	70.94	54.13	70.70
Nonint. income to net operating revenue	42.28	44.69	45.33	44.18	43.52	43.74	44.28
Nonint. expense to net operating revenue	63.76	60.74	60.63	58.26	53.51	59.11	53.15
Condition ratios (%)							
Nonperforming assets to assets	0.68	0.70	0.86	1.02	1.07	0.98	1.07
Noncurrent loans to loans	0.97	0.98	1.22	1.52	1.60	1.46	1.60
Loss reserve to noncurrent loans	188.65	181.02	147.35	131.77	124.27	132.29	124.27
Loss reserve to loans	1.83	1.77	1.80	2.01	1.99	1.93	1.99
Equity capital to assets	8.61	8.50	8.60	9.37	9.54	9.29	9.54
Leverage ratio	7.42	7.49	7.49	7.81	7.98	7.74	7.98
Risk-based capital ratio	11.79	11.70	11.84	12.61	12.87	12.32	12.87
Net loans and leases to assets	62.16	63.90	64.06	61.27	60.96	61.85	60.96
Securities to assets	16.21	16.43	14.71	15.84	16.67	14.85	16.67
Appreciation in securities (% of par)	0.82	–2.45	–0.01	0.48	2.20	1.85	2.20
Residential mortgage assets to assets	20.41	20.60	19.60	22.54	24.10	21.42	24.10
Total deposits to assets	67.16	65.85	65.91	65.59	64.74	64.79	64.74
Core deposits to assets	49.72	47.01	45.61	48.07	48.02	46.37	48.02
Volatile liabilities to assets	31.77	34.81	35.18	31.24	30.24	32.46	30.24

Loan performance, FDIC-insured national banks
Annual 1998–2001, year-to-date through September 30, 2002, third quarter 2001, and third quarter 2002

(Dollar figures in millions)

	1998	1999	2000	2001	Preliminary 2002YTD	2001Q3	Preliminary 2002Q3
Percent of loans past due 30–89 days							
Total loans and leases	1.27	1.16	1.26	1.38	1.14	1.37	1.14
Loans secured by real estate (RE)	1.33	1.22	1.42	1.42	1.07	1.27	1.07
1–4 family residential mortgages	1.50	1.61	1.95	1.80	1.38	1.56	1.38
Home equity loans	0.97	0.77	1.07	0.98	0.65	0.93	0.65
Multifamily residential mortgages	0.94	0.69	0.59	0.75	0.37	0.72	0.37
Commercial RE loans	1.02	0.70	0.72	0.86	0.63	0.81	0.63
Construction RE loans	1.82	1.07	1.12	1.28	1.14	1.36	1.14
Commercial and industrial loans	0.81	0.71	0.71	0.95	0.84	0.95	0.84
Loans to individuals	2.44	2.36	2.40	2.39	2.13	2.33	2.13
Credit cards	2.52	2.53	2.50	2.51	2.56	2.65	2.56
Installment loans and other plans	2.37	2.24	2.31	2.65	2.05	2.32	2.05
All other loans and leases	0.46	0.50	0.58	0.84	0.56	1.35	0.56
Percent of loans noncurrent							
Total loans and leases	0.97	0.98	1.22	1.52	1.60	1.46	1.60
Loans secured by real estate (RE)	0.98	0.87	0.93	1.05	1.02	1.01	1.02
1–4 family residential mortgages	0.95	0.91	1.06	1.05	1.09	0.99	1.09
Home equity loans	0.41	0.32	0.41	0.42	0.33	0.43	0.33
Multifamily residential mortgages	0.88	0.43	0.55	0.49	0.49	0.42	0.49
Commercial RE loans	1.01	0.84	0.77	1.03	1.04	1.02	1.04
Construction RE loans	0.80	0.63	0.82	1.15	1.15	1.20	1.15
Commercial and industrial loans	0.86	1.11	1.66	2.44	3.05	2.23	3.05
Loans to individuals	1.59	1.52	1.46	1.58	1.52	1.47	1.52
Credit cards	2.06	2.00	1.89	2.05	2.03	2.09	2.03
Installment loans and other plans	1.19	1.16	1.06	1.41	1.25	1.14	1.25
All other loans and leases	0.31	0.40	0.85	1.18	1.14	1.25	1.14
Percent of loans charged-off, net							
Total loans and leases	0.75	0.70	0.80	1.11	1.35	1.17	1.30
Loans secured by real estate (RE)	0.05	0.10	0.12	0.26	0.18	0.47	0.18
1–4 family residential mortgages	0.07	0.14	0.14	0.32	0.18	0.76	0.18
Home equity loans	0.16	0.19	0.23	0.35	0.23	0.35	0.20
Multifamily residential mortgages	0.07	0.02	0.03	0.04	0.09	0.06	0.12
Commercial RE loans	–0.02	0.03	0.07	0.18	0.16	0.17	0.13
Construction RE loans	–0.01	0.03	0.05	0.15	0.19	0.14	0.24
Commercial and industrial loans	0.38	0.54	0.87	1.50	1.79	1.36	1.84
Loans to individuals	2.92	2.65	2.84	3.14	4.15	3.13	3.86
Credit cards	5.03	4.51	4.43	5.08	7.01	5.16	6.11
Installment loans and other plans	1.23	1.27	1.54	1.66	1.85	1.63	1.96
All other loans and leases	0.53	0.31	0.32	0.60	0.58	0.54	0.58
Loans outstanding ($)							
Total loans and leases	$2,015,585	$2,127,927	$2,227,069	$2,272,837	$2,392,315	$2,235,067	$2,392,315
Loans secured by real estate (RE)	764,944	853,141	892,140	976,120	1,077,175	938,589	1,077,175
1–4 family residential mortgages	381,597	433,807	443,002	472,715	526,620	450,640	526,620
Home equity loans	66,091	67,267	82,672	102,094	132,839	95,630	132,839
Multifamily residential mortgages	23,201	26,561	28,026	30,074	32,216	30,253	32,216
Commercial RE loans	200,469	214,145	221,267	236,472	248,640	231,674	248,640
Construction RE loans	56,261	71,578	76,899	91,482	95,803	89,985	95,803
Farmland loans	10,930	11,957	12,350	12,615	13,208	12,666	13,208
RE loans from foreign offices	26,396	27,825	27,923	30,668	27,848	27,741	27,848
Commercial and industrial loans	583,903	622,004	646,988	597,228	557,741	618,027	557,741
Loans to individuals	386,410	348,634	370,363	390,420	440,558	372,833	440,558
Credit cards*	176,408	147,179	176,372	167,079	203,497	156,182	203,497
Other revolving credit plans	na	na	na	29,259	33,406	21,018	33,406
Installment loans	210,003	201,455	193,991	194,082	203,655	195,633	203,655
All other loans and leases	282,367	306,041	319,144	311,001	319,469	307,060	319,469
Less: Unearned income	2,039	1,893	1,565	1,931	2,628	1,441	2,628

*Prior to March 2001, credit cards included "Other revolving credit plans."

Key indicators, FDIC-insured national banks by asset size
Third quarter 2001 and third quarter 2002

(Dollar figures in millions)

	Less than $100M		$100M to $1B		$1B to $10B		Greater than $10B	
	2001Q3	2002Q3	2001Q3	2002Q3	2001Q3	2002Q3	2001Q3	2002Q3
Number of institutions reporting	1,026	966	971	954	131	128	41	44
Total employees (FTEs)	24,314	22,514	95,953	93,083	110,579	104,119	716,666	763,617
Selected income data ($)								
Net income	$131	$152	$790	$833	$1,527	$2,093	$7,347	$12,322
Net interest income	518	512	2,540	2,507	4,199	3,626	24,153	28,729
Provision for loan losses	42	36	246	190	821	600	7,114	7,077
Noninterest income	228	220	1,410	1,157	2,790	3,827	19,997	22,904
Noninterest expense	528	497	2,566	2,348	3,916	3,683	25,993	27,212
Net operating income	130	146	772	809	1,476	2,021	7,037	11,642
Cash dividends declared	61	68	422	369	1,040	1,098	5,558	7,818
Net charge-offs to loan and lease reserve	34	24	175	125	699	800	5,677	6,749
Selected condition data ($)								
Total assets	53,297	51,373	255,948	255,234	411,486	395,872	2,823,087	3,143,632
Total loans and leases	31,929	30,525	160,584	159,668	261,168	237,876	1,781,386	1,964,247
Reserve for losses	431	428	2,268	2,267	5,439	4,119	35,027	40,847
Securities	12,724	12,690	60,625	63,199	84,949	90,064	368,038	475,122
Other real estate owned	70	76	254	262	175	226	1,307	1,396
Noncurrent loans and leases	345	367	1,582	1,604	2,829	2,312	27,875	34,069
Total deposits	44,747	42,996	206,204	206,833	264,481	262,409	1,780,575	1,977,805
Domestic deposits	44,747	42,996	205,842	206,410	261,760	260,050	1,395,891	1,604,566
Equity capital	6,173	6,068	26,206	26,074	40,300	42,610	256,440	292,088
Off-balance-sheet derivatives	56	21	2,889	1,668	38,821	30,055	19,446,459	25,414,182
Performance ratios (annualized %)								
Return on equity	8.65	10.16	12.27	13.02	15.46	19.81	11.86	17.14
Return on assets	1.00	1.20	1.25	1.33	1.50	2.15	1.06	1.59
Net interest income to assets	3.94	4.03	4.01	3.99	4.13	3.73	3.47	3.70
Loss provision to assets	0.32	0.29	0.39	0.30	0.81	0.62	1.02	0.91
Net operating income to assets	0.99	1.15	1.22	1.29	1.45	2.08	1.01	1.50
Noninterest income to assets	1.73	1.74	2.23	1.84	2.75	3.93	2.87	2.95
Noninterest expense to assets	4.02	3.92	4.06	3.73	3.85	3.79	3.73	3.51
Loss provision to loans and leases	0.54	0.48	0.62	0.48	1.27	1.01	1.58	1.46
Net charge-offs to loans and leases	0.43	0.32	0.44	0.32	1.08	1.34	1.26	1.40
Loss provision to net charge-offs	124.75	152.31	140.80	151.63	117.56	74.97	125.33	104.87
Performance ratios (%)								
Percent of institutions unprofitable	12.18	10.56	4.53	3.25	4.58	2.34	4.88	2.27
Percent of institutions with earnings gains	47.27	63.66	59.94	76.62	62.60	79.69	60.98	70.45
Nonint. income to net operating revenue	30.59	30.11	35.69	31.58	39.92	51.34	45.29	44.36
Nonint. expense to net operating revenue	70.81	67.92	64.97	64.08	56.02	49.42	58.87	52.70
Condition ratios (%)								
Nonperforming assets to assets	0.78	0.89	0.72	0.74	0.74	0.65	1.05	1.16
Noncurrent loans to loans	1.08	1.20	0.99	1.00	1.08	0.97	1.56	1.73
Loss reserve to noncurrent loans	124.88	116.53	143.41	141.33	192.29	178.18	125.66	119.90
Loss reserve to loans	1.35	1.40	1.41	1.42	2.08	1.73	1.97	2.08
Equity capital to assets	11.58	11.81	10.24	10.22	9.79	10.76	9.08	9.29
Leverage ratio	11.20	11.34	9.54	9.45	8.45	9.56	7.40	7.60
Risk-based capital ratio	18.17	18.58	14.69	14.95	13.85	15.94	11.88	12.34
Net loans and leases to assets	59.10	58.59	61.85	61.67	62.15	59.05	61.86	61.18
Securities to assets	23.87	24.70	23.69	24.76	20.64	22.75	13.04	15.11
Appreciation in securities (% of par)	2.27	2.62	2.37	2.82	2.16	2.46	1.67	2.06
Residential mortgage assets to assets	21.77	22.22	24.61	24.73	26.95	25.40	20.32	23.91
Total deposits to assets	83.96	83.69	80.56	81.04	64.27	66.29	63.07	62.91
Core deposits to assets	70.49	70.62	67.05	68.05	54.09	56.59	42.91	44.95
Volatile liabilities to assets	15.23	14.86	17.95	17.18	25.78	23.72	35.08	32.38

Loan performance, FDIC-insured national banks by asset size
Third quarter 2001 and third quarter 2002

(Dollar figures in millions)

	Less than $100M		$100M to $1B		$1B to $10B		Greater than $10B	
	2001Q3	2002Q3	2001Q3	2002Q3	2001Q3	2002Q3	2001Q3	2002Q3
Percent of loans past due 30–89 days								
Total loans and leases	1.42	1.37	1.28	1.07	1.36	1.18	1.38	1.14
Loans secured by real estate (RE)	1.21	1.21	1.06	0.89	0.97	0.92	1.37	1.11
1–4 family residential mortgages	1.51	1.55	1.28	1.16	0.94	1.31	1.71	1.41
Home equity loans	0.81	0.61	0.76	0.53	0.89	0.59	0.94	0.66
Multifamily residential mortgages	0.97	0.49	0.44	0.52	0.94	0.45	0.71	0.32
Commercial RE loans	0.95	1.03	0.87	0.70	0.81	0.51	0.79	0.63
Construction RE loans	1.24	0.96	1.35	0.93	1.48	1.06	1.33	1.19
Commercial and industrial loans	1.84	1.63	1.36	1.23	1.54	1.37	0.87	0.76
Loans to individuals	2.35	2.31	2.46	2.02	2.31	1.91	2.32	2.16
Credit cards	2.72	2.36	5.48	3.71	2.77	2.04	2.56	2.59
Installment loans and other plans	2.38	2.34	1.96	1.78	2.09	2.00	2.40	2.08
All other loans and leases	0.75	0.82	0.76	0.64	1.07	0.72	1.40	0.55
Percent of loans noncurrent								
Total loans and leases	1.08	1.20	0.99	1.00	1.08	0.97	1.56	1.73
Loans secured by real estate (RE)	0.93	1.07	0.82	0.85	0.81	0.86	1.08	1.07
1–4 family residential mortgages	0.81	0.81	0.71	0.76	0.69	0.94	1.09	1.14
Home equity loans	0.39	0.34	0.37	0.25	0.45	0.39	0.43	0.33
Multifamily residential mortgages	0.64	1.20	0.53	0.49	0.37	0.38	0.41	0.49
Commercial RE loans	1.04	1.13	0.91	0.99	0.93	0.87	1.08	1.10
Construction RE loans	0.71	1.28	0.94	0.85	1.22	0.87	1.26	1.26
Commercial and industrial loans	1.81	1.91	1.48	1.62	1.69	1.41	2.33	3.30
Loans to individuals	0.77	0.79	1.07	0.97	1.43	1.06	1.52	1.61
Credit cards	1.74	1.79	4.16	3.59	2.41	1.54	1.98	2.05
Installment loans and other plans	0.75	0.76	0.53	0.55	0.76	0.83	1.30	1.40
All other loans and leases	1.10	1.34	1.07	0.99	0.52	0.53	1.32	1.19
Percent of loans charged-off, net								
Total loans and leases	0.43	0.32	0.44	0.32	1.08	1.34	1.26	1.40
Loans secured by real estate (RE)	0.06	0.05	0.08	0.06	0.16	0.20	0.60	0.19
1–4 family residential mortgages	0.05	0.07	0.07	0.08	0.22	0.33	0.95	0.17
Home equity loans	0.04	0.02	–0.06	0.03	0.21	0.12	0.39	0.21
Multifamily residential mortgages	0.64	0.01	0.04	0.02	0.04	0.42	0.06	0.08
Commercial RE loans	0.04	0.06	0.11	0.06	0.10	0.07	0.21	0.16
Construction RE loans	0.03	0.00	0.09	0.07	0.12	0.11	0.15	0.30
Commercial and industrial loans	0.93	0.70	0.71	0.67	0.96	1.07	1.44	2.00
Loans to individuals	0.98	1.06	1.87	1.10	3.65	5.05	3.16	3.87
Credit cards	3.22	5.03	6.87	2.23	6.89	11.08	4.82	5.62
Installment loans and other plans	0.91	0.88	0.92	0.92	1.23	0.87	1.80	2.23
All other loans and leases	0.88	0.29	0.36	0.56	0.68	0.33	0.53	0.61
Loans outstanding ($)								
Total loans and leases	$31,929	$30,525	$160,584	$159,668	$261,168	$237,876	$1,781,386	$1,964,247
Loans secured by real estate (RE)	18,573	18,091	101,682	104,415	138,161	123,887	680,173	830,781
1–4 family residential mortgages	8,282	7,852	41,264	39,648	63,563	51,160	337,531	427,960
Home equity loans	475	490	4,365	5,061	9,280	9,712	81,511	117,577
Multifamily residential mortgages	404	442	3,683	3,930	4,933	4,181	21,233	23,663
Commercial RE loans	5,442	5,481	37,333	40,026	41,873	41,214	147,026	161,919
Construction RE loans	1,830	1,658	10,717	11,047	16,566	15,401	60,871	67,697
Farmland loans	2,141	2,168	4,318	4,703	1,799	1,713	4,408	4,624
RE loans from foreign offices	0	0	3	1	146	506	27,592	27,342
Commercial and industrial loans	5,415	4,953	28,845	27,269	49,347	46,480	534,421	479,039
Loans to individuals	4,275	3,853	20,347	18,215	53,750	45,318	294,460	373,172
Credit cards*	127	167	3,107	2,601	22,754	17,261	130,193	183,467
Other revolving credit plans	69	61	419	356	1,779	2,413	18,752	30,576
Installment loans	4,079	3,624	16,821	15,257	29,217	25,644	145,516	159,130
All other loans and leases	3,723	3,671	9,916	9,963	20,005	22,278	273,416	283,558
Less: Unearned income	57	42	205	194	95	88	1,084	2,304

Key indicators, FDIC-insured national banks by region
Third quarter 2002

(Dollar figures in millions)

	Northeast	Southeast	Central	Midwest	Southwest	West	All institutions
Number of institutions reporting	232	293	419	432	498	218	2,092
Total employees (FTEs)	292,318	252,626	211,289	64,516	57,224	105,360	983,333
Selected income data ($)							
Net income	$4,295	$3,658	$3,496	$1,088	$566	$2,297	$15,399
Net interest income	10,044	8,643	7,943	2,892	1,603	4,250	35,374
Provision for loan losses	3,660	972	1,401	938	112	820	7,904
Noninterest income	10,621	5,522	4,983	2,467	647	3,869	28,108
Noninterest expense	10,602	8,369	6,842	2,823	1,442	3,663	33,740
Net operating income	4,226	3,435	3,134	1,056	498	2,269	14,618
Cash dividends declared	2,774	2,123	2,381	347	424	1,302	9,352
Net charge-offs to loan and lease reserve	3,381	1,151	1,365	704	94	1,003	7,698
Selected condition data ($)							
Total assets	1,019,335	1,069,426	964,712	231,050	163,002	398,585	3,846,111
Total loans and leases	623,830	608,822	634,134	166,384	91,966	267,179	2,392,315
Reserve for losses	16,675	9,828	11,683	3,137	1,469	4,869	47,661
Securities	166,026	190,594	173,322	29,525	41,139	40,469	641,075
Other real estate owned	235	637	652	128	135	174	1,961
Noncurrent loans and leases	14,094	8,412	10,234	1,973	975	2,665	38,352
Total deposits	688,352	714,238	576,575	130,457	131,064	249,356	2,490,044
Domestic deposits	445,163	651,271	533,624	124,528	129,900	229,536	2,114,022
Equity capital	100,682	102,097	80,792	24,826	16,417	42,027	366,841
Off-balance-sheet derivatives	8,518,286	13,785,715	1,669,483	7,713	9,527	1,138,869	25,129,592
Performance ratios (annualized %)							
Return on equity	17.37	14.53	17.54	18.03	13.97	22.03	17.04
Return on assets	1.69	1.39	1.47	1.91	1.41	2.38	1.62
Net interest income to assets	3.95	3.28	3.34	5.07	3.99	4.40	3.73
Loss provision to assets	1.44	0.37	0.59	1.64	0.28	0.85	0.83
Net operating income to assets	1.66	1.30	1.32	1.85	1.24	2.35	1.54
Noninterest income to assets	4.18	2.10	2.10	4.32	1.61	4.01	2.96
Noninterest expense to assets	4.17	3.18	2.88	4.95	3.59	3.79	3.56
Loss provision to loans and leases	2.36	0.64	0.90	2.34	0.49	1.26	1.34
Net charge-offs to loans and leases	2.18	0.76	0.88	1.76	0.41	1.54	1.30
Loss provision to net charge-offs	108.24	84.45	102.69	133.26	118.92	81.77	102.67
Performance ratios (%)							
Percent of institutions unprofitable	6.03	10.24	5.01	4.86	5.02	11.93	6.55
Percent of institutions with earnings gains	70.69	78.16	69.21	68.06	69.48	71.56	70.70
Nonint. income to net operating revenue	51.40	38.98	38.55	46.04	28.75	47.65	44.28
Nonint. expense to net operating revenue	51.30	59.09	52.93	52.67	64.09	45.12	53.15
Condition ratios (%)							
Nonperforming assets to assets	1.47	0.85	1.16	0.91	0.68	0.71	1.07
Noncurrent loans to loans	2.26	1.38	1.61	1.19	1.06	1.00	1.60
Loss reserve to noncurrent loans	118.32	116.84	114.17	159.02	150.61	182.70	124.27
Loss reserve to loans	2.67	1.61	1.84	1.89	1.60	1.82	1.99
Equity capital to assets	9.88	9.55	8.37	10.74	10.07	10.54	9.54
Leverage ratio	8.45	7.34	7.41	9.33	8.51	8.83	7.98
Risk-based capital ratio	13.24	12.24	12.27	14.18	14.09	13.90	12.87
Net loans and leases to assets	59.56	56.01	64.52	70.65	55.52	65.81	60.96
Securities to assets	16.29	17.82	17.97	12.78	25.24	10.15	16.67
Appreciation in securities (% of par)	1.58	2.20	2.13	3.26	2.92	3.56	2.20
Residential mortgage assets to assets	14.51	30.12	26.66	22.99	27.05	25.66	24.10
Total deposits to assets	67.53	66.79	59.77	56.46	80.41	62.56	64.74
Core deposits to assets	35.67	54.59	49.49	49.46	67.35	49.70	48.02
Volatile liabilities to assets	41.90	23.45	28.13	27.76	18.78	29.90	30.24

Loan performance, FDIC-insured national banks by region
Third quarter 2002

(Dollar figures in millions)

	Northeast	Southeast	Central	Midwest	Southwest	West	All institutions
Percent of loans past due 30–89 days							
Total loans and leases	1.25	0.81	1.33	1.42	1.11	1.04	1.14
Loans secured by real estate (RE)	1.03	0.92	1.43	0.68	0.97	0.88	1.07
1–4 family residential mortgages	1.31	1.30	1.99	0.68	1.14	0.98	1.38
Home equity loans	0.49	0.69	0.78	0.38	0.51	0.53	0.65
Multifamily residential mortgages	0.28	0.23	0.53	0.15	0.40	0.30	0.37
Commercial RE loans	0.42	0.42	0.93	0.68	0.70	0.63	0.63
Construction RE loans	0.65	0.52	1.54	1.13	1.31	1.65	1.14
Commercial and industrial loans	0.80	0.46	1.12	1.42	1.19	0.85	0.84
Loans to individuals	2.32	1.77	1.93	2.43	1.66	1.97	2.13
Credit cards	2.69	2.54	2.17	2.66	1.08	2.14	2.56
Installment loans and other plans	2.46	1.85	2.04	1.85	1.77	1.97	2.05
All other loans and leases	0.49	0.25	0.83	0.85	0.83	0.50	0.56
Percent of loans noncurrent							
Total loans and leases	2.26	1.38	1.61	1.19	1.06	1.00	1.60
Loans secured by real estate (RE)	1.30	0.75	1.51	0.55	0.86	0.56	1.02
1–4 family residential mortgages	1.44	0.73	2.02	0.33	0.72	0.38	1.09
Home equity loans	0.27	0.24	0.47	0.28	0.51	0.20	0.33
Multifamily residential mortgages	0.43	0.52	0.55	0.32	0.42	0.38	0.49
Commercial RE loans	0.70	0.93	1.48	1.05	0.99	0.77	1.04
Construction RE loans	0.71	1.09	1.29	0.67	0.91	1.48	1.15
Commercial and industrial loans	3.57	3.32	2.95	1.44	1.62	2.13	3.05
Loans to individuals	2.22	0.47	0.71	1.87	0.66	1.37	1.52
Credit cards	2.11	1.58	1.43	2.18	0.57	1.80	2.03
Installment loans and other plans	3.51	0.48	0.62	0.98	0.70	0.55	1.25
All other loans and leases	1.66	1.07	0.74	1.00	1.42	0.78	1.14
Percent of loans charged-off, net							
Total loans and leases	2.18	0.76	0.88	1.76	0.41	1.54	1.30
Loans secured by real estate (RE)	0.15	0.13	0.34	0.04	0.11	0.06	0.18
1–4 family residential mortgages	0.08	0.16	0.37	0.04	0.08	0.06	0.18
Home equity loans	0.07	0.12	0.38	0.07	0.15	0.07	0.20
Multifamily residential mortgages	0.00	0.02	0.17	0.00	0.86	–0.01	0.12
Commercial RE loans	0.03	0.07	0.30	0.00	0.11	0.04	0.13
Construction RE loans	0.42	0.20	0.30	0.12	0.01	0.21	0.24
Commercial and industrial loans	2.07	2.23	1.67	0.88	0.67	1.41	1.84
Loans to individuals	4.98	1.20	1.80	4.55	1.24	6.29	3.86
Credit cards	5.79	8.66	3.54	5.86	2.30	8.37	6.11
Installment loans and other plans	3.67	1.13	1.47	0.75	1.22	1.54	1.96
All other loans and leases	0.89	0.19	0.61	0.33	0.33	0.65	0.58
Loans outstanding ($)							
Total loans and leases	$623,830	$608,822	$634,134	$166,384	$91,966	$267,179	$2,392,315
Loans secured by real estate (RE)	169,274	327,293	309,512	67,259	51,257	152,580	1,077,175
1–4 family residential mortgages	73,623	175,249	140,461	39,846	19,360	78,081	526,620
Home equity loans	23,932	34,870	48,295	4,427	1,400	19,914	132,839
Multifamily residential mortgages	4,008	8,510	12,706	1,634	1,757	3,602	32,216
Commercial RE loans	35,021	73,771	71,402	13,749	18,922	35,775	248,640
Construction RE loans	8,174	28,709	32,496	4,449	8,035	13,941	95,803
Farmland loans	499	2,834	3,672	3,155	1,783	1,265	13,208
RE loans from foreign offices	24,017	3,350	480	0	0	1	27,848
Commercial and industrial loans	173,281	146,535	143,842	24,311	23,118	46,654	557,741
Loans to individuals	180,134	60,629	81,643	58,076	12,281	47,796	440,558
Credit cards	113,192	567	13,229	43,569	281	32,659	203,497
Other revolving credit plans	21,212	2,891	5,122	858	612	2,712	33,406
Installment loans	45,730	57,171	63,291	13,649	11,389	12,425	203,655
All other loans and leases	103,229	74,593	99,227	16,752	5,409	20,260	319,469
Less: Unearned income	2,088	228	89	13	99	111	2,628

Key indicators, FDIC-insured commercial banks
Annual 1998–2001, year-to-date through September 30, 2002, third quarter 2001, and third quarter 2002

(Dollar figures in millions)

	1998	1999	2000	2001	Preliminary 2002YTD	2001Q3	Preliminary 2002Q3
Number of institutions reporting	8,773	8,579	8,315	8,080	7,933	8,149	7,933
Total employees (FTEs)	1,626,978	1,657,602	1,670,861	1,701,721	1,729,035	1,671,152	1,729,035
Selected income data ($)							
Net income	$61,752	$71,491	$70,945	$73,978	$68,512	$17,365	$23,344
Net interest income	182,752	192,141	203,960	215,157	176,779	54,256	
Provision for loan losses	22,215	21,817	30,013	43,420	35,192	11,583	12,699
Noninterest income	123,642	144,373	153,370	157,049	127,642	38,838	43,624
Noninterest expense	194,133	204,213	216,111	222,297	170,995	56,173	58,120
Net operating income	59,194	71,257	72,534	71,148	65,688	16,667	
Cash dividends declared	41,004	51,936	53,854	54,180	49,295	13,572	15,388
Net charge-offs to loan and lease reserve	20,740	20,367	24,787	36,557	33,189	9,258	11,524
Selected condition data ($)							
Total assets	5,442,416	5,735,079	6,244,467	6,551,650	6,932,604	6,555,519	6,932,604
Total loans and leases	3,238,286	3,491,659	3,819,516	3,889,473	4,069,196	3,860,780	4,069,196
Reserve for losses	57,261	58,767	64,145	72,314	75,502	68,213	75,502
Securities	979,855	1,046,530	1,078,983	1,171,924	1,292,320	1,106,870	1,292,320
Other real estate owned	3,150	2,796	2,912	3,565	3,954	3,459	3,954
Noncurrent loans and leases	31,253	33,002	42,942	54,905	61,170	51,693	61,170
Total deposits	3,681,390	3,831,062	4,179,571	4,377,512	4,541,081	4,294,612	4,541,081
Domestic deposits	3,109,356	3,175,473	3,472,905	3,748,007	3,928,107	3,613,715	3,928,107
Equity capital	462,042	479,610	530,542	593,883	639,317	585,720	639,317
Off-balance-sheet derivatives	33,007,016	34,819,179	40,571,148	45,057,710	53,185,258	50,970,222	53,185,258
Performance ratios (annualized %)							
Return on equity	13.92	15.30	14.01	13.12	14.88	12.17	14.84
Return on assets	1.19	1.31	1.19	1.15	1.37	1.08	1.37
Net interest income to assets	3.51	3.51	3.41	3.36	3.53	3.36	3.49
Loss provision to assets	0.43	0.40	0.50	0.68	0.70	0.72	0.74
Net operating income to assets	1.14	1.30	1.21	1.11	1.31	1.03	1.27
Noninterest income to assets	2.37	2.64	2.56	2.45	2.55	2.41	2.56
Noninterest expense to assets	3.73	3.73	3.61	3.47	3.41	3.48	3.41
Loss provision to loans and leases	0.72	0.66	0.82	1.13	1.19	1.20	1.27
Net charge-offs to loans and leases	0.67	0.61	0.67	0.95	1.12	0.96	1.15
Loss provision to net charge-offs	104.81	107.11	121.08	118.77	106.03	125.12	110.19
Performance ratios (%)							
Percent of institutions unprofitable	6.11	7.52	7.34	8.08	6.24	8.22	6.13
Percent of institutions with earnings gains	61.21	62.82	67.34	56.31	72.60	55.06	72.19
Nonint. income to net operating revenue	40.35	42.90	42.92	42.19	41.93	41.72	42.25
Nonint. expense to net operating revenue	63.36	60.68	60.48	59.72	56.17	60.34	56.29
Condition ratios (%)							
Nonperforming assets to assets	0.65	0.63	0.74	0.92	0.97	0.85	0.97
Noncurrent loans to loans	0.97	0.95	1.12	1.41	1.50	1.34	1.50
Loss reserve to noncurrent loans	183.22	178.07	149.38	131.71	123.43	131.96	123.43
Loss reserve to loans	1.77	1.68	1.68	1.86	1.86	1.77	1.86
Equity capital to assets	8.49	8.36	8.50	9.06	9.22	8.93	9.22
Leverage ratio	7.54	7.79	7.70	7.79	8.00	7.81	8.00
Risk-based capital ratio	12.23	12.15	12.12	12.71	12.95	12.45	12.95
Net loans and leases to assets	58.45	59.86	60.14	58.26	57.61	57.85	57.61
Securities to assets	18.00	18.25	17.28	17.89	18.64	16.88	18.64
Appreciation in securities (% of par)	1.07	–2.31	0.20	0.82	2.43	2.07	2.43
Residential mortgage assets to assets	20.93	20.78	20.20	21.64	22.74	20.53	22.74
Total deposits to assets	67.64	66.80	66.93	66.82	65.50	65.51	65.50
Core deposits to assets	49.39	46.96	46.39	48.73	48.23	46.27	48.23
Volatile liabilities to assets	31.68	34.94	34.98	31.46	31.28	33.30	31.28

Loan performance, FDIC-insured commercial banks
Annual 1998–2001, year-to-date through September 30, 2002, third quarter 2001, and third quarter 2002

(Dollar figures in millions)

	1998	1999	2000	2001	Preliminary 2002YTD	2001Q3	Preliminary 2002Q3
Percent of loans past due 30–89 days							
Total loans and leases	1.26	1.14	1.26	1.37	1.14	1.36	1.14
Loans secured by real estate (RE)	1.26	1.09	1.26	1.31	1.03	1.23	1.03
1–4 family residential mortgages	1.44	1.43	1.72	1.67	1.35	1.47	1.35
Home equity loans	0.98	0.75	0.98	0.91	0.61	0.88	0.61
Multifamily residential mortgages	0.86	0.57	0.55	0.69	0.40	0.73	0.40
Commercial RE loans	0.99	0.69	0.74	0.90	0.70	0.90	0.70
Construction RE loans	1.50	0.98	1.06	1.21	1.03	1.27	1.03
Commercial and industrial loans	0.88	0.79	0.83	1.01	0.91	1.10	0.91
Loans to individuals	2.43	2.33	2.47	2.46	2.19	2.37	2.19
Credit cards	2.58	2.59	2.66	2.69	2.76	2.76	2.76
Installment loans and other plans	2.33	2.18	2.34	2.55	2.02	2.30	2.02
All other loans and leases	0.51	0.54	0.65	0.84	0.56	1.13	0.56
Percent of loans noncurrent							
Total loans and leases	0.97	0.95	1.12	1.41	1.50	1.34	1.50
Loans secured by real estate (RE)	0.91	0.79	0.81	0.96	0.93	0.92	0.93
1–4 family residential mortgages	0.88	0.82	0.90	0.96	0.97	0.91	0.97
Home equity loans	0.42	0.33	0.37	0.39	0.30	0.41	0.30
Multifamily residential mortgages	0.83	0.41	0.44	0.43	0.39	0.40	0.39
Commercial RE loans	0.95	0.77	0.72	0.96	0.96	0.94	0.96
Construction RE loans	0.81	0.67	0.76	1.06	1.09	1.07	1.09
Commercial and industrial loans	0.99	1.18	1.66	2.41	3.01	2.18	3.01
Loans to individuals	1.52	1.42	1.41	1.48	1.45	1.42	1.45
Credit cards	2.22	2.05	2.01	2.12	2.14	2.18	2.14
Installment loans and other plans	1.06	1.04	0.98	1.21	1.11	1.06	1.11
All other loans and leases	0.34	0.39	0.69	0.96	1.03	0.99	1.03
Percent of loans charged-off, net							
Total loans and leases	0.67	0.61	0.67	0.95	1.12	0.96	1.15
Loans secured by real estate (RE)	0.05	0.08	0.09	0.19	0.15	0.30	0.15
1–4 family residential mortgages	0.07	0.11	0.11	0.22	0.14	0.47	0.15
Home equity loans	0.14	0.15	0.18	0.27	0.19	0.26	0.16
Multifamily residential mortgages	0.05	0.02	0.03	0.04	0.06	0.02	0.07
Commercial RE loans	0.00	0.03	0.05	0.14	0.13	0.13	0.11
Construction RE loans	0.01	0.04	0.05	0.14	0.16	0.14	0.22
Commercial and industrial loans	0.42	0.58	0.81	1.43	1.75	1.30	2.04
Loans to individuals	2.69	2.32	2.43	2.73	3.40	2.71	3.23
Credit cards	5.19	4.45	4.39	5.14	6.68	5.20	6.04
Installment loans and other plans	1.04	1.04	1.18	1.29	1.40	1.27	1.48
All other loans and leases	0.52	0.34	0.31	0.55	0.52	0.45	0.52
Loans outstanding ($)							
Total loans and leases	$3,238,286	$3,491,659	$3,819,516	$3,889,473	$4,069,196	$3,860,780	$4,069,196
Loans secured by real estate (RE)	1,345,589	1,510,342	1,673,325	1,800,226	1,970,709	1,747,875	1,970,709
1–4 family residential mortgages	668,706	737,110	790,030	810,844	881,535	785,660	881,535
Home equity loans	96,647	102,339	127,694	154,157	201,250	145,755	201,250
Multifamily residential mortgages	43,242	53,168	60,406	64,127	68,805	63,500	68,805
Commercial RE loans	370,544	417,633	466,453	505,827	541,665	492,459	541,665
Construction RE loans	106,719	135,632	162,613	193,047	205,853	190,512	205,853
Farmland loans	29,096	31,902	34,096	35,531	37,787	35,410	37,787
RE loans from foreign offices	30,635	32,558	32,033	36,695	33,815	34,580	33,815
Commercial and industrial loans	898,555	969,257	1,051,992	981,394	921,365	1,011,433	921,365
Loans to individuals	570,863	558,424	606,663	629,896	688,201	607,562	688,201
Credit cards*	228,781	212,051	249,372	232,899	267,659	218,398	267,659
Other revolving credit plans	na	na	na	34,203	38,376	25,517	38,376
Installment loans	342,081	346,373	357,291	362,794	382,166	363,647	382,166
All other loans and leases	427,397	457,309	490,448	481,068	492,554	496,574	492,554
Less: Unearned income	4,117	3,673	2,912	3,110	3,634	2,665	3,634

*Prior to March 2001, credit cards included "Other revolving credit plans."

Key indicators, FDIC-insured commercial banks by asset size
Third quarter 2001 and third quarter 2002

(Dollar figures in millions)

	Less than $100M		$100M to $1B		$1B to $10B		Greater than $10B	
	2001Q3	2002Q3	2001Q3	2002Q3	2001Q3	2002Q3	2001Q3	2002Q3
Number of institutions reporting	4,598	4,285	3,150	3,249	321	319	80	80
Total employees (FTEs)	93,154	86,296	294,055	298,041	245,562	244,282	1,038,381	1,100,416
Selected income data ($)								
Net income	$527	$610	$2,428	$2,783	$2,911	$3,765	$11,499	$16,186
Net interest income	2,173	2,168	7,984	8,589	8,769	8,504	35,330	40,375
Provision for loan losses	173	166	760	789	1,643	1,375	9,007	10,369
Noninterest income	567	568	3,132	3,066	5,150	6,347	29,989	33,644
Noninterest expense	1,892	1,813	6,960	7,101	7,977	7,930	39,344	41,275
Net operating income	515	584	2,366	2,701	2,802	3,602	10,985	14,826
Cash dividends declared	269	238	1,158	1,140	4,160	3,434	7,985	10,576
Net charge-offs to loan and lease reserve	118	110	529	532	1,353	1,452	7,257	9,430
Selected condition data ($)								
Total assets	225,793	216,803	803,189	855,528	898,167	916,995	4,628,371	4,943,277
Total loans and leases	139,619	134,048	524,200	557,861	566,495	554,757	2,630,466	2,822,529
Reserve for losses	1,960	1,938	7,443	8,162	10,838	9,919	47,972	55,482
Securities	52,272	51,784	177,829	194,975	201,263	226,661	675,505	818,900
Other real estate owned	292	324	854	1,068	475	587	1,837	1,975
Noncurrent loans and leases	1,562	1,572	5,031	5,671	6,349	6,084	38,752	47,843
Total deposits	190,362	182,243	655,228	695,578	611,040	630,950	2,837,981	3,032,309
Domestic deposits	190,362	182,243	653,449	693,706	598,099	621,208	2,171,806	2,430,950
Equity capital	25,393	24,456	79,215	84,973	87,965	94,699	393,147	435,188
Off-balance-sheet derivatives	84	155	5,930	5,996	89,459	81,759	51,253,507	53,606,679
Performance ratios (annualized %)								
Return on equity	8.42	10.13	12.50	13.37	13.61	16.15	12.03	15.10
Return on assets	0.95	1.14	1.23	1.32	1.31	1.67	1.01	1.33
Net interest income to assets	3.91	4.05	4.03	4.09	3.96	3.77	3.11	3.32
Loss provision to assets	0.31	0.31	0.38	0.38	0.74	0.61	0.79	0.85
Net operating income to assets	0.93	1.09	1.19	1.29	1.27	1.60	0.97	1.22
Noninterest income to assets	1.02	1.06	1.58	1.46	2.33	2.81	2.64	2.76
Noninterest expense to assets	3.40	3.39	3.51	3.38	3.60	3.51	3.46	3.39
Loss provision to loans and leases	0.50	0.50	0.59	0.58	1.17	1.00	1.37	1.49
Net charge-offs to loans and leases	0.34	0.33	0.41	0.39	0.97	1.05	1.10	1.36
Loss provision to net charge-offs	145.81	151.43	143.85	148.37	121.43	94.65	124.11	109.95
Performance ratios (%)								
Percent of institutions unprofitable	11.40	8.94	3.84	2.68	5.92	3.76	7.50	5.00
Percent of institutions with earnings gains	49.83	67.63	61.21	77.75	67.91	77.43	62.50	70.00
Nonint. income to net operating revenue	20.69	20.76	28.18	26.31	37.00	42.74	45.91	45.45
Nonint. expense to net operating revenue	69.05	66.27	62.62	60.93	57.31	53.40	60.23	55.76
Condition ratios (%)								
Nonperforming assets to assets	0.82	0.89	0.73	0.79	0.77	0.74	0.89	1.05
Noncurrent loans to loans	1.12	1.17	0.96	1.02	1.12	1.10	1.47	1.70
Loss reserve to noncurrent loans	125.49	123.26	147.96	143.92	170.71	163.04	123.79	115.97
Loss reserve to loans	1.40	1.45	1.42	1.46	1.91	1.79	1.82	1.97
Equity capital to assets	11.25	11.28	9.86	9.93	9.79	10.33	8.49	8.80
Leverage ratio	10.85	10.82	9.26	9.31	8.66	9.18	7.23	7.41
Risk-based capital ratio	17.11	17.16	14.09	14.22	13.58	14.68	11.81	12.30
Net loans and leases to assets	60.97	60.94	64.34	64.25	61.87	59.42	55.80	55.98
Securities to assets	23.15	23.89	22.14	22.79	22.41	24.72	14.59	16.57
Appreciation in securities (% of par)	2.30	2.68	2.35	2.77	2.08	2.35	1.97	2.36
Residential mortgage assets to assets	21.44	21.81	23.77	23.90	26.25	25.89	18.82	22.00
Total deposits to assets	84.31	84.06	81.58	81.30	68.03	68.81	61.32	61.34
Core deposits to assets	70.93	70.98	67.76	67.67	54.30	56.06	39.78	42.41
Volatile liabilities to assets	15.02	14.83	17.79	17.63	26.75	25.09	38.15	35.51

Loan performance, FDIC-insured commercial banks by asset size
Third quarter 2001 and third quarter 2002

(Dollar figures in millions)

	Less than $100M		$100M to $1B		$1B to $10B		Greater than $10B	
	2001Q3	2002Q3	2001Q3	2002Q3	2001Q3	2002Q3	2001Q3	2002Q3
Percent of loans past due 30–89 days								
Total loans and leases	1.56	1.47	1.31	1.13	1.35	1.17	1.36	1.13
Loans secured by real estate (RE)	1.39	1.31	1.11	0.94	0.99	0.89	1.33	1.08
1–4 family residential mortgages	1.77	1.70	1.39	1.29	1.08	1.13	1.56	1.39
Home equity loans	0.83	0.67	0.78	0.52	0.88	0.54	0.90	0.62
Multifamily residential mortgages	0.76	0.65	0.51	0.56	0.65	0.40	0.83	0.34
Commercial RE loans	1.18	1.03	0.88	0.72	0.85	0.74	0.91	0.64
Construction RE loans	1.38	1.31	1.33	0.96	1.21	1.00	1.25	1.06
Commercial and industrial loans	1.90	1.77	1.53	1.32	1.54	1.39	0.96	0.75
Loans to individuals	2.59	2.46	2.40	2.30	2.43	2.02	2.35	2.20
Credit cards	2.34	2.54	5.46	4.87	3.01	2.73	2.60	2.70
Installment loans and other plans	2.64	2.50	2.05	2.01	2.18	1.79	2.36	2.04
All other loans and leases	0.79	0.83	0.72	0.75	0.96	0.76	1.19	0.51
Percent of loans noncurrent								
Total loans and leases	1.12	1.17	0.96	1.02	1.12	1.10	1.47	1.70
Loans secured by real estate (RE)	0.98	1.03	0.82	0.88	0.87	0.87	0.97	0.96
1–4 family residential mortgages	0.86	0.90	0.73	0.78	0.83	0.90	0.98	1.03
Home equity loans	0.40	0.31	0.37	0.26	0.45	0.31	0.41	0.31
Multifamily residential mortgages	0.53	0.76	0.53	0.45	0.39	0.25	0.35	0.40
Commercial RE loans	1.13	1.14	0.89	0.95	0.89	0.89	0.97	0.97
Construction RE loans	0.94	1.08	0.94	1.10	1.18	1.13	1.08	1.07
Commercial and industrial loans	1.72	1.73	1.43	1.54	1.77	1.90	2.35	3.43
Loans to individuals	0.98	0.98	0.98	0.98	1.31	1.01	1.52	1.59
Credit cards	1.73	1.36	3.70	3.56	2.42	1.84	2.07	2.14
Installment loans and other plans	0.97	0.99	0.64	0.64	0.68	0.65	1.26	1.30
All other loans and leases	1.07	1.27	1.05	1.19	0.67	0.81	1.01	1.03
Percent of loans charged-off, net								
Total loans and leases	0.34	0.33	0.41	0.39	0.97	1.05	1.10	1.36
Loans secured by real estate (RE)	0.06	0.09	0.07	0.09	0.14	0.18	0.44	0.16
1–4 family residential mortgages	0.06	0.08	0.07	0.08	0.15	0.20	0.68	0.15
Home equity loans	–0.05	0.04	0.02	0.05	0.17	0.13	0.32	0.18
Multifamily residential mortgages	0.19	0.05	0.00	0.02	0.00	0.18	0.03	0.05
Commercial RE loans	0.07	0.12	0.07	0.08	0.08	0.11	0.19	0.13
Construction RE loans	0.06	0.09	0.09	0.17	0.29	0.31	0.11	0.22
Commercial and industrial loans	0.70	0.74	0.80	0.89	1.16	1.33	1.40	2.35
Loans to individuals	0.95	0.99	1.61	1.48	3.39	3.93	2.78	3.37
Credit cards	3.01	4.05	6.83	5.78	7.12	9.48	4.73	5.56
Installment loans and other plans	0.89	0.90	0.90	0.91	1.12	1.03	1.42	1.70
All other loans and leases	0.55	0.32	0.60	0.50	0.75	0.43	0.41	0.53
Loans outstanding ($)								
Total loans and leases	$139,619	$134,048	$524,200	$557,861	$566,495	$554,757	$2,630,466	$2,822,529
Loans secured by real estate (RE)	81,050	79,687	343,533	378,163	313,570	315,137	1,009,723	1,197,721
1–4 family residential mortgages	35,789	33,936	130,137	132,332	127,243	114,807	492,490	600,460
Home equity loans	2,186	2,334	14,818	18,504	19,219	22,700	109,532	157,711
Multifamily residential mortgages	1,804	1,811	11,421	13,222	13,379	13,597	36,896	40,175
Commercial RE loans	23,260	23,905	130,656	149,990	108,152	116,684	230,392	251,085
Construction RE loans	7,773	7,420	42,121	47,877	41,368	42,427	99,250	108,129
Farmland loans	10,239	10,281	14,342	16,205	3,865	4,018	6,965	7,284
RE loans from foreign offices	0	0	38	33	344	905	34,198	32,877
Commercial and industrial loans	24,083	22,433	93,259	94,890	117,541	110,402	776,550	693,641
Loans to individuals	17,865	15,850	59,912	55,838	99,377	91,070	430,409	525,443
Credit cards*	483	421	7,027	6,789	37,283	29,818	173,604	230,631
Other revolving credit plans	298	264	1,660	1,604	2,884	3,802	20,675	32,706
Installment loans	17,083	15,165	51,225	47,446	59,209	57,450	236,130	262,105
All other loans and leases	16,788	16,201	28,115	29,551	36,597	38,649	415,073	408,153
Less: Unearned income	167	123	618	582	589	501	1,290	2,427

Key indicators, FDIC-insured commercial banks by region
Third quarter 2002

(Dollar figures in millions)

	Northeast	Southeast	Central	Midwest	Southwest	West	All institutions
Number of institutions reporting	628	1,378	1,690	2,063	1,310	864	7,933
Total employees (FTEs)	531,854	459,329	329,604	116,918	107,675	183,655	1,729,035
Selected income data ($)							
Net income	$6,240	$6,061	$4,751	$1,627	$976	$3,690	$23,344
Net interest income	17,431	14,772	11,865	4,456	2,879	8,233	59,636
Provision for loan losses	5,823	1,954	2,022	1,110	226	1,564	12,699
Noninterest income	18,056	9,352	6,827	2,844	1,058	5,487	43,624
Noninterest expense	20,862	14,056	10,361	3,906	2,488	6,448	58,120
Net operating income	5,685	5,677	4,266	1,581	893	3,610	21,713
Cash dividends declared	4,070	4,900	3,307	557	589	1,965	15,388
Net charge-offs to loan and lease reserve	5,244	1,821	1,904	826	175	1,555	11,524
Selected condition data ($)							
Total assets	2,351,159	1,717,873	1,424,073	384,844	288,028	766,626	6,932,604
Total loans and leases	1,160,029	1,049,822	929,723	271,109	167,961	490,551	4,069,196
Reserve for losses	26,541	16,396	15,838	4,837	2,523	9,366	75,502
Securities	425,076	320,637	273,547	62,701	73,738	136,621	1,292,320
Other real estate owned	556	1,343	964	324	330	436	3,954
Noncurrent loans and leases	24,872	12,469	13,670	3,111	1,818	5,231	61,170
Total deposits	1,449,783	1,169,768	902,715	254,822	233,353	530,640	4,541,081
Domestic deposits	1,002,121	1,093,459	843,692	248,892	232,166	507,777	3,928,107
Equity capital	204,280	163,529	121,584	40,433	28,989	80,500	639,317
Off-balance-sheet derivatives	36,297,054	13,910,228	1,767,567	10,136	10,557	1,189,716	53,185,258
Performance ratios (annualized %)							
Return on equity	12.42	15.09	15.82	16.50	13.71	18.52	14.84
Return on assets	1.07	1.44	1.36	1.71	1.38	1.98	1.37
Net interest income to assets	3.00	3.50	3.39	4.69	4.06	4.41	3.49
Loss provision to assets	1.00	0.46	0.58	1.17	0.32	0.84	0.74
Net operating income to assets	0.98	1.35	1.22	1.67	1.26	1.93	1.27
Noninterest income to assets	3.10	2.22	1.95	3.00	1.49	2.94	2.56
Noninterest expense to assets	3.59	3.33	2.96	4.11	3.51	3.46	3.41
Loss provision to loans and leases	2.02	0.75	0.89	1.68	0.55	1.30	1.27
Net charge-offs to loans and leases	1.82	0.70	0.83	1.25	0.42	1.30	1.15
Loss provision to net charge-offs	111.04	107.31	106.22	134.39	129.55	100.56	110.19
Performance ratios (%)							
Percent of institutions unprofitable	9.39	8.71	5.56	3.30	4.58	9.84	6.13
Percent of institutions with earnings gains	70.86	75.76	73.91	70.04	70.69	71.53	72.19
Nonint. income to net operating revenue	50.88	38.77	36.52	38.96	26.88	39.99	42.25
Nonint. expense to net operating revenue	58.79	58.27	55.43	53.50	63.18	47.00	56.29
Condition ratios (%)							
Nonperforming assets to assets	1.16	0.81	1.05	0.89	0.75	0.74	0.97
Noncurrent loans to loans	2.14	1.19	1.47	1.15	1.08	1.07	1.50
Loss reserve to noncurrent loans	106.71	131.50	115.86	155.47	138.78	179.05	123.43
Loss reserve to loans	2.29	1.56	1.70	1.78	1.50	1.91	1.86
Equity capital to assets	8.69	9.52	8.54	10.51	10.06	10.50	9.22
Leverage ratio	7.60	7.77	7.80	9.40	8.84	9.04	8.00
Risk-based capital ratio	13.08	12.30	12.42	14.11	14.44	14.03	12.95
Net loans and leases to assets	48.21	60.16	64.17	69.19	57.44	62.77	57.61
Securities to assets	18.08	18.66	19.21	16.29	25.60	17.82	18.64
Appreciation in securities (% of par)	1.96	2.88	2.26	2.95	2.81	2.72	2.43
Residential mortgage assets to assets	16.56	28.04	25.91	21.83	26.20	23.09	22.74
Total deposits to assets	61.66	68.09	63.39	66.21	81.02	69.22	65.50
Core deposits to assets	33.86	55.73	51.94	57.88	66.87	56.72	48.23
Volatile liabilities to assets	44.68	22.86	27.38	22.28	19.51	25.20	31.28

Loan performance, FDIC-insured commercial banks by region
Third quarter 2002

(Dollar figures in millions)

	Northeast	Southeast	Central	Midwest	Southwest	West	All institutions
Percent of loans past due 30–89 days							
Total loans and leases	1.24	0.94	1.25	1.36	1.21	1.01	1.14
Loans secured by real estate (RE)	1.14	0.90	1.31	0.83	1.04	0.78	1.03
1–4 family residential mortgages	1.35	1.31	1.79	0.90	1.28	0.94	1.35
Home equity loans	0.53	0.59	0.69	0.57	0.58	0.56	0.61
Multifamily residential mortgages	0.31	0.27	0.67	0.30	0.54	0.25	0.40
Commercial RE loans	0.76	0.55	0.94	0.78	0.75	0.53	0.70
Construction RE loans	1.15	0.62	1.42	1.02	1.26	1.20	1.03
Commercial and industrial loans	0.81	0.62	1.10	1.43	1.31	1.09	0.91
Loans to individuals	2.35	2.20	1.84	2.55	1.91	1.89	2.19
Credit cards	2.82	4.18	2.15	2.92	1.40	2.12	2.76
Installment loans and other plans	2.24	1.95	1.91	1.87	1.99	1.76	2.02
All other loans and leases	0.49	0.28	0.79	0.86	0.89	0.52	0.56
Percent of loans noncurrent							
Total loans and leases	2.14	1.19	1.47	1.15	1.08	1.07	1.50
Loans secured by real estate (RE)	1.04	0.74	1.34	0.69	0.92	0.62	0.93
1–4 family residential mortgages	1.04	0.77	1.69	0.48	0.80	0.40	0.97
Home equity loans	0.23	0.25	0.42	0.29	0.47	0.25	0.30
Multifamily residential mortgages	0.23	0.46	0.53	0.40	0.65	0.18	0.39
Commercial RE loans	0.86	0.81	1.32	0.96	1.04	0.76	0.96
Construction RE loans	1.12	0.91	1.40	0.85	0.83	1.18	1.09
Commercial and industrial loans	4.19	2.68	2.58	1.50	1.59	2.23	3.01
Loans to individuals	2.03	0.86	0.68	1.82	0.72	1.24	1.45
Credit cards	2.26	2.43	1.41	2.30	0.98	1.79	2.14
Installment loans and other plans	2.15	0.63	0.60	0.89	0.73	0.45	1.11
All other loans and leases	1.26	0.89	0.75	1.06	1.56	1.01	1.03
Percent of loans charged-off, net							
Total loans and leases	1.82	0.70	0.83	1.25	0.42	1.30	1.15
Loans secured by real estate (RE)	0.09	0.13	0.29	0.05	0.12	0.06	0.15
1–4 family residential mortgages	0.06	0.16	0.30	0.04	0.10	0.04	0.15
Home equity loans	0.05	0.13	0.31	0.13	0.17	0.06	0.16
Multifamily residential mortgages	0.00	0.02	0.13	0.02	0.59	0.04	0.07
Commercial RE loans	0.04	0.10	0.25	0.04	0.11	0.05	0.11
Construction RE loans	0.15	0.17	0.44	0.06	0.09	0.17	0.22
Commercial and industrial loans	2.78	1.80	1.76	0.79	0.76	1.94	2.04
Loans to individuals	3.99	1.76	1.56	4.27	1.12	4.77	3.23
Credit cards	6.00	5.98	3.58	6.10	2.96	6.86	6.04
Installment loans and other plans	2.12	1.08	1.25	0.68	1.07	1.45	1.48
All other loans and leases	0.60	0.23	0.64	0.29	0.54	0.65	0.52
Loans outstanding ($)							
Total loans and leases	$1,160,029	$1,049,822	$929,723	$271,109	$167,961	$490,551	$4,069,196
Loans secured by real estate (RE)	385,166	597,568	479,430	128,645	97,736	282,164	1,970,709
1–4 family residential mortgages	188,099	272,111	206,054	61,626	36,093	117,553	881,535
Home equity loans	40,020	60,333	65,762	6,535	1,817	26,783	201,250
Multifamily residential mortgages	15,897	16,459	19,628	3,509	2,954	10,357	68,805
Commercial RE loans	89,250	163,191	127,665	34,015	37,319	90,225	541,665
Construction RE loans	21,014	74,848	50,637	11,256	15,210	32,887	205,853
Farmland loans	1,375	7,276	9,159	11,704	4,343	3,931	37,787
RE loans from foreign offices	29,510	3,350	526	0	0	429	33,815
Commercial and industrial loans	303,726	224,702	216,624	42,714	38,080	95,520	921,365
Loans to individuals	281,690	126,311	106,838	68,729	21,951	82,682	688,201
Credit cards	137,736	18,203	14,768	46,050	609	50,293	267,659
Other revolving credit plans	22,595	4,422	5,596	996	718	4,050	38,376
Installment loans	121,360	103,686	86,474	21,684	20,624	28,339	382,166
All other loans and leases	191,759	101,759	127,003	31,059	10,361	30,614	492,554
Less: Unearned income	2,312	517	172	37	166	429	3,634

Glossary

Data Sources

Data are from the Federal Financial Institutions Examination Council (FFIEC) Reports of Condition and Income (call reports) submitted by all Federal Deposit Insurance Corporation (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 Office of the Comptroller of the Currency's (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 mortgages for 1-to-4-family residences 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 as "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 Office of the Comptroller of the Currency (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 third quarter of 2002, 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 number at the end of each summary.

Conversions

On August 30, 2002, the OCC granted conditional approval for the Bank of Lockesburg, Arkansas, to convert to a national bank titled First National Bank of Stuttgart and to conduct fiduciary powers. Prior to converting, the bank relocated to Stuttgart, Arkansas. The bank's parent holding company, DeWitt First Bancshares, desired a banking presence in Stuttgart and chose this approach since Arkansas law does not permit bank holding companies to charter new banks in the state. In addition to standard conditions imposed on all banks converting to a national charter, the approval imposed conditions addressing capital.
[Conditional Approval Letter No. 545]

On September 4, 2002, the OCC granted conditional approval for First Citizens Bank, Roanoke, Virginia, to convert to a national credit card bank titled First Citizens Bank, National Association. In addition to the standard conditions imposed on all banks converting to national charter, the approval imposed an ongoing condition to address significant changes from the bank's business plan or operations. [Conditional Approval Letter No. 548]

Operating Subsidiaries

On July 31, 2002, the OCC granted approval for MB Financial Bank, National Association, Chicago, Illinois, to acquire as operating subsidiaries several companies that collectively engage in equipment leasing and provide various ancillary services. The principal activity of the companies is computer and telecommunications equipment leasing. [Corporate Decision No. 2002-13]

On August 27, 2002, the OCC acknowledged receipt of the after-the-fact notice by Metropolitan National Bank, New York, New York, regarding the bank's acquisition of G&R Check Cashing Corp (G&R). G&R engages in general check-cashing services and other activities permissible under 12 CFR 5.34(e)(5)(v). The OCC's letter advises that the bank and G&R are not authorized to engage in "payday lending" activities or enter into arrangements with third parties to provide "payday" type loans through offices or facilities operated by a third party. [Corporate Decision No. 2002-14]

Appeal 1 – Appeal of Accounting Decision

A bank appealed two Office of the Comptroller of the Currency (OCC) decisions regarding the accounting treatment for income earned and expenses incurred from two separate affinity card relationships. The issues involved the bank's contractual agreements with an affinity group (contract no. 1) and an affiliate (contract no. 2), respectively, and are individually discussed below.

Contract No. 1

Background

The bank purchased an existing affinity portfolio from another institution at a premium. The contract with the affinity association required an advance at signing and minimum annual payments (royalty expense). The bank computed the expenses associated with the contract based on a formula that allocated most of the expense to the latter years of the contract because of the belief that the economics of the program would improve over time. The bank recorded the difference between the minimum payments and the formula expense as a prepaid asset.

Discussion

The OCC and the bank agreed that the guiding standards fell under generally accepted accounting principles (GAAP), and the Financial Accounting Standards Board Statement of Financial Accounting Concepts (No. 5), which requires that expenses be allocated in a *systematic and rational* manner during the period in which the related assets are expected to provide benefits.

In determining the criteria of systematic and rational, the bank considered the totality of the agreement with the recognition of royalty expenses, which include the amortization of the purchase premium. The premium for the portfolio reflected the benefit in prior years of the affinity group's endorsements compared to the benefits enjoyed from royalty payments in later years. The bank believed that the combination of royalty expense and premium amortization resulted in a reasonably consistent charge against receivables. Escalation of royalty fees paid to the affinity group mirrored the improving economics of the program over time. The bank's external auditors agreed that the bank's approach was systematic and rational.

The OCC concluded that a systematic and rational approach was one that recognized periodic expense in relationship to the average revolving receivable balances in the corresponding period. Based on the bank's projections, the OCC determined that an amortization rate of between 1.1 and 1.3 percent of average revolving balances would provide this level relationship. The OCC estimated that such a method would reduce the prepaid balance by almost 75 percent and directed the bank to charge off this amount.

Conclusion

The accounting standards and principles relevant to this transaction are not specific. Therefore, when considering the bank's and the OCC's methods, it was believed that there existed a legitimate difference of opinion regarding a *systematic and rational* approach to accounting for this complex transaction. The ombudsman clearly acknowledged that there could be different judgments made, and different conclusions reached, on the asset valuations. Therefore, the ombudsman opined that the most appropriate resolution of this difference of opinion rested with the Securities and Exchange Commission (SEC) accounting division. The bank was directed to contact the SEC to discuss the accounting treatment for this transaction.

Contract No. 2

Background

In a separate agreement the affinity group's affiliate agreed to pay the bank a percentage of the shortfall if a specified rate of return was not met. This gross profit adjustment was recorded as a prepaid asset. This receivable was recorded during the early years of the contract but was not payable by the affiliate until the expiration of the 16-year contract.

Discussion

The bank believed that the prepaid asset was fully bankable, based on the unconditional contractual obligation of the affiliate, and therefore carried it at full value. The OCC concluded that the bank's accounting treatment for this asset was inappropriate. The OCC considered this prepaid asset to be a gain contingency, and as such, under GAAP it should not be recognized until payment is realized. The bank was of the opinion that the asset had economic value, and therefore, the OCC should not impose an accounting treatment that assigns no value.

Conclusion

In considering all of the dimensions of the prepaid asset, the ombudsman opined that it was appropriate to recognize the revenue. However, in light of the extended time period required to receive payment, it would have been more appropriate to record the prepaid asset at a discounted value. Therefore, the bank was directed to adjust its books to reflect the discounted value of the asset for each of the periods in question and amend the call reports as appropriate.

Speeches and Congressional Testimony

Remarks by John D. Hawke, Jr., Comptroller of the Currency, before the Independent Bankers Association of Texas, on the OCC's relationship to community banks, San Antonio, Texas, September 23, 2002

I'm sure that Independent Bankers Association of Texas (IBAT) was as relieved as any group in America when we heard the announcement that the players' union and the major league baseball owners had reached a settlement in their labor dispute. After all the work that had gone into developing this year's conference theme, it would have been a real pity had it come to stand as nothing more than a reminder that the national pastime had shut down for the season, disappointing millions of fans and putting thousands of people out of work. Thankfully, the games continue, the playoffs and the World Series loom, and I'm pleased to be joining IBAT once again, at its own annual fall classic.

As we contemplated the possibility of a baseball strike, I heard plenty of speculation that another strike might spell the demise of baseball as we know it—that this time, the fans might cast the final vote with their feet. Frankly, I never thought there was much chance of that happening. Despite the economic challenges that the game faces, it's always been part of our national identity.

Of course, people once said the same thing about cock fighting, corn husking, and minstrel shows—once popular pursuits that no one pursues any more. It reminds us tastes and habits change—that nothing is forever.

The question that has been much discussed of late is whether community banking will share in the fate of other venerable institutions overtaken by time and events—or whether it can marshal the endurance, adaptability, and political support necessary to avoid such a fate.

Certainly there's no shortage of pessimists about the future of community banking—and little dispute about some of the particulars of their basic argument. Community banks are disappearing at an alarming rate—nearly one a day, on average. Some have fallen to merger and acquisition, while others have succumbed to weak fundamentals, such as shrinking loan margins, a consumer mentality that focuses on small differences in price to the exclusion of all other considerations, and, above all, the absence of the economies of scale that might otherwise make the numbers work.

Let me give you an example I can speak to with some authority. In terms of your overall expenses, the cost of regulatory compliance ranks pretty far down the list. At least I hope it does. But it's a conspicuous cost because—to be frank about it—it's a cost whose benefits aren't always obvious.

Year after year, our friends in Congress add new mandates for consumer protection, community service, and more, and expect the regulators to enforce them. But the costs all come back to you, in the form of the people you have to pay to do the extra legwork and paperwork the law requires, and in the form of the supervisory assessments you have to pay *us* so that our examiners can certify that you're in compliance with the law.

Big banks don't like this any better than small ones do. They just don't seem to feel it as much.

Community banks *are* feeling these pressures more than ever before, partly because they are more exposed to big bank competition than ever before. There are no sheltered markets anymore—only places your competitors have chosen not to go. The advent of true nationwide branching is one manifestation of that; improvements in technology, which bring remote delivery of financial services within reach of millions, is another; and the removal of statutory prohibitions on the types of products and services that integrated financial institutions can offer is a third. Together, these market and regulatory changes add up to what is probably the most challenging competitive environment for community banking in decades.

A cursory look at the numbers here in Texas—one of the nation's traditional strongholds of community banking—seems to support what the analysts say about the unstoppable momentum of financial services consolidation and community bank evaporation. In 1998, there were 798 commercial banks in operation statewide. As of the middle of this year, the number was down to 675—a drop of nearly 15 percent. Roughly 13,000 fewer people work in Texas banking today than four years ago. Some of those same people might have once worked for you.

But to me the remarkable thing is not that there's been some contraction in the banking industry. Given the number of banks with which we began, contraction was a foregone conclusion, especially in a softening economy.

And the Texas economy, while no softer than most, has been affected by a variety of circumstances unique to it. I'm speaking now of the state's heavy reliance on agriculture, which has been buffeted by drought and low commodity prices; weakness in the Mexican economy, to which the state's fortunes are so closely linked; and fallout from the collapse of Enron and related businesses.

In light of these bumps and bruises, I think we should be focusing on a different set of numbers—the actual performance and condition ratios of Texas banks. They tell a story of resilience and underlying strength—notwithstanding the dire pronouncements of the industry analysts.

Consider *these* 2001 numbers, using 1998—a strong growth year—as a comparative benchmark. Return on equity, up. Return on assets, up. Net charge-offs, down. Capital, up. Noncurrent loans, down.

And the outlook for the near term is equally positive. Many of you have reported a recent surge in retail deposits, as individual investors seek sanctuary from the turbulence on Wall Street in banks on Main Street. Coupled with rising loan demand, which seems likely as the national recovery gains speed, community banks in Texas and throughout the country may be poised to realize major gains to the bottom line.

Some would have you believe that community bankers have done nothing more than to prove the importance of good timing, suggesting that you've been accidental beneficiaries of trends you've had no hand in shaping. I don't share that view. I believe, rather (and the numbers confirm this), that the community bank business model, with its emphasis on personal service, is fundamentally sound. I believe that the skill that bankers like you have brought to the business has been instrumental in proving the so-called experts wrong—at least so far. Most of all, I believe that the role you play in the markets you serve is crucial to the health of our communities and to the national economy. Your ability to react quickly and rationally to local credit needs, to price fairly, and to provide customers with a wide range of banking and related financial products, is indispensable—and irreplaceable.

I should hasten to add that while all of these factors have played a role in your past success, none of it guarantees that this success will continue. As I've said, people's habits do change—whether it's the games they watch and play or the way they save and invest.

In my view, the value you contribute is too important to be left to chance or to the sometimes-merciless whims of the marketplace. So I believe that the regulatory and legislative policies of our government must explicitly embrace the interests of community banks—much as we have embraced the interests of family farms or small business generally—as a matter of fundamental national importance. Without taking anything away from your great skills as bank managers, I am convinced that such an embrace is crucial to the continued success—and long-term survival—of our nation's community banking sector.

I am not in any way implying that the interests of community banks should prevail at the expense of large banks. Big banks make their own outsized contribution to America's international competitiveness and economic health. Supporting one sector of an industry is not equivalent to oppressing another. The goal of economic regulation, after all, is to achieve the appropriate parity between efficiency and equity—a goal that's consistent with recognition of the fact that our supervisory and regulatory policies have disproportionate impact on the well-being of community banks.

Some may accuse the OCC of being a latecomer to this view. There seems to be a notion out there—and it's nothing new—that we're "the big bank regulator," and that we're less attuned to the needs and concerns of community banks than, say, our colleagues at the state banking departments and at the Federal Deposit Insurance Corporation (FDIC). But let me ask you this: can we be accurately referred to as the "big bank regulator" when nearly 2,000 of the 2,300 national banks that we're responsible for are community banks with assets under $1 billion? And half of *that* number—1,000 national banks—holds less than $100 million in assets.

And is it fair to characterize the OCC as indifferent to the needs of community banks when more than 1,300 of our examiners—nearly 80 percent of the OCC's total examination force—is dedicated to community bank supervision? I'm referring to 1,300 highly trained professionals, men and women who are widely acknowledged to be the very best in the business at what they do. Most of them have deep roots in the communities whose banks they serve.

I should add that we restructured our procedures several years ago so that those same local examiners and front-line supervisors—we call them assistant deputy comptrollers (ADCs)—make 90 percent of the decisions that affect your institutions. That move was designed to take advantage of the depth of experience—averaging more than 20 years—possessed by our ADCs.

I don't think we can fairly be accused of being unresponsive to the banks we supervise when, in 2001 alone, the OCC sponsored nearly 200 outreach events around the country—a number that doesn't include the many events sponsored by others that we attend or the dozens of meetings that we hold with state banking associations delegations when they come to Washington. I was pleased to welcome a large IBAT delegation to our offices just a few months ago and look forward to welcoming you back. Let me assure you that there will always be an open door—and a warm spot in our hearts—for IBAT at the OCC.

In our case, numbers alone—the number of smaller banks that we supervise and the number of examiners assigned to them—tell only part of the story of our commitment to the health of community banking. It's reflected in our whole approach to supervision, which draws on procedures formulated especially for community banks. These procedures take a risk-focused approach that allows for streamlined, efficient examinations. We focus on practices and outcomes—an approach designed to get examiners in and out of your bank as quickly as possible with the information that they need to provide effective supervision.

Our commitment to community banks is also reflected in our sensitivity to regulatory burden—and an appreciation of how profoundly community banks can be affected by it. Today we don't issue a regulation without first conducting a community bank impact analysis. When we find that the costs of a given regulation to community banks are out of proportion to the benefits that regulation is likely to bring to the industry and the public, we'll step back and reconsider it.

Technology offers tremendous potential for reducing regulatory burden, and we're aggressively exploring possible ways to automate supervisory communications and the examination process itself. I believe that the day is not far off when most of the exchanges between bankers and regulators will take place through systems like the OCC's National BankNet. Before much longer you'll be able to comment on proposed regulations, pay your regulatory assessment, and file corporate applications—all on line.

And we're working to give examiners the ability to perform even more of their routine supervisory duties remotely. That will mean fewer burdens on you—less staff time preparing for exams, less time producing paperwork, and a less intrusive examiner presence on site.

Burden reduction was an important consideration behind the adoption of our "Canary" early warning system—a system that, as many of you have heard, is designed to enhance our ability to identify and respond to emerging risks. Canary enables us to zero in on those banks that have the greatest amount of financial risk and the greatest possibility of problems. By the same token, it also enables us to avoid imposing undue burden on well-managed institutions. If your bank is one of those—and the vast majority of community banks fall squarely into the well-managed category—Canary can result in real reductions in regulatory burden.

But I can assure you that whether yours is a troubled institution, a problem-free institution, or something in between, your examiner will be there for you. No matter how much technology enables us to conduct supervision remotely, an on-site presence will always be a central component of the supervisory relationship.

Many bankers prize that relationship. They tell me that they use our examiners like all-purpose consultants—and for good reason, because in the ranks of OCC examiners are men and women whose expertise on a whole range of banking subjects is recognized throughout the nation and around the world. I know that some banks opt for a national charter precisely because the organizers know they can count on expertise furnished by our examiners to help them make it through the always-challenging start-up period.

But community banks that are also national banks pay for the privilege—and pay more than they should have to, in my judgment. The unfair financial burden that you bear is the result of what I believe is a serious flaw in our whole system of bank supervision. Although the OCC assessment schedule is progressive—that is, large national banks pay more than their pro rata share of the costs of their supervision—the assessments you pay as national banks are still considerably higher than you'd be paying under a state charter. You know this, and so do we.

This fee disparity is the result of a system under which the Federal Reserve and the FDIC provide the federal supervision of state-chartered banks—indeed, they perform for state banks virtually every function we perform for national banks—but they don't charge those banks for their services. Instead, the resources used by the FDIC for this purpose are provided in large part by *national* banks, which account for more than half of the balance in the Bank Insurance Fund. In other words, national banks are effectively subsidizing the supervision of your state bank competitors.

And because the states themselves actually provide only a small part of the total supervision their banks require, the states can afford to charge less—much less—than a comparable national bank pays to the OCC, which provides *all* of its supervision.

We believe that this arrangement is patently unfair to national banks and harmful to the dual banking system, and I have repeatedly urged Congress to address this issue in the context of deposit insurance reform. Everyone agrees that banks should contribute to the insurance funds based on the risks they present, and that healthy banks should not be required to bear the costs and risks of providing deposit insurance to poorly managed institutions. We strongly believe that the same principle of equity should apply to supervisory assessments as well and that the fee disparity between national and state banks should be eliminated.

Let me emphasize that the OCC is not proposing—and never has, as long as I've been Comptroller—that the fee disparity problem be resolved by charging additional fees to state banks. Our proposed solution, which would draw on FDIC revenues to fund *all* supervision, would benefit state banks every bit as much as national banks.

Our commitment to community banks is also reflected in OCC policies designed to assist national banks in keeping up with the demands of a highly competitive financial marketplace. For example, we launched a pilot program that allows national banks with the highest supervisory ratings to exceed the customary 15 percent limit on loans to a single borrower where the limit is higher for state-chartered institutions. It was designed exclusively for community banks, which may now be in a position to compete favorably for larger borrowers who previously had to go elsewhere to meet their financing needs.

It's just another way that the OCC has "stepped up to the plate" to support the interests of community banks.

I opened my remarks by suggesting that the coming years would be decisive ones for community banks—and for the organizations, like IBAT, that speak for them. In that vein, let me offer one final thought. While regulatory sensitivity to community banking's unique needs is important, the future of community banking in America will not be determined by government action—or inaction. All the government support in the world won't be enough if your customers feel ill served or inadequately served banking with you. They will regret it if they have to go elsewhere to have their financial needs well and comprehensively met, but most of them will go nonetheless. The challenge for community bankers is to help your customers make the decision that's right for them—and right for you.

Interpretations—July 1 to September 30, 2002

Interpretive Letters

938—January 18, 2001

12 USC 84(d)(2)(b)

Dear [ ];

This is in response to your letter of December 11, 2000. You have requested the Office of the Comptroller of the Currency's (OCC's) opinion as to whether certain loans made by [ ] ("bank") to two separate borrowing entities that are related through common ownership would be combined for lending limit purposes. Based on the information you provided in your letter and subsequent e-mails, it is my opinion that the two bank loans may be combinable for purposes of the legal lending limit during the year 2001 for the reasons set forth below.

I. Facts

The bank has two outstanding credit facilities totaling $14,620,000 to two limited liability companies managed by [ ] ("Inc."). [Inc.] is wholly owned by [A], [B], and [C].

The first credit is a $9,620,000 line of credit to [ ] ("West") for the purposes of land acquisition and site development. The acquired property is 67 acres located on the west side of Rt. [#] in *[City, State]*. West will develop the site for shopping center lots for sale to retailers. Repayment of the loan is expected from sale of the developed lots to various retailers, including [#1] and [#2]. The owners of West are:

[A]	29.5 percent
[B]	29.5 percent
[C]	29.5 percent
[D]	8 percent
[E]	2.5 percent
[Inc.]	1 percent

The loan is guaranteed by [Inc.], [A], [B], and [C]. West may use [ ] ("Inc. 2"), a wholly owned subsidiary of [Inc.], to perform the site development work.

The second credit is a $5 million line to [ ] ("East"). The purpose of this loan is to finance the land acquisition and site development phase of a two-phase shopping center development project. The second phase, involving the construction of retail stores on the site, will be financed through a conventional commercial construction loan. The phase two financing will not be underwritten until a majority of the leases with the major tenants are executed. [Inc.] currently has secured letters of intent from 100 percent of the major tenants (i.e., [#3], [#4], [#5], [#6], and [#7]). The expected source of repayment of the loan will be a take out by the phase two financing. East is owned by:

[A]	24.83 percent
[B]	24.83 percent
[C]	24.83 percent
[D]	22 percent
[E]	2.5 percent
[Inc.]	1.01 percent

The loan is guaranteed by [Inc.], [A], [B], and [C]. East may also use [Inc. 2] to perform the site development work.

The projected cash expenditures for East and West for the development period are as follows (in thousands):

Table 1—Projected cash expenditures for East, 2000–2001

Projected cash expenditures	2000	2001	TOTAL
Land Acquisition	4,709	0	4,709
Site development	1,500	8,700	10,200
Other	876	1,526	2,402
Total	7,085	10,226	17,311

Table 2—Projected cash expenditures for West, 2000–2002

Projected cash expenditures	2000	2001	2002	TOTAL
Land Acquisition	9,302	0	130	9,432
Site development	1,230	1,075	0	2,305
Other	468	419	60	947
Total	11,000	1,494	190	12,684

II. Legal Analysis

Generally, a national bank's total outstanding loans to one borrower may not exceed 15 percent of the bank's capital and surplus, plus an additional 10 percent of capital and surplus if the amount over the 15 percent general limit is fully secured by readily marketable securities.[1] A "borrower" includes a person who is named a borrower or debtor in a loan or extension of credit.[2] Also, loans

[1] *See* 12 USC 84(a); 12 CFR 32.2(a).

[2] 12 CFR 32.2(a).

to one borrower will be attributed to another person and both will be considered a borrower (1) when the proceeds are used for the *direct benefit* of the other person, or (2) when a *common enterprise* is deemed to exist between the persons.[3]

The proceeds of a loan to borrower will be deemed to be used for the *direct benefit* of another person and will be attributed to that other person when the proceeds, or assets purchased with such proceeds, are transferred to that other person, other than in a bona fide arm's-length transaction where the proceeds are used to acquire property, goods, or services.[4]

A *common enterprise* is deemed to exist when

(1) the expected source of repayment for each loan is the same and neither borrower has another source of income from which the loan and the borrower's other obligations can be repaid,
(2) the borrowers are related through common control and there is substantial financial interdependence between or among the borrowers,
(3) the borrowers use the loan proceeds to acquire more than 50 percent of a business enterprise, or
(4) the OCC determines that a common enterprise exists based on the facts and circumstances of particular transactions.[5]

Thus, in determining whether a loan to one borrower should be attributed to another borrower for lending limit purposes, one must apply each of the five loan combination/attribution tests set forth above—the one direct benefit test and the four common enterprise tests—to the specific facts of each loan relationship.[6]

[3] *See* 12 CFR 32.5(a). A guarantor is considered a "borrower" only if that guarantor is deemed to be a borrower under the direct benefit or common enterprise tests set forth at 12 CFR 32.5. *See* 12 CFR 32.2(a).

[4] 12 CFR 32.5(b).

[5] *See* 12 CFR 32.5(c).

[6] In addition to the general limit on loans to one borrower, there is an additional limit which applies to loans to a corporate group. *See* 12 CFR 32.5(d). Loans to a corporate group may not exceed 50 percent of a national bank's capital and surplus. 12 CFR 32.5(d)(1). A corporate group is defined as a person and all of its subsidiaries. *Id.* For the purpose of this rule, a corporation or limited liability company is a subsidiary of a person if that person owns more than 50 percent of the voting interests of the corporation or company. *Id.* This limit is independent of the general 15 percent limit on loans to one borrower set forth at 12 USC 84 and 12 CFR 32.3. This special limit applies to a corporate group regardless of whether loans to different members of the corporate group are combined for the general 15 percent limit.

A. Direct Benefit Test

According to your letter, loan proceeds for both the West and East loans will be used to acquire land and pay for site development costs. Some of those proceeds may be paid to [Inc. 2] for site development work. As long as payments to [Inc. 2] result from bona fide arm's-length transactions, the proceeds of the West and East loans paid to [Inc. 2] will not be attributed to [Inc. 2] under the direct benefit test at 12 CFR 32.5(b).

B. Common Enterprise Test # 1— Common Expected Source of Repayment

The expected source of repayment on the West loan is the sale of the developed lots to various retailers. The expected source of repayment on the East loan will be the proceeds of the phase two construction loan. Since the expected sources of repayment of the two loans are different, the loans will not be combined for purposes of the lending limit under the common enterprise test at 12 CFR 32.5(c)(1).

C. Common Enterprise Test # 2— Common Control and Significant Financial Interdependence

As stated above on page three, one way in which a common enterprise is deemed to exist is when:

(1) the borrowers are related through common control, and
(2) there is substantial financial interdependence between or among the borrowers.[7]

Borrowers are related through common control when one person or entity controls another, or two or more entities are each controlled by the same person or entity. For the purposes of this combination rule, control is deemed to exist if a person directly or indirectly, or acting through or together with one or more persons either (1) owns or controls 25 percent or more of the voting securities of another person, (2) controls in any manner the election of a majority of the directors or trustees of another person, or (3) has the power to exercise a controlling influence over the management or policies of another person.[8]

[7] *See* 12 CFR 32.5(c)(2).

[8] *See* 12 CFR 32.2(g). The term "person" as used section 32.2(g) means, among other things, a corporation, limited liability company, partnership or a trust. *See* 12 CFR 32.2(k).

Based on the information in your letter, West, East, [Inc. 2] and [Inc.] are related through the common control of [A], [B], and [C]. The next question, then, is to determine whether substantial financial interdependence exists between or among the control group members. Substantial financial interdependence is deemed to exist when 50 percent or more of one person's annual gross receipts or gross expenditures are derived from transactions with the other person. 12 CFR 32.5(c)(2)(ii). In determining whether substantial financial interdependence exists, we look at the borrower's gross receipts or gross expenditures "on an annual basis." When calculating a borrower's gross receipts or gross expenditures on "an annual basis," the relevant annual period will generally be the fiscal year used by the borrower.[9] Both West and East have a calendar year fiscal period.

Accordingly, if 50 percent or more of West's annual gross receipts or gross expenditures were received from or paid to East, [Inc.2], or [Inc.], then substantial financial interdependence would exist between West and such entity or entities, and loans to West would be attributed to, or combined with loans to, such entity or entities. Similarly, if 50 percent or more of East's annual gross receipts or gross expenditures were received from or paid to West, [Inc. 2], or [Inc.], then substantial financial interdependence would exist between East and such entity or entities, and loans to East would be attributed to, or combined with loans to, such entity or entities. The same analysis would apply to each member of the common control group.

Assuming that all of the site development costs incurred by West and East will be paid to [Inc. 2], those payments to [Inc.2] will represent 85 percent and 72 percent, respectively, of West's and East's gross annual expenditures for the fiscal year 2001.[10] Thus, for the year 2001, there will be substantial financial interdependence between West and [Inc.2] and between East and [Inc.2].[11]

Consequently, for the year 2001 loans to West will be attributed to [Inc. 2] because (1) the two entities are related through common control, and (2) substantial financial interdependence exists between the two entities for the year 2001. Likewise, for the year 2001, loans to East will be attributed to [Inc. 2] because (1) the two entities are related through common control, and (2) substantial financial interdependence exists between the two entities for the year 2001. Thus, the loans to West and East will be attributed to [Inc 2] during 2001, and therefore are combined for the purpose of the lending limit under 12 CFR 32.5(c)(2).

D. Common Enterprise Test # 3—Borrowing to Acquire Control

This test is not applicable to the West and East loans.

E. Common Enterprise Test # 4—Facts and Circumstances

OCC rulings and interpretations reveal that a very strong evidentiary record based upon a number of factors must exist before a common enterprise will be found to exist solely on the basis of the facts and circumstances test.[12] In administrative opinions and interpretive letters, the OCC has considered the following facts and circumstances to be relevant to a common enterprise determination: engaging in supporting lines of business, interchange of goods and services, common ownership of assets, common management, use of common facilities, commingling of assets and liabilities, closely related business activities, similarity in structure, financing and holding, use of same business address, centralized cash management program, likelihood that a financially troubled member of the group would receive financial aid from other members of the group, family relationships among the borrowers, and pledging of assets to support another person's loans.[13]

Based on the information provided in your letter, I am unable to determine with any certainty whether the loans to West and East should be combined for lending limit purposes under the facts and circumstances test.

III. Conclusion

Based on the information provided and the assumption that all of the site development costs will be paid to [Inc. 2], the loans to West and East will be attributed to [Inc. 2] for the year 2001 under the common enterprise test at 12 CFR 32.5(c)(2) and thus combined for purposes

[9] *See* OCC Interpretive Letter from Jonathan Rushdooney, attorney (December 24, 1986) (unpublished).

[10] West's projected site development costs for 2001 of $8,700M divided by its total projected expenditures for 2001 of $10,226M equal 85 percent; East's projected site development costs for 2001 of $1,075M divided by its total projected expenditures for 2001 of $1,494M equals 72 percent.

[11] Note that the critical issue here is the percentage of West's and East's gross expenditure paid to [Inc. 2], not whether 100 percent of the site development cost will be paid to [Inc. 2].

[12] Interpretive Letter No. 563, reprinted in [1991–1992 Transfer Binder] Fed. Banking L. Rep. ¶83,314, at 71,439 (September 6, 1991).

[13] *Id.; see also* Kenneth C. Rojc, *National Bank Lending Limits—A New Framework*, 40 Bus. Law. 903, 923–24 (1985)(citing various OCC interpretive letters).

of the legal lending limit. If all of the site development costs will not be paid to [Inc. 2], but where payments by West and East to [Inc. 2] during a fiscal period will still represent 50 percent or more of each company's gross expenditures for that period, the same attribution and combination results.

I trust this is responsive to your request. If you have any further questions, please contact me at (312) 360-8805.

Christopher G. Sablich
Senior Attorney
Central District Office

939—October 15, 2001

12 USC 24(7)

Dear [ ]:

This responds to your letter of June 28, 2001, on behalf of [ ] ("the bank"). In your letter, you request confirmation by the Office of the Comptroller of the Currency (OCC) of your view that federal law preempts the laws of Massachusetts and Florida that purport to restrict or prohibit a national bank from establishing deposit-taking automated teller machines (ATMs).[1] For the reasons discussed below, we conclude that federal law would preempt those state laws.

Background

The bank is considering establishing deposit-taking ATMs in a number of states, including Massachusetts and Florida. The bank has no branches or offices in either state, but contemplates installing unmanned, deposit-taking ATMs in publicly accessible areas of buildings at which certain of its affiliates have operations. The bank's customers will be able to access their accounts through the bank's ATMs or ATMs owned and operated by other financial institutions in the networks, and customers of these other financial institutions will be able to access their accounts through the bank's ATMs.

[1] As explained below, the issue presented by the bank's request is essentially identical to the issue addressed *in Bank One* v. *Guttau,* 190 F.3d 844 (8th Cir. 1999). For that reason, the publication and comment requirements of 12 USC 43 are not applicable to the bank's request. *See* 12 USC 43(c)(1). The OCC provided an opportunity for regulators in the affected states to comment, however, and this letter therefore takes into account comments on the bank's request the OCC received from the Florida Division of Banking and Finance and the Massachusetts Office of Consumer Affairs.

The Massachusetts Statute

Under Massachusetts law, an out-of-state bank may establish an ATM only if the laws of the state in which it has its main office would permit a bank with its main office in Massachusetts to establish an ATM in that state:

> No [non-Massachusetts] financial institution . . . shall purchase, establish, install, operate, lease or use individually or with any financial institution or organization or share with any financial institution or organization any such electronic branch in the commonwealth *unless the financial institution . . . has its main office in one of the states of the United States, and the laws of such state expressly authorize, under conditions no more restrictive than those imposed by this chapter as determined by the commissioner, financial institutions or organizations organized under the laws of the commonwealth to purchase, establish, install, operate, lease, use or share electronic branches in such other state*; provided, however, that any such financial institution . . . shall have applied to and obtained approval of the commissioner prior to engaging in any activity pursuant to this section.

Mass. Gen. Laws Ann. Ch. 167B, §§ 1 and 3 (West 2001) (emphasis added). The Massachusetts Division of Banks enforces this reciprocity statute by requiring an out-of-state bank to "submit a completed application, along with a copy of the relevant statute from the state in which it has its main office, and an affidavit signed by such bank's counsel affirming that such statute would authorize a bank which has its main office in Massachusetts to establish an electronic branch within that state." Massachusetts Division of Banks Opinion 96-161.

According to your letter, you have been advised by staff at the Massachusetts Division of Banks that the division would enforce the application and reciprocity requirements against a national bank that has its home office outside Massachusetts. The bank's home state of New Jersey prohibits out-of-state financial institutions from establishing ATMs in New Jersey. It has no reciprocity exception to this prohibition. Thus, if the Massachusetts statute applied to the bank, the bank would be prohibited from establishing an ATM in Massachusetts.

The Florida Statute

Florida's "remote financial service units" statute prohibits an out-of-state bank from establishing and operating a deposit-taking ATM in Florida:

Any bank which is not authorized to do business in [Florida] or does not have its principal office and place of business in [Florida] is prohibited from using in [Florida] any remote financial service unit or any associated system by which a remote financial service unit is operated. However, any bank which is not authorized to do business in [Florida] or does not have its principal office and place of business in [Florida] may use in [Florida] any remote financial service unit or any associated system within [Florida] by which such a remote service unit is operated if . . such bank does not take deposits, either directly or indirectly, from any source whatsoever by use of the remote financial service unit or associated system.

Fla. Stat. Ann. § 658.65 (West 2000) (emphasis added). Although the term "remote financial service unit" is not defined in the Florida statutes or regulations, staff at the Florida Banking Department have opined that the term includes an ATM. According to your letter, department staff also interpret the phrase "authorized to do business" to mean, in the context of an out-of-state bank, a bank that has established a branch in Florida pursuant to Florida's branching laws.[2] Thus, if applied to the bank, the Florida law would prohibit the bank from establishing deposit-taking ATMs in Florida unless the bank first establishes a branch there.

Analysis

Permissibility of the activity

The threshold question in any preemption analysis is whether the activities in question are permissible for a national bank under federal law. If they are not, then there is no preemption issue.

National banks are authorized to establish and operate ATMs.[3] The banking services provided through ATMs represent long-established banking activities: receiving deposits, disbursing cash from bank accounts, and extending credit in the form of cash advances. Each of these activities lies at the heart of national bank authority under 12 USC 24(Seventh), whether as part of the enumerated national bank power to receive deposits, as part of the authority to engage in the "business of banking," or as an activity incidental to permissible banking activity.[4] As the OCC has expressly reaffirmed in a recently adopted regulation, 12 CFR 7.4003,[5] the power to deploy and operate ATMs is implicit in the National Bank Act's authorization of national banks to receive deposits, make loans and carry on the "business of banking." ATMs and other electronic media simply represent a different means of exercising established banking powers. 12 CFR 7.1019.

Moreover, a national bank's authority to establish and operate ATMs is unaffected by the federal branching law. Congress has specifically directed that state law will apply, in certain respects, to a national bank's authority to branch interstate. The McFadden Act, as amended, provides that national banks may establish "branches" only to the extent that state law authorizes state banks to establish branches.[6] However, the McFadden Act, as revised, expressly excludes ATMs from the definition of "branch," thereby removing national bank ATMs from the reach of state-law-based restrictions.[7] Accordingly, section 7.4003 of the OCC's rules provides that an ATM is not a branch "and is not subject to state geographic or operational restrictions or licensing laws."

Based on this analysis, it is clear that the bank's proposed activities through ATMs in Massachusetts and Florida are permissible under well-settled federal authority.

Preemptive effect of federal law

In our opinion, federal law preempts the Massachusetts and Florida statutes that purport to restrict or prohibit a national bank's authority to establish ATMs in those states, because the statutes conflict with federal law authorizing the bank to engage in the activities in question and with the OCC's exclusive visitorial powers over

[2] In his letter responding to the OCC's request for Florida's comments on the bank's preemption request, Richard T. Donelan, Jr., the chief counsel of the Florida Division of Banking and Finance, did not address this staff interpretation of the Florida statute. Mr. Donelan did, however, confirm that Florida "provides criminal penalties for the taking of deposits by financial institutions that are not authorized to do business in Florida. . . ."

[3] 12 CFR 7.4003.

[4] The powers clause of section 24(Seventh) provides that a national bank may "exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking . . . ." 12 USC 24(Seventh). *See NationsBank* v. *Variable Annuity Life Ins. Corp.*, 513 U.S. 251 (1995) (the "business of banking" is not limited to the list of powers enumerated in section 24(Seventh)).

[5] 64 *Fed. Reg.* 60092 (Nov. 4, 1999).

[6] *See* 12 USC 36(c)–(g).

[7] *See* Economic Growth and Regulatory Paperwork Reduction Act, Pub. L. No. 104–208, § 2205(a), 110 Stat. 3009-405 (Sept. 30, 1996); *see also Bank One, Utah* v. *Guttau*, 190 F.3d 844 (8th Cir. 1999), *cert. denied sub nom.*, *Foster* v. *Bank One, Utah*, 120 S. Ct. 1718 (2000) (Iowa location, registration, and advertising restrictions on national bank ATMs preempted).

national banks. These points are addressed in more detail below, following a brief summary of the law governing preemption and the OCC's visitorial powers.

Preemption and visitorial powers. When the federal government acts within the sphere of authority conferred upon it by the Constitution, federal law is paramount over, and may preempt, state law.[8] Federal authority over national banks stems from several constitutional sources, including the Necessary and Proper Clause and the Commerce Clause of the United States Constitution.[9]

The U. S. Supreme Court has identified several bases for federal preemption of state law. First, Congress may expressly state that it intends to preempt state law.[10] Second, a federal statute may create a scheme of federal regulation "so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it."[11] Third, the state law may conflict with a federal law.[12] In *Barnett Bank* v. *Nelson*,[13] the Supreme Court elaborated on this third test:

> Federal law may be in "irreconcilable conflict" with state law. *Rice* v. *Norman Williams Co.*, 458 U. S. 654, 659 (1982). Compliance with both statutes, for example, may be a "physical impossibility," *Florida Lime & Avocado Growers, Inc.* v. *Paul*, 373 U. S. 132, 142–143 (1963); or, the state law may "stan[d] as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Hines* v. *Davidowitz*, 312 U. S. 52, 67 (1941).

The Court in *Barnett* went on to state that

> In defining the pre-emptive scope of statutes and regulations granting a power to national banks, these cases [*i.e.*, national bank preemption cases] take the view that normally Congress would not want States to forbid, or to impair significantly, the exercise of a power that Congress explicitly granted. To say this is not to deprive States of the power to regulate national banks, where . . . doing so does not prevent or significantly interfere with the national bank's exercise of its powers.[14]

A conflict between a state law and federal law need not be complete in order for federal law to have preemptive effect. Where a federal grant of authority is unrestricted, for example, state law that attempts to place limits on the scope and exercise of that authority will be preempted.[15] Thus, federal law preempts not only state laws that purport to prohibit a national bank from engaging in an activity permissible under federal law but also state laws that condition or confine the exercise by a national bank of its express or incidental powers. As the Court stated in *Barnett*,

> . . . where Congress has not expressly conditioned the grant of "power" upon a grant of state permission, the Court has ordinarily found that no such condition applies. In *Franklin Nat. Bank*, the Court made this point explicit. It held that Congress did not intend to subject national banks' power to local restrictions, because the Federal power-granting statute there in question contained "no indication that Congress [so] intended . . . as it has done *by express language* in several other instances."[16]

Moreover, the preemption may arise because of a conflict between a state law and a federal regulation. As stated by the Supreme Court in *Fidelity Federal Savings and Loan Ass'n* v. *de la Cuesta*[17]*:*

> Federal regulations have no less pre-emptive effect than federal statutes. Where Congress has directed an administrator to exercise his discretion, his judgments are subject to judicial review only to determine whether he has exceeded his statutory authority or acted arbitrarily. * * * A pre-emptive regulation's force does not depend on express congressional authorization to displace state law; moreover, whether the administrator failed to exercise an option to promulgate regulations which did not disturb state law is not dispositive.

458 U.S. at 153–154 (citations omitted).

Congress vested the OCC with the authority to determine whether a national bank is engaging in permissible activities. Under 12 USC 484 and other federal statutes,[18] the OCC has exclusive visitorial powers over national

[8] U.S. Const. art. VI, cl. 2 (the Supremacy Clause); *Cohen* v. *Virginia*, 19 U.S. (6 Wheat.) 264, 414 (1821) (Marshall, C.J.).

[9] U.S. Const. art. I, sec. 8, cl.3, cl. 18; *McCulloch* v. *Maryland*, 17 U.S. (4 Wheat.) 316, 409 (1819).

[10] *E.g., Jones* v. *Rath Packing Co.*, 430 U.S. 519 (1977).

[11] *Rice* v. *Norman Williams* Co., 458 U.S. 654, 659 (1982).

[12] *See, e.g., Franklin National Bank*, 347 U.S. 373 (1954); *Davis* v *Elmira Savings Bank,* 161 U.S. 275 (1896).

[13] 517 U.S. 25, 31 (1996).

[14] *Barnett*, 517 U.S. at 33.

[15] *See*, *e.g.*, *New York Bankers Association, Inc.* v. *Levin*, 999 F. Supp. 716 (W.D.N.Y. 1998).

[16] *Barnett*, 517 U.S. at 34 (citations omitted; emphasis in original).

[17] 458 U.S. 141 (1982).

[18] S*ee, e.g.,* 12 USC 93, 481, and 1818.

banks except as otherwise expressly provided by federal law.[19] These powers include the right to examine a bank, inspect a bank's books and records, regulate and supervise activities authorized or permitted pursuant to federal banking law, and enforce compliance with any applicable federal or state laws concerning those activities.[20]

Application of federal law to state statutes. If applied to the bank, the state laws at issue would prohibit the bank from establishing ATMs in Massachusetts and Florida, respectively. Given that the bank's home state has no provision in its banking laws that would satisfy the Massachusetts reciprocity requirement, the laws of Massachusetts would, if applied to the bank, preclude it from establishing ATMs in that state. Similarly, the bank does not have its principal place of business in Florida and is not "authorized to do business" as the Florida Banking Department interprets that term. Thus, the Florida law would prohibit the bank from establishing deposit-taking ATMs in that state.

In *Guttau*, the United States Court of Appeals for the Eighth Circuit considered similar state restrictions imposed in Iowa on a national bank's authority to deploy and operate ATMs. In that case, a national bank operated several ATMs in Iowa but maintained no branches in that state and sought to enjoin the enforcement of Iowa's ATM restrictions. Iowa prohibited the operation of an ATM by any bank without an office in Iowa, required ATM operators to apply for state approval, and prohibited the display of financial institution advertising upon ATM terminals. The Court of Appeals held that the Iowa restrictions were preempted by the National Bank Act:

> Congress has made clear in the NBA its intent that ATMs are not to be subject to state regulation, and thus the provisions of the Iowa [law] that would prevent or significantly interfere with Bank One's placement and operation of its ATMs must be held to be preempted.[21]

Like the state laws at issue in *Guttau*, the Massachusetts and Florida laws in question here would prohibit the bank's exercise of its permissible federal powers. For this reason, it is our opinion that the state laws are preempted by federal law.[22]

Nor would the Massachusetts or Florida statutes at issue be immune from preemption under the Electronic Funds Transfer Act[23] ("EFTA"). The EFTA allows states to retain control over electronic transfers:

> This subchapter does not annul, alter, or affect the laws of any State relating to electronic funds transfers, except to the extent that those laws are inconsistent with the provisions of this subchapter, and then only to the extent of the inconsistency. A state law is not inconsistent with this subchapter if the protection such law affords any consumer is greater than the protection afforded by this subchapter.[24]

However, as explained by the court in *Guttau*,

> this anti-preemption provision is specifically limited to the provisions of the federal EFTA, and nothing therein grants the states any additional authority to regulate national banks. State regulation of national banks is proper where "doing so does not prevent or significantly interfere with the national bank's exercise of its powers." *Barnett Bank*, 116 S. Ct. at 1109. Congress has made clear in the [National Bank Act] its intent that ATMs are not to be subject to state regulation, and thus the provisions of the Iowa EFTA that would prevent or significantly interfere with Bank One's placement and operation of its ATMs must be held to be preempted.[25]

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[19] *Guthrie* v. *Harkness,* 199 U.S. 148 (1905); *Bank One Texas, N.A.* v. *Patterson, No.* 3:93-CV-1081-G (N.D. Tex. Sept. 9, 1994), *aff'd* 68 F.3d 469 (5th Cir. 1995).

[20] 12 CFR 7.4000(a)(2). *See also First National Bank of Youngstown* v. *Hughes*, 6 F. 737, 740–41 (1881).

[21] *Id*. at 850; s*ee also Metrobank, N.A., et al.* v. *Foster*, No. 4-01-CV-10226, order at 12, n.7 (S.D. Iowa Aug. 21, 2001) (*Guttau* persuasive in determining that it is appropriate for the district court to address similar question of whether Iowa prohibition on ATM fees is preempted).

[22] *See Barnett*, 517 U.S. at 34; 12 CFR 7.4003. Even if the bank were able to satisfy the requirements imposed by Massachusetts and Florida, the barriers to entry presented by these states' laws would constitute an impermissible exercise of visitorial powers over the bank. As explained above, Congress intended to permit national banks to receive deposits and to have "all such incidental powers as shall be necessary to carry on the business of banking." 12 USC 24(Seventh). Federal regulations expressly interpret this grant to include the authority to use ATMs. 12 CFR 7.4003. Massachusetts provides that an out-of-state bank, including a national bank, must "have applied to and obtained approval of the commissioner prior to" establishing an ATM. Similarly, the Florida statute requires an out-of-state bank, including a national bank, to become "authorized" by the Banking Department before establishing a deposit-taking ATM in Florida. A state requirement that a national bank obtain state approval or license to exercise a power authorized under federal law is an assertion by the state that it has supervisory or regulatory authority over national banks. This is in direct conflict with the federal law providing that the OCC has exclusive visitorial powers over national banks except as otherwise provided by federal law. 12 USC 484; 12 CFR 7.4000. A state law that purports to vest this authority in a state is preempted.

[23] 15 USC 1693–1693r.

[24] 15 USC 1693q.

[25] *Guttau*, 190 F. 3d at 850.

Thus, the preemption analysis articulated above is unaffected by a state's EFTA.

Conclusion

Because ATMs are not branches under 12 USC 36(j), state law geographic restrictions are inapplicable to ATMs. Congress has placed no other restrictions upon ATMs in the National Bank Act, and, therefore, a state may not prevent, restrict, or condition a national bank's authority to establish ATMs. Accordingly, we conclude that the Massachusetts reciprocity statute and the Florida prohibition on the establishment of deposit-taking ATMs by out-of-state banks are preempted by federal law.

Julie. L. Williams
First Senior Deputy Comptroller and Chief Counsel

cc: Richard T. Donelan, Jr.
Chief Banking Counsel
Office of Comptroller
Florida Department of Banking and Finance

Thomas J. Curry
Commissioner of Banks
Commonwealth of Massachusetts

Jennifer Davis Carey, Director
Office of Consumer Affairs and Business Regulation
Commonwealth of Massachusetts

940—May 24, 2002

12 USC 24(7)

Re: [ ] Investment Management Activities

Dear [ ]:

This is in response to your letter requesting confirmation that [ ] (the "bank") may hold for limited periods of time, limited interests in certain private investment funds for which it serves as investment manager. The bank contends that holding such limited interests is convenient and useful for the bank in order to conduct its investment management business. For the reasons set forth below, we conclude that the bank may hold the interests in the funds in the manner and as described herein.

A. Background

The bank, which is a subsidiary of [A], is a national bank with powers limited to trust powers. As a national bank, the bank is exempt from registration as an investment advisor under the Investment Advisers Act of 1940.[1] The bank serves as investment manager for a number of private investment funds organized in the United States (the "funds").[2] The funds invest in a variety of financial instruments, including stocks and bonds, currencies, and commodities. The funds use cash instruments as well as over-the-counter and exchange-traded derivatives. The funds also take both short and long positions in securities. The funds may invest in securities and other financial assets in which a national bank ordinarily is not permitted directly to invest.[3]

The funds are structured as multi-advisor funds. As investment manager, the bank chooses the advisors for each fund, allocates fund assets to each advisor, and sets up stop-loss provisions and other limits for the advisors. The bank also monitors the advisors' performance and processes, re-allocates assets among advisors, and, if necessary, terminates advisors that no longer meet performance or other standards. Certain of the funds are organized as Delaware limited partnerships and others are organized as Delaware limited liability companies. All of the funds are taxed as partnerships. Consistent with this tax treatment, all the losses, gains, fees, and expenses are passed through from the funds to their respective investors.

The funds' investors are primarily high-net-worth individuals who meet the definitions of both accredited investors under the Securities Act of 1933[4] and qualified purchasers under the Investment Company Act of 1940.[5] The funds are marketed primarily by broker–dealers that are affiliates of the bank. These affiliated broker–dealers are registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934.[6] As investment manager, the bank receives both a management fee and a fee for performance for each of the funds. The management fee is a percentage of the assets of each fund. The fee for performance is a percentage of the profits of each fund above a certain hurdle rate.

[1] 15 USC 80b-1 to 80b-21.

[2] In addition to the funds, the bank also serves as investment manager for a number of private investment funds organized outside the United States. This letter does not address the permissibility of the bank's activities with respect to the foreign funds.

[3] The bank plans to invest only in funds that invest primarily in securities. Any non-securities investments will be limited to financial investments, and will not include real estate or tangible personal property.

[4] 15 USC 77a to 77aa.

[5] 15 USC 80a-1 to 80a-64.

[6] 15 USC 77b *et seq.*

The bank represents that it would be to the advantage of U.S. investors in the funds if the bank's compensation for performance were paid as a share of profits, rather than as a fee. To receive a share of the profits, the bank would need to hold an interest in the funds. In the case of funds organized as limited partnerships, the bank would become a special limited partner. As a special limited partner, the bank would not participate in all of the gains and losses of the partnership, but only in the gains equal to the performance fee to which the bank is entitled as investment manager. In the case of funds organized as limited liability companies, the bank would be a special member of those companies, with the same types of rights it would have in the limited partnerships. We refer to the bank's special limited partner and special member interests in the funds as "special interests."

Performance compensation can be a substantial percentage of the funds' respective returns. The bank represents that individual investors, trusts, and investors taxed as partnerships that in turn have individual or trust investors, prefer that investment funds structure performance compensation as an allocation to the investment manager's equity account rather than as a fee. Under U.S. tax law, individual investors must report as income their proportionate share of the gross amount of an investment fund's income and gains *before* deducting investment-related fees and expenses paid by the investment fund. The limit placed by the U.S. tax laws on the deductibility of these fees and expenses may preclude high-income individuals from deducting their full proportionate share of the fees and expenses of the investment funds. If, however, the investment manager is paid in the form of a profit allocation, rather than through a performance fee, the amount so paid is not treated as income to investors who are not recipients of the allocation.

For these reasons, the bank represents that it is an industry practice for investment advisors and managers of certain types of investment funds to receive performance-related compensation as a profit allocation. The bank has provided examples of other, similar private investment funds that its affiliated broker–dealer markets to investors. The similar funds marketed by the broker–dealer are structured to provide payments for advisory services as fund allocations rather than as fees to maximize tax efficiency for investors. Because several nonbank investment managers follow industry practice in structuring performance compensation as an equity interest, the bank believes that the limitation on deductibility on the funds' performance fees as currently structured (rather than the proposed performance-based equity allocation to the bank as investment manager) is having a significant adverse effect on the bank's ability to compete for this type of advisory business. The bank represents that if it is not able to structure its performance-based compensation using an allocation of income and gains to its equity account, the funds would be significantly disadvantaged in competing for investors' money.

The bank's ownership interest in the funds would be limited. The bank does not propose to make any out-of-pocket investments in the funds, although it will hold a special interest in each fund to enable it to receive its performance-based compensation in the form of a profit allocation as described above. The bank has represented that under the terms of the instruments governing the funds and creating the special interests, the bank will not participate in any losses suffered by the funds. The bank will account for its special interest in the funds under the equity method of accounting. The bank's loss exposure from an accounting perspective will be limited to the amount of profit allocation it expects to receive as compensation. The special interest would not entitle the bank to voting rights. The bank represents that it will receive a special interest in a fund only while the bank provides investment management services to the fund. The bank will withdraw all profit allocations immediately.[7]

The bank proposes to receive a special interest in a fund for which it serves as investment manager only to the extent it is necessary to attract investors into the fund. The bank will hold special interests only in investment funds that hold securities and financial instruments, and will not invest in any fund that includes real estate or tangible personal property. The bank will hold a special interest in a fund containing bank-ineligible investments only while the bank serves as an investment manager to the fund, and only if the terms of the instruments governing the fund allow the bank to sell, redeem, or otherwise dispose of its equity allocation if it no longer services the fund.

[7] The bank has indicated that it will have a standing request for redemption of all equity allocations from each fund. The bank will receive the redemption proceeds on the same business day that a fund determines the final amount of each allocation. Because the bank will in effect withdraw all profit allocations immediately, the amount of the bank's interest in any fund as a practical matter would, consistent with Interpretive Letter No. 897, *supra*, never exceed 24.99 percent of the total equity of any fund.

B. Analysis

1. The bank's holding an interest in funds in order to engage in the investment advisory business is incidental to the business of banking.

The Office of the Comptroller of the Currency (OCC) has long held that a national bank may provide investment management services as part of the business of banking authorized under 12 USC 24(Seventh) and pursuant to their fiduciary powers under 12 USC 92a.[8] Section 24(Seventh) also gives national banks incidental powers to engage in activities that are incidental to enumerated bank powers as well as the broader "business of banking."[9] 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*.[10] 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."[11] Even prior to *VALIC*, the *Arnold Tours* formula represented the narrow interpretation of the "incidental powers" provision of the National Bank Act. The *VALIC* decision, however, has established that the *Arnold Tours* formula should be read to provide that an incidental power includes one that is "convenient" or "useful" to the "business of banking," as well as a power incidental to the express powers specifically enumerated in 12 USC 24(Seventh). Thus, it would be considered incidental to a permissible bank activity for a national bank to hold interests in an investment fund to which it provides investment management services if, under the circumstances presented, holding the interests is convenient or useful to the clearly bank-permissible investment management activities conducted by the bank.[12]

The OCC recently confirmed that it was legally permissible for an investment advisor that was partly owned by a national bank to hold limited equity interests in certain investment funds to which the investment advisor provided services.[13] In Interpretive Letter No. 897, the OCC noted several reasons in support of limited equity investments in funds by an investment advisor in which a national bank proposed to hold a noncontrolling interest, to: (1) assure that the advisor's interests were aligned with those of the other investors in the funds; (2) provide a tax-efficient means for the advisor to receive performance-based compensation; and (3) efficiently fund the advisor's obligations to its staff for performance-based bonuses. These three reasons each constituted reasons why the advisor's investments in the funds were convenient or useful to the national bank in carrying out its business, and not mere passive investments unrelated to the bank's business.

In the instant proposal, the bank's ownership for limited periods of small interests in investment funds it manages is directly related to, and an integral part of, the bank's activity of providing bank-permissible investment management and administrative services to certain investment funds. The purpose of holding the special interests is to enable the bank to act as an investment manager to the types of investment funds in which this form of ownership by the investment manager is convenient and useful—indeed, necessary. The level of such investments by the bank in any single fund and in the aggregate will be limited. The proposed special interests in the investment funds are not passive or speculative investments on the bank's part. The investments are made solely to enable the bank to provide investment management services as conducted by its competitors in the investment management industry. As a practical matter, in order to offer the funds it manages, the bank must structure its compensation to hold these investments in this limited manner. They will be held only when, and for so long as, the bank is providing such investment management services.

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[8] *See, e.g.,* Interpretive Letter No. 897 (October 23, 2000) *reprinted in* [2000–2001 Transfer Binder] Fed. Banking Law. Rep. (CCH) ¶ 81–416; Interpretive Letter No. 851 (December 8, 1999) *reprinted in* [1998–1999 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81,308; Interpretive Letter No. 871 (October 14, 1999) *reprinted in* [1999–2000 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81,365; Conditional Approval Letter No. 164 (December 9, 1994); Interpretive Letter No. 648 (May 4, 1994) *reprinted in* [1994 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶83,557; Interpretive Letter No. 647 (April 15, 1994), *reprinted in* [1994 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶83,558; Interpretive Letter No. 622 (April 9, 1993) *reprinted in* [1993–1994 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,557; Interpretive Letter No. 403 (December 9, 1987), *reprinted in* [1988–1989 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,627.

[9] *VALIC, supra,* at 258 n. 2.

[10] *Arnold Tours v. Camp,* 472 F.2d 427 (1st Cir. 1972)("*Arnold Tours*").

[11] *Id.* at 432.

[12] *See* Interpretive Letter No. 897 (October 23, 2000), *reprinted in* [2000–2001 Transfer Binder] Fed. Banking Law. Rep. (CCH) ¶ 81–416. *See also* Interpretive Letter No. 742 (August 19, 1996), *reprinted in* [1997–1998 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–106; Interpretive Letter No. 737 (August 19, 1996), *reprinted in* [1997–1998 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–101; Interpretive Letter No. 494 (December 20, 1989), *reprinted in* [1989–90 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,083.

[13] Interpretive Letter No. 897 (October 23, 2000), *reprinted in* [2000–2001 Transfer Binder] Fed. Banking Law. Rep. (CCH) ¶ 81–416.

Investing in the funds it manages enables the bank to receive its compensation in a manner that provides tax treatment to investors in a fund comparable to that of investors in similar funds. As described above, because performance-based compensation frequently can be a substantial percentage of a private investment fund's returns, the use of a performance-based allocation can have a significant effect on individual investors. As a result, private investment funds traditionally have structured performance compensation as an equity allocation in order to prevent individuals from being disadvantaged by limits on the deductibility of performance-based compensation in the form of fees. Permitting the bank to receive the special interests in the funds enables it to compete more effectively with entities that can offer this tax result to their individual investors.

Accordingly, in the instant case, because the bank's ownership of limited equity interests in the funds it advises is restricted to a context where the holding is integral to facilitating a recognized bank-permissible activity, such holdings are permissible as an incident to the bank-permissible investment management activities.

2. *Holding an interest in funds in order to engage in the investment advisory business is not prohibited by 12 USC 24(Seventh).*

Section 24(Seventh) addresses the ability of a national bank to underwrite and deal in securities. Specifically, section 24(Seventh) provides that "[t]he business of dealing in securities and stock by the association shall be limited to purchasing and selling such securities and stock without recourse, solely upon the order, and for the account of, customers, and in no case for its own account, and the association shall not underwrite any issue of securities or stock: *Provided,* That the association may purchase for its own account investment securities under such limitations and restrictions as the Comptroller of the Currency may by regulation prescribe."

Here, the bank would not be "dealing" in or "underwriting" securities prohibited for national banks by section 24(Seventh). Although "dealing" and "underwriting" are not defined in section 24(Seventh),[14] "dealing" in securities is generally understood to encompass the purchase of securities as principal for resale to others.[15] "Dealing" is buying and selling as part of a regular business. A dealer typically maintains an inventory of securities and holds itself out to the public as willing to purchase and sell and continuously quote prices.[16] "Underwriting" is generally understood as encompassing the purchase of securities from an issuer for distribution and sale to investors.[17] Case law confirms that one cannot be an underwriter in the absence of a public offering.[18]

Under the above definitions, the bank receiving the special interests would not constitute "dealing" or "underwriting." The bank has represented that it will receive the special interests solely for purposes of engaging in the investment management business. The bank will not hold the special interests in order to engage in a regular business of buying and selling them in the secondary market[19] and will not participate in a public offering of the securities to investors.

The ownership by the bank of the special interests would be a type of equity investment, and therefore is not the type of security subject to the limitations placed upon national banks' purchase of investment securities in 12 USC 24(Seventh) or in 12 CFR Part 1. The statutory definition of investment securities includes "marketable obligations evidencing the indebtedness of any person, copartnership, association or corporation in the form of bonds, notes, and/or debentures, commonly known as 'investment securities'" and gives the Comptroller the authority to define further that term. Accordingly, the OCC issued implementing regulations defining "investment securities" at 12 CFR Part 1. Under part 1, an investment security is defined as "a 'marketable' debt obligation that is not predominantly speculative in nature."[20] Equity securities do not represent debt obligations.

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[14] Although the securities laws definitions are not dispositive in determining whether a particular type of securities activity is permitted for banks, these definitions provide a useful starting point for characterizing a bank's securities activities. Under section 3 of the Securities Exchange Act of 1934, a "dealer" is defined as "any person engaged in the business of buying and selling securities for his own account, through a broker or otherwise, but does not include any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not part of a regular business." 15 USC 78c(a)(5). Under the Securities Act of 1933, an "underwriter" includes "any person who has purchased from an issuer with a view to, or offers or sells for an issuer in connection with, the distribution of any security." 15 USC 77(b)(a)(11).

[15] Interpretive Letter No. 393 (July 5, 1987), *reprinted in* [1988–1989 Transfer Binder] Fed. Banking L. Rep. (CCH)_ ¶ 85,617 (national bank with limited market presence not considered a dealer). *See also* Louis Loss, *Securities Regulation* 2983–84 (3d ed. 1990).

[16] *Citicorp, J.P. Morgan & Co. Inc., Banker Trust New York Corporation,* 73 *Fed. Res. Bull.* 473 n.4 (1987); OCC Interpretive Letter No. 684, *supra.*

[17] Interpretive Letter No. 388 (June 16, 1987), *reprinted in* [1998–1989 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,612; Interpretive Letter No. 329 (March 4, 1985), *reprinted in* [1985–1987 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,499.

[18] *SIA* v. *Board of Governors,* 807 F.2d 1052 (D.C. Cir. 1986), *cert. denied*, 483 U.S. 1005 (1987).

[19] The bank will not act as market maker in the securities by quoting prices continuously on both sides of the market.

[20] 12 CFR 1.2(e).

The language in the fifth sentence of section 24(Seventh)—"nothing herein contained shall authorize the purchase by the association for its own account of any shares of stock of any corporation"—is not a blanket bar on national bank acquisitions of stock. Rather, as discussed below, that language was intended to make clear that the express authorization contained in the statute permitting banks to invest in "investment securities" does not include an authorization for investments in stock. This proviso does not affect national banks' authority to hold equities, *if* the holding can qualify as permissible because it is part of or incidental to permissible banking activities.[21]

In the present situation, the bank's receiving the special interests enables it to engage in permissible banking activities and act as investment manager for investment funds that, in practice, require the manager to take an equity stake. Institutional and sophisticated individual investors in these funds require the manager to structure the payment of performance fees in this fashion. In this connection, these investments permit the bank to offer funds that provide investors with a tax treatment comparable to that of investors in other, similar funds. The bank would be unable to offer these funds on a competitive basis unless it makes these investments. Based on these circumstances, the proposed investments are an integral component of investment management services provided by the bank to the investment funds.

C. Conclusion

Based upon a review of the information you provided, including the representations and commitments made in your letter, and for the reasons discussed above, we conclude that the bank may receive the special interests in the funds, subject to the following conditions:

(1) The funds shall constitute "affiliates" of the bank and Citibank, N.A., for purposes of sections 23A and 23B of the Federal Reserve Act.

(2) Prior to receiving the special interest in the funds, the bank shall adopt and implement an appropriate risk management process, acceptable to the OCC examiner-in-charge, to monitor these interests. The bank's risk management process shall be comprehensive and shall include:

   (i) Adoption and implementation of a conflict of interest policy addressing all inherent conflicts associated with the bank's holding of the special interests in the funds; and

   (ii) Adoption and implementation of risk management policies and procedures for monitoring the special interests in the funds and the risks associated with those interests, taking into account relevant factors noted in OCC guidance (e.g., OCC Banking Circular 277 (BC 277—October 1993), Supplemental Guidance 1 to BC 277 (January 1999) and the *Handbook for National Bank Examiners,* "Risk Management of Financial Derivatives" (January 1997)).

The bank shall provide the OCC with copies of the policies and procedures described in (i) and (ii) prior to receiving a special interest in the funds it manages.

(3) The bank shall not receive special interests in the funds other than funds that invest in securities and financial instruments, and the bank shall not invest in any fund that holds real estate or tangible personal property.

(4) The bank shall make reports and other information in the bank's possession readily available to OCC supervisory staff as necessary for the OCC to determine compliance with these conditions.

(5) The bank will account for its special interests in the funds under the equity method of accounting.

(6) The bank will hold special interests in a fund only when, and only for so long as, it is providing investment management services to the fund.

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

Julie L. Williams
First Senior Deputy Comptroller and Chief Counsel

941—June 11, 2002

12 USC 24(7)

Dear [   ]:

This responds to your request for confirmation that [   ] ("bank") had authority to acquire preferred stock of [   ] ("company"), a subsidiary of [   ], pursuant to its authority to discount and negotiate evidences of debt. The bank acquired the preferred stock ("preferred stock")

[21] The legislative history of the language in the fifth sentence of section 24 (Seventh) is discussed in detail in Interpretive Letter No. 892 (September 13, 2000).

as partial consideration for the disposition of a loan portfolio to the company. Based on the information and representations you provided, we conclude that the bank had authority to acquire and may continue to hold the preferred stock pursuant to its authority to discount and negotiate evidences of debt. The bank's existing holdings represent less than 5 percent of the bank's capital and surplus and are within applicable limits.

Background

The bank recently disposed of a portfolio of loans to the company in exchange for cash and preferred stock. The bank had negotiated to dispose of the loan portfolio for cash, but had accepted the company's offer of 90 percent cash and 10 percent preferred stock because the cash portion of the company's offer was significantly higher than other offers the bank received.

The preferred stock was issued in a private placement and is rated above investment grade by two nationally recognized statistical rating organizations. It has a limited life of 20 years and is not otherwise redeemable at the option of the issuer. Dividend payments are cumulative with a fixed dividend of 6.2 percent. Preferred shareholders have a priority over common stockholders upon dissolution of the corporation and have no voting rights other than those required under state law (generally relating to the preferred shareholders' liquidation preference rights). There is a one-year restriction on the sale or transfer of the preferred stock except to the bank's affiliates. After one year, the bank may transfer the preferred stock to a commercial bank, finance company, insurance company, or other financial institution or fund, that is regularly engaged in making, purchasing or investing in loans, and has a tangible net worth in excess of $100,000,000. You have asked whether the bank had authority to acquire and hold the preferred stock under its authority to discount and negotiate evidences of debt.[1]

Discussion

A. Legal Authority to Acquire and Hold the Preferred Stock

National banks may acquire and hold preferred stock under the authority in 12 USC 24(Seventh) to discount and negotiate evidences of debt if the preferred stock is, in substance, a debt obligation of the issuer.

Section 24(Seventh) expressly authorizes national banks to conduct the business of banking, including "by discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of debt."[2] 12 USC 24(Seventh). This authority has long included the power to acquire and hold a variety of debt and debt-like instruments, including certain instruments denominated as securities.[3]

For example, the OCC concluded that a national bank could acquire privately placed assets-backed securities under its authority to negotiate evidences of debt.[4] In that case, the bank had asked whether the asset-backed securities qualified as investment securities under 12 CFR Part 1. The OCC determined that the securities did not meet the marketability requirements for investment securities, but could be purchased under

[1] The Office of the Comptroller of the Currency (OCC) has permitted national banks to purchase and hold preferred stock as Type III investment securities if the securities meet the applicable rating and marketability requirements of 12 CFR 1.2. *See* Interpretive Letter No. 777 (April 8, 1997), *reprinted in* [1997 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–204. The OCC does not express any view on whether the preferred stock, in this case, meets the marketability requirements of 12 CFR 1.2 or qualifies as a Type III investment security. Regardless of whether it qualifies as a Type III investment security, however, the preferred stock should be reported as a security under Financial Accounting Standards Board Statement No. 115: Accounting for Certain Investments in Debt and Equity Securities. In addition, the preferred stock should be categorized as a security and listed in Schedule B (Securities) in the call report.

[2] The courts have long held that the term "discount" includes purchases of notes and other evidences of debt. *See, e.g.*, *National Bank* v. *Johnson*, 104 U.S. 271 (1881); *Steward* v. *Atlantic National Bank*, 27 F.2d 224, 228 (9th Cir. 1928); *Morris* v. *Third National Bank*, 142 F. 25 (8th Cir. 1905); *Danforth* v. *National State Bank of Elizabeth*, 48 F. 271 (3d Cir. 1891). *See also* 12A *Words and Phrases* 285–95 (West 1954 and Supp. 1986). And negotiation is a form of transfer, disposition or sale. *Black's Law Dictionary* 934 (5th ed. 1979); 28 *Words and Phrases* 758–766 (West 1955 & Supp. 1986). Thus, the OCC has concluded that the authority to discount and negotiate evidences of debt includes the authority to purchase and sell debt and debt-like instruments. *See, e.g.,* OCC Conditional Approval No. 262, *Interpretations and Actions*, Dec. 1997, Vol. 10, No. 12 ("the power to discount and negotiate is the power to purchase and sell, and purchasing and selling as principal defines underwriting and dealing").

[3] *See* Interpretive Letter No. 833 (July 8, 1998), *reprinted in* [1998 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–287; Interpretive Letter No. 834, (July 8, 1998), *reprinted in* [1998 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–288; Interpretive Letter No. 600 (July 31, 1992), *reprinted in* [1992–1993 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,427; Interpretive Letter No. 182 (March 10, 1981), *reprinted in* [1981–1982 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,263. The OCC has sometimes referred, more broadly, to a national bank's "general lending authority" to purchase debt securities rather than the authority to discount and negotiate evidences of debt. For example, the OCC approved a bank's purchase of participation certificates that represented interests in pools of FHA-insured Title I property improvement loans under its general lending powers. *See, e.g.*, Interpretive Letter No. 579 (March 24, 1992), *reprinted in* [1991–1992 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,349. This reference to a bank's general lending authority includes the authority to discount and negotiate evidences of debt.

[4] Interpretive Letter No. 600, *supra*.

the authority to negotiate evidences of debt. The OCC stated that the ability of a national bank to acquire asset-backed securities is not limited by the fact that such investments may not be eligible as investment securities.[5]

The OCC reached the same conclusion in a recent matter involving trust preferred securities.[6] Trust preferred securities are debt-like instruments that are issued by trusts organized by banks or bank holding companies. In a typical structure, the trust sells common securities to the organizing bank or bank holding company and sells preferred securities to third-party investors. The proceeds of the preferred securities issuance are then used to purchase a junior subordinated debenture from the bank or bank holding company. The bank or bank holding company guarantees that the trust will pay its obligations with the cash it has collected from the interest payments on the junior subordinated debt it owns.

The OCC had previously determined that, although trust preferred securities were denominated as securities, they were, in substance, debt obligations.[7] As debt obligations, the trust preferred securities would qualify as investment securities as long as they met the applicable rating and marketability requirements of 12 CFR Part 1. The OCC later concluded that national banks could purchase trust preferred securities under the authority to discount and negotiate evidences of debt even if they did not qualify as investment securities, because the trust preferred securities were debt obligations.[8]

The OCC has considered several factors to determine whether securities with characteristics of both debt and equity have sufficient indicia of debt to qualify as debt obligations.[9] These factors include whether the returns on the investment are fixed or based on the success of the enterprise, the voting rights of the stockholder, the obligation to pay dividends, rights of stockholders in the event of the failure of the issuer, whether the security has a limited life, and whether it is rated.[10]

These factors distinguish equity securities (or common stock) from debt securities. For example, common stock provides an ownership interest and appreciation of the market value of the issuer and dividends. In contrast, debt securities offer investors periodic interest payments, often in the form of fixed dividend payments, and a principal payment at maturity. In addition, common stock typically is perpetual and has broad voting rights, while debt securities can be perpetual or limited in term and have limited voting rights. In the event of the failure of an issuer, the claims of the common stockholders are subordinate to the holders of debt securities. Finally, rating agencies typically do not rate equity instruments but will assign credit ratings to debt securities.

Relying on these factors, the OCC has determined that national banks may purchase preferred stock as an investment security where the preferred stock can be properly characterized, in substance, as a debt obligation. For example, the OCC concluded that money market preferred stock had sufficient indicia of debt to qualify as an investment security under 12 CFR Part 1.[11] Like debt holders, money market preferred holders did not share in the appreciation or the profits of the issuer, but instead were entitled to dividends determined by a formula established in the prospectus and principal at redemption. Money market preferred holders also had limited voting rights typical of debt holders. Although the money market preferred stock did not have a set maturity date, the OCC viewed it as similar to a series of fixed maturity instruments because dividend rates on the stock were reset every 49 days. Finally, like other debt instruments, the money market preferred stock was given a credit rating by the rating agencies.

In addition, as noted above, the OCC has concluded that trust preferred securities are debt-like instruments that may be purchased as investment securities or under the authority to discount and negotiate evidences of debt.[12]

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[5] *Id.*

[6] Interpretive Letter No. 908, *reprinted in* [Current Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–433 (April 23, 2001).

[7] Interpretive Letter No. 777, *supra*.

[8] Interpretive Letter No. 908, *supra*.

[9] Some of these decisions addressed whether the securities would qualify as investment securities and did not discuss the authority to discount and negotiate evidences of debt. Nonetheless, these decisions are instructive because the OCC first had to determine whether the securities were debt obligations in order to determine whether they qualified as investment securities. An investment security is, by definition, "a marketable *debt obligation* that is not predominately speculative in nature." 12 CFR 1.2(e).

[10] *See, e.g.*, Interpretive Letter No. 777 and Interpretive Letter No. 781, both *supra*.

[11] *See* Interpretive Letter No. 781, *supra* (money market preferred stock closely resembles and can be properly characterized in substance as debt).

[12] *See* Interpretive Letter No. 777, *supra* (trust preferred securities are debt-like obligations) and Interpretive Letter No. 908, *supra* (trust preferred securities qualify as debt obligations and may be purchased and held as loans). *See also* OCC Conditional Approval No. 262, *supra* (" trust preferred securities are debt securities representing the long term secured or unsecured debt obligations of the issuing corporation").

Trust preferred securities have many characteristics typically associated with debt obligations including fixed and cumulative dividends, limited voting rights, and limited life.

The preferred stock is analogous in virtually all relevant respects to the preferred stock the OCC has previously concluded are debt obligations and not equity.[13] The preferred stock has characteristics typically associated with debt obligations, such as corporate bonds and municipal revenue bonds. For example, like debt holders, the preferred stockholders do not share in the profits of the issuer, but rather receive fixed dividend payments during the term of the preferred stock and principal at redemption. Also, like holders of debt, the preferred stockholders do not have authority to vote on ownership matters other than in limited situations. And claims of the common stockholders are subordinate to the holders of the preferred stock upon dissolution of the company. In addition, like most debt, the preferred stock is not perpetual. It has a limited life of 20 years. It is also given a credit rating by rating agencies, just as with debt. Thus, because the preferred stock closely resembles and can be properly characterized, in substance, as debt, the bank may acquire and hold it under the authority to discount and negotiate evidences of debt.

Because the preferred stock is, in substance, a debt obligation, the bank's acquisition of the preferred stock does not violate the Glass-Steagall Act's limitation on stock ownership. That provision limits the ownership of the "stock of any corporation" unless "otherwise permitted by law."[14] Here the preferred stock, despite its label, is not, in substance, "stock of any corporation."[15] Functionally, it is a debt obligation. As a debt obligation, its acquisition is "otherwise permitted by law."[16] Specifically, national banks may acquire the preferred stock pursuant to the authority to "discount and negotiate . . . evidences of debt."[17]

B. Prudential Standards and Regulatory Limits on Preferred Stock

Banks that hold debt obligations, such as the preferred stock, are subject to limits on the amount of debt the bank may hold. Most debt obligations are subject to limits of 10 to 15 percent of the bank's capital and surplus.[18] Some debt obligations, such as subordinated, unsecured long-term debt may be subject to stricter limits for safety and soundness reasons. In this case, the preferred stock represents less than 5 percent of the bank's capital and surplus.[19] This amount is within the prudential limits that the OCC would apply to such subordinated unsecured long-term debt.

The bank also must adhere to the prudential requirements in Banking Circular 181 (Rev.).[20] In that regard, the bank should conduct an independent analysis to determine that the acquisition of the preferred stock meets the bank's own internal underwriting standards. The nature and extent of the bank's independent analysis is a function of the type of transaction at issue and the bank's lending policies and procedures. The bank's acceptance of a favorable analysis of the preferred stock by the issuer, a credit rating institution, or another entity does not satisfy the need to conduct an independent credit analysis. The bank may, however, consider analysis by other sources as factors when independently assessing the preferred stock. The bank must maintain its analysis on an ongoing basis and must have continued access to appropriate credit and portfolio performance data as long as it holds the preferred stock.

Conclusion

The bank had authority to acquire and may hold the preferred stock under its authority to discount and negotiate evidences of debt. The bank's existing holdings represent less than 5 percent of the bank's capital and surplus and are within applicable limits. If you have any questions, please contact Beth Kirby, special counsel, at (202) 874-5210.

Ellen Broadman
Director
Securities and Corporate Practices Division

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[13] *See, e.g.*, Interpretive Letter No. 781, Interpretive Letter No. 777, and Interpretive Letter No. 908, all *supra*.

[14] 12 USC 24(Seventh).

[15] *Id.*

[16] *Id.*

[17] *Id.*

[18] For example, debt obligations that qualify as Type III investment securities under 12 CFR Part 1 are subject to a 10 percent investment limit. Debt obligations that qualify as loans and other extensions of credit are generally subject to a 15 percent lending limit, under 12 USC 84 and 12 CFR 32. A financed sale of assets is generally exempt from that legal lending limit, however. *See* 12 CFR 32.2(k)(2)(iii).

[19] The bank acquired $105 million of preferred stock from the company. This represents 4.64 percent of the bank's total equity capital of $2,260,849M as of March 31, 2002.

[20] *See* OCC Banking Circular 181 (Rev.) (August 2, 1984), *reprinted in* [1983–1984 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 63–506.

942—June 11, 2002

12 CFR 32.7

Subject: Pilot program for residential real estate loans and small business loans, 12 CFR 32.7

Dear [ ]:

This letter responds to your letters of April 12, 2002, and May 8, 2002, regarding the applicability of the two special limits in the lending limit pilot program (pilot program or program), 12 CFR 32.7, to loans made to finance land development or property construction.

The pilot program provides new special lending limits for residential real estate loans and small business loans under certain conditions.[1] A residential real estate loan is defined as a loan or extension of credit that is secured by 1–4-family residential real estate. 12 CFR 32.2(p). Such loan must be secured by a perfected first-lien security interest in 1–4-family real estate in an amount that does not exceed 80 percent of the appraised value of the collateral at the time the loan is made.[2] A small business loan is defined as a loan or extension of credit "'secured by nonfarm nonresidential properties'[3] or 'a commercial or industrial loan' as defined in the instructions for preparation of the Consolidated Report of Condition and Income" (call report instructions).[4] 12 CFR 32.2(r). A bank must apply for approval to use the special limits in the program and must meet certain requirements for eligibility. As you note, ["bank"] has been approved to participate in the pilot program.

A loan secured by real estate made to finance land development or property construction cannot qualify for the special limit for small business loans because the loan is excluded from the category of loans "secured by nonfarm nonresidential properties" and from the category of "commercial and industrial loans." Instead, the call report instructions provide that such construction and land development loans are reported as a separate category of loan, namely, "Construction, land development, and other land loans."[5] For these reasons, the special limit for small business loans does not extend to a loan secured by real estate to finance land development or property construction.[6]

A bank cannot avoid this result by making a construction or land development loan without taking a security interest in the real estate. It is true that not taking a security interest in the real estate would remove the loan from the "Construction, land development, and other land loans" category in the call report instructions, and potentially put it into the "commercial or industrial loan" category, depending upon its other characteristics. However, as you correctly point out in both your letters, making such a construction or land development loan on an unsecured basis would "not appear to be consistent with prudent banking practices." The basic purpose of the lending limit regulation is to "protect the safety and soundness of national banks" by preventing excessive loans to one borrower and promoting diversification of loans.[7] The pilot program itself stresses that the higher limits being made available in specified circumstances must be used in a manner that is "consistent with safety and soundness."[8]

Finally, a loan made to finance land development or property construction will also not generally qualify for the special limit for residential real estate loans. This is because a residential real estate loan must be secured by an existing, completed 1–4-family residence. A loan to finance land development or property construction will not generally meet this requirement.[9]

I trust this letter is responsive to your inquiry.

Ray Natter
Deputy Chief Counsel

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[1] *See* 66 *Fed. Reg.* 31114 (Jun. 11, 2001) (final rule) and 66 *Fed. Reg.* 55071 (Nov. 1, 2001) (correction).

[2] 12 CFR 32.7(a)(1).

[3] There is no requirement that the property be owner-occupied.

[4] The call report instructions are available at http://www.ffiec.gov.

[5] *See* RC-C-3 (3-01).

[6] As noted in the preamble to the final rule, the OCC chose to restrict the categories of loans to which the program would apply with the expectation that our experience with the program would be the basis for considering whether more categories of loans should be added at a later date. *See* 66 *Fed. Reg.* 31114, 31116 (Jun. 11, 2001) (final rule).

[7] 12 CFR 32.1(b).

[8] *See* 66 *Fed. Reg.* 31114, 31117 (Jun. 11, 2001) (final rule).

[9] I include the qualification "generally" since there may be a rare situation in which a bank's customer is able to borrow under the program to finance land development or property construction and provide collateral in the form of a first-lien security interest in an existing, completed residence. The bank's customer might be either an owner-occupier or a developer. If the borrower is a developer, the OCC requires as a prudential matter that the bank ensure that the security interest is taken in a residence that the developer has "pre-sold" to an unaffiliated third party under a binding purchase and sale agreement and that the loan is made on that same "pre-sold" basis and in conformity with OCC guidance regarding residential construction lending conducted on that basis. *See Comptroller's Handbook,* "Commercial Real Estate and Construction Lending" (Nov. 1995) at 17–18.

943—July 24, 2002

12 USC 24(7)

Dear [ ]:

This responds to your letter of April 12, 2002, as supplemented by your letter of May 7, 2002, requesting confirmation that [ ] ("bank"), may lawfully acquire and hold a one-third non-controlling equity interest in [ ] ("company"), a *[State]* limited liability company that will own and operate a single small airplane. For the reasons set forth below, the bank may acquire and hold the interest in the company, in the manner and as described herein.

A. Background

The bank proposes to make a non-controlling investment in the company, which will own and operate a plane that the bank will use in its conduct of business. The two other owners also plan to utilize the aircraft for their own respective business and personal purposes. The plane will not be used for chartering purposes or to generate income unrelated to the usage of the owners themselves. The bank has almost 50 offices spread across *[State1, State2]* and *[State3]*, and will use the plane to facilitate bank management's air travel to these various offices. The bank represents that since its offices are located in geographic areas served by small airports offering infrequent commercial flights, reliance upon commercial air-carriers has not been practical or convenient. Thus, this investment will provide the bank with access to an airplane that will permit management to better serve the bank's numerous offices spread across three states.

B. Analysis

A national bank may engage in activities that are part of or incidental to the business of banking. In a variety of circumstances, the Office of the Comptroller of the Currency (OCC) has permitted national banks to own, either directly, or indirectly through an operating subsidiary, a non-controlling interest in an enterprise.[1] The OCC has concluded that national banks are legally permitted to make a non-controlling investment in a company provided four criteria or standards are met.[2] These standards, which have been distilled from our previous decisions in the area of permissible non-controlling 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 bank's investment in the company will satisfy these four criteria.

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.[3]

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

[2] *See, e.g.*, Interpretive Letter No. 692, *reprinted in* [1995–1996 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81,007 (Nov. 1, 1995); Interpretive Letter No. 694, *reprinted in* [1995–1996 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81,005 (Dec. 13, 1995).

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

The company will own and operate a single airplane, the use of which will permit bank management to better serve the bank's numerous offices spread across three states. The bank's ownership interest in and operation of an airplane for use in its business is legally permissible under 12 USC 24(Seventh) as part of or incidental to the business of banking.

Its decision to be a one-third owner of the plane (through the company) is based upon projected need and usage by the bank. It requires access to an airplane, but not so much as to justify purchasing one outright. The other two owners will use the airplane for their proportionate share, to the mutual benefit of all three owners. The first standard is satisfied.

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 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.

The bank has the ability and the intention to divest itself of its investment in the company should the company engage in any activities that are impermissible for a national bank. Article XIV of the proposed LLC Operating Agreement that you have submitted for our review stipulates that the company shall be dissolved upon the direction of any LLC member. This ability to divest and the stated intention to do so, if necessary, appear adequate to permit the bank to withdraw its investment in the company should the company undertake impermissible activities. The second standard is thus 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 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.

The company is a *[State]* limited liability company. As a legal matter, investors in a *[State]* limited liability company do not incur liability with respect to the liabilities or obligations of the limited liability company solely by reason of being a member or manager of the company.[4] Furthermore, the proposed LLC Operating Agreement includes a provision stating that the members of the company shall have no liability or obligation for any debts, liabilities, or obligations of the company beyond the members' respective capital contributions or obligations to make a capital contribution, except as expressly required by the agreement or applicable law. *See* Agreement at Article XIX.

Thus, the bank's loss exposure for the liabilities of the company will be limited.

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 minority investment in a corporate entity is to report it as an unconsolidated entity under the equity or cost method of accounting. You have represented that the bank will account for its ownership interest in the company according to the equity method of accounting. Under the equity method of accounting, 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.

Therefore, for both legal and accounting purposes, the bank's potential loss exposure arising from its investment in the company should be limited to the amount of its investment. 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.

[4] *See [State]* Code Ann. § [ ].

"Necessary" has been judicially construed to mean "convenient or useful."[5] Our precedents on bank non-controlling 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.[6]

In this instance, the bank's ownership interest in the company is neither passive nor speculative, and this ownership interest will be convenient and useful for the bank. The bank has almost 50 offices spread across *[State1, State2]* and *[State3]*. As a result of its investment in the company, the bank will have access to an airplane to facilitate bank management's air travel to these various offices. The bank represents that since its offices are located in geographic areas served by small airports offering infrequent commercial flights, reliance upon commercial air-carriers is neither practical nor convenient. Access to the aircraft owned and operated by the company will permit the bank's management to better serve the bank's numerous offices spread across three states. Thus, the investment is not a mere passive investment unrelated to the bank's 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 in your letters, and for the reasons discussed above, it is my opinion that the bank may acquire a non-controlling equity investment in the company, subject to the following conditions:

(1) The company will engage only in activities that are permissible for a national bank;
(2) In the event that the company engages in an activity that is inconsistent with condition number one, the bank will divest its interest in the company in accord with the bank's letter of May 7, 2002;
(3) The bank will account for its investment in the company under the equity method of accounting; and
(4) The company will be subject to OCC supervision and examination, subject to the limitations and requirements of 12 USC 1820a and 1831v.

These conditions are conditions imposed in writing by the OCC in connection with this opinion letter stating that the bank's investment in the company is permissible under 12 USC 24(Seventh). As such, these conditions may be enforced in proceedings under applicable law.

If you have any questions, please contact Counsel June Hinson Allen at (404) 588-4520.

Brenda Curry
District Counsel
Southeastern District

944—August 12, 2002

12 USC 24(7)

Subject: Proposed Loss Notification and Credit Monitoring Services

Dear [ ]:

This is in response to your letter, transmitted via e-mail on June 27, 2002 to Richard Erb, licensing manager, Large Bank Supervision, regarding the proposal of [ ], *[City, State]* ("bank") to engage in certain loss notification and credit monitoring services. In particular, you seek the OCC's concurrence with your view that the proposed activities are incidental to the business of banking under 12 USC 24(Seventh) and therefore permissible for a national bank.

Facts

The bank, which specializes in the issuance of retail and business credit cards, proposes to add loss notification and credit monitoring services to its product offerings. Initially these services would be offered solely to the bank's cardholders. At some later time, the bank may also offer these services to cardholders of other issuers and to the general public. Customers would pay a monthly charge for each service. In the case of the bank's own cardholders, such charges would appear on the regular monthly billing statement.

Customers who purchase the bank's loss notification services would be able to register all their credit, debit, ATM, and telephone calling cards with the bank.

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

[6] *See, e.g.*, Interpretive Letter No. 543, *reprinted in* [1990–1991 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,255 (Feb. 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 (Mar. 14, 1988).

Participating customers whose cards were lost or stolen would then be able to notify the bank of the loss or theft and the bank would then (a) notify the issuers of all the lost or stolen cards and (b) request that the cards be canceled or reissued. Through this process, the customers would receive full protection from their respective card issuers for fraudulent charges. They would also be eligible for emergency cash advances.

Customers who purchase the bank's credit monitoring services would also be able to obtain, at any time, the following products or services:

(a) A merged triple credit bureau report (*i.e.,* from the three major credit bureaus);
(b) A current credit score;
(c) Monthly monitoring of their credit record for new accounts, inquiries, and derogatory or adverse information;
(d) Access to their Social Security account to confirm accurate Social Security deductions by past and present employers;
(e) Access to medical information about them on file at the Medical Information Bureau, including health information used by insurance companies;[1]
(f) Access to records of their motor vehicle violations, including points and dates by which points should be removed from their drivers license records; and
(g) Access to credit advisory consultants.

The bank currently offers these services, provided by nonaffiliates, to its own cardholders pursuant to its authority to act as a finder under 12 CFR 7.1002. However, the bank would like to bring these services in-house.

Analysis

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. A national bank may engage in all activities that are part of or incidental to the business of banking. 12 USC 24(Seventh). In *NationsBank of North Carolina, N.A.,* v. *Variable Life Annuity Co.,* 513 U.S. 251 (1995), the Supreme Court held that the "business of banking" is not limited to the enumerated powers in 12 USC 24(Seventh), but rather encompasses activities that are part of the business of banking. *Id.* at 258. The Court further established that banks may engage in activities that are incidental to the enumerated powers as well as the broader "business of banking."

The OCC determined a number of years ago that loss notification services such as those proposed by the bank are incidental to banking.[2] Since the issuance of credit cards has long been determined to be a proper activity for national banks, ancillary activities such as loss notification and providing emergency loans are a logical outgrowth of those services.

The OCC has also consistently stated for many years that the operation of a credit bureau is incidental to banking and thus permissible for national banks.[3] In addition, it has determined that providing credit verification incidental to the issuance of credit cards is permissible.[4] If it is permissible for a national bank to operate a credit bureau, then it is clearly also permissible for the bank to provide directly to its customers those services that are performed by a credit bureau or are a logical outgrowth of credit bureau activities, *i.e.,* credit reports, credit scores, and monitoring of credit records. Providing access to credit advisory consultants is well within a national bank's longstanding authority to offer financial counseling. 12 CFR 5.34(e)(5)(v)(I); OCC Interpretive Letter No. 137, *reprinted in* [1981–1982 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,218 (December 27, 1979).

While the other services proposed to be offered by the bank (providing customers with access to their Social Security, medical, and motor vehicle records) are not viewed as strictly banking, financial, or related economic information, the inclusion of these services along with the other credit monitoring services is permissible. The OCC has long held that, under their incidental powers, national

[1] The Medical Information Bureau is a non-stock, not-for-profit membership association, organized under Delaware law, of approximately 600 U.S. and Canadian insurance companies. According to its Web site (www.mib.com), its purpose is to "detect and deter attempts by applicants of life, health, disability or long-term insurance who would omit or misrepresent facts." It maintains a database that assigns codes to a wide variety of medical conditions and other factors, such as adverse driving records and participation in hazardous sports, that might affect an individual's insurability. Member companies report to the bureau information they obtain about any insured person or insurance applicant that is considered significant to the person's risk classifications, and often check the bureau's database before approving an insurance application.

[2] *See* letter from Jonathan L. Levin, senior attorney (March 15, 1985) (unpublished); letter from John E. Shockey, deputy chief counsel (Sept. 18, 1975) (unpublished).

[3] *See, e.g.,* OCC Conditional Approval No. 336 (Nov. 2, 1999); OCC Conditional Approval No. 276 (May 8, 1998); letter from John E. Shockey, deputy chief counsel (May 18, 1976) (unpublished).

[4] *See* letter from Richard V. Fitzgerald, director, Legal Advisory Services Division (Jan. 25, 1979) (unpublished).

banks may sell non-banking products and services when reasonably necessary to provide banking products on a competitive basis by creating a package of related services needed to satisfy consumer demand, meet market competition, and enable the national bank successfully to market its services. *See, e.g.,* OCC Interpretive Letter No. 928, *reprinted in* [Current Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–453 (December 24, 2001).[5] In this case, the inclusion of these other records as part of the credit monitoring services to be offered by the bank will make the overall package more attractive and useful to customers by providing them with a single convenient source through which to gain access to a wide variety of personal, financial, and other files.

[5] *See also* OCC Interpretive Letter No. 653, *reprinted in* [1994–1995 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,601 (Dec. 22, 1994)

Conclusion

The loss notification and credit monitoring activities described in your letter are permissible under 12 USC 24(Seventh) because they are part of or incidental to the business of banking.

Sue E. Auerbach
Counsel
Bank Activities and Structure Division

Mergers—July 1 to September 30, 2002

Mergers—July 1 to September 30, 2002

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 July 1 to September 30, 2002

Title and location (charter number)	Total assets
California	
Pacific Western National Bank, Santa Monica (017423)	781,762,000
and Upland Bank, Upland, California.	103,887,000
merged on August 22, 2002 under the title of **Pacific Western National Bank, Santa Monica** (017423)	871,497,000
Rancho Santa Fe National Bank, Rancho Santa Fe (017212)	404,164,000
and First National Bank, San Diego, California (017129)	649,131,000
merged on September 10, 2002 under the title of **First National Bank, Rancho Santa Fe** (017212)	1,132,133,000
Pacific Western National Bank, Santa Monica (017423)	781,727,000
and Marathon National Bank, Los Angeles, California (017915)	109,300,000
merged on August 23, 2002 under the title of **Pacific Western National Bank, Santa Monica** (017423)	891,027,000
Connecticut	
Westport National Bank, Westport (023664)	80,225,000
and Middlesex Bank & Trust Company, Newton, Massachusetts	40,395,000
merged on July 1, 2002 under the title of **Westport National Bank, Westport** (023664)	119,945,000
Kansas	
Sunflower Bank, National Association, Salina (004742)	879,124,000
and Bank of Monte Vista, Monte Vista, Colorado	68,923,000
merged on September 9, 2002 under the title of **Sunflower Bank, National Association, Salina** (004742)	939,690,000

Nonaffiliated mergers—thrift (mergers consummated involving nonaffiliated national banks and savings and loan associations), from July 1 to September 30, 2002

Title and location (charter number)	Total assets
Maine	
Banknorth, National Association, Portland (024096)	21,094,132,000
and Ipswich Savings Bank, Ipswich, Massachusetts	320,971,000
merged on July 26, 2002 under the title of **Banknorth, National Association, Portland** (024096)	21,448,031,000
Texas	
The First National Bank of Bastrop, Bastrop (004093)	208,082,000
and Community Bank of Central Texas, SSB, Smithville, Texas	36,243,000
merged on July 29, 2002 under the title of **The First National Bank of Bastrop, Bastrop** (004093)	208,082,000

Affiliated mergers (mergers consummated involving two or more affiliated operating banks), from July 1 through September 30, 2002

Title and location (charter number)	Total assets
Illinois	
The First National Bank in Toledo, Toledo (013682)	150,308,000
and First State Bank of Newman, Newman, Illinois	23,300,000
merged on July 15, 2002 under the title of **The First National Bank in Toledo, Toledo** (013682)	173,608,000
Wells Fargo Bank Illinois, National Association, Galesburg (022636)	351,364,000
and Marquette Bank Monmouth, Monmouth, Illinois	84,726,000
and Marquette Bank Morrison, Morrison, Illinois	99,646,000
merged on July 13, 2002 under the title of **Wells Fargo Bank Illinois, National Association, Galesburg** (022636)	535,736,000
Bank One, National Association, Chicago (000008)	178,035,024,000
and Bank One, Colorado, National Association, Denver, Colorado (015184)	3,589,066,000
and Bank One, Indiana, National Association, Indianapolis, Indiana (013759)	12,386,042,000
and Bank One, Wisconsin, Milwaukee, Wisconsin	6,836,419,000
merged on August 22, 2002 under the title of **Bank One, National Association, Chicago** (000008)	192,007,104,000
The First National Bank in Staunton, Staunton (014310)	239,706,000
and Hamel State Bank, Hamel, Illinois	54,873,000
merged on September 21, 2002 under the title of **The First National Bank in Staunton, Staunton** (014310)	294,579,000
Minnesota	
Wells Fargo Bank Minnesota, National Association, Minneapolis (002006)	52,428,420,000
and Marquette Bank, National Association, Rogers, Minnesota (022831)	2,003,711,000
and Marquette Capital Bank, National Association, Wayzata, Minnesota (023153)	272,664,000
merged on July 13, 2002 under the title of **Wells Fargo Bank Minnesota, National Association, Minneapolis** (002006)	54,477,822,000
F&M Community Bank, National Association, Preston (024356)	47,349,000
and F&M Community Bank, National Association, Chatfield, Minnesota (024089)	8,217,000
merged on July 1, 2002 under the title of **F&M Community Bank, National Association, Preston** (024356)	55,566,000
TCF National Bank, Minneapolis (023253)	11,057,665,000
and TCF National Bank Colorado, Englewood, Colorado (023269)	123,378,000
merged on July 26, 2002 under the title of **TCF National Bank, Minneapolis** (023253)	11,157,641,000
Northwestern Bank, National Association, Dilworth (024372)	75,423,000
and Viking Bank, Hendrum, Minnesota	26,690,000
merged on August 16, 2002 under the title of **Northwestern Bank, National Association, Dilworth** (024372)	102,113,000
Nevada	
Household Bank (SB), National Association, Las Vegas (022675)	3,200,000,000
and Household Bank (Nevada), National Association, Las Vegas, Nevada (018818)	1,591,330,000
merged on July 1, 2002 under the title of **Household Bank (SB), National Association, Las Vegas** (022675)	4,728,668,000
Household Bank (SB), National Association, Las Vegas (022675)	4,034,081,000
and Beneficial National Bank USA, New Castle, Delaware (022474)	78,248,000
merged on July 1, 2002 under the title of **Household Bank (SB), National Association, Las Vegas** (022675)	4,112,329,000
New York	
The National Bank of Geneva, Geneva (012450)	572,175,000
and The Pavilion State Bank, Pavilion, New York	97,494,000
merged on September 20, 2002 under the title of **The National Bank of Geneva, Geneva** (012450)	669,669,000

Affiliated mergers (continued)

Title and location (charter number)	Total assets
Ohio	
Charter One Bank, National Association, Cleveland (024340)	38,165,417,000
and Charter Bank, Wyandotte, Michigan	266,839,000
merged on August 9, 2002 under the title of **Charter One Bank, National Association, Cleveland** (024340)	38,492,702,000
First National Bank of Southwestern Ohio, Hamilton (000056)	1,343,438,000
and Hebron Deposit Bank, Hebron, Kentucky	102,794,000
merged on July 19, 2002 under the title of **First Financial Bank, National Association, Hamilton** (000056)	1,446,232,000
Oklahoma	
Shamrock Bank, National Association, Coalgate (012529)	43,707,000
and First Bank of Apache, Apache, Oklahoma on September 6, 2002	21,463,000
and Clayton State Bank, Clayton, Oklahoma on September 6, 2002	19,887,000
and Bryan County National Bank, Caddo, Oklahoma (015106) on August 9, 2002	32,778,000
merged on those respective dates under the title of **Shamrock Bank, National Association, Coalgate** (012529)	117,835,000
Texas	
Wells Fargo Bank Texas, National Association, San Antonio (014208)	23,648,435,000
and The First National Bank of Amarillo, Amarillo, Texas (023451)	347,127,000
merged on August 24, 2002 under the title of **Wells Fargo Bank Texas, National Association, San Antonio** (014208)	24,011,753,000
Wisconsin	
Wells Fargo Bank Wisconsin National Association, Milwaukee (015057)	2,381,193,000
and The First National Bank and Trust Company of Baraboo, Baraboo, Wisconsin (014060)	100,948,000
and Meridian Capital Bank, National Association, Milwaukee, Wisconsin (023787)	96,014,000
merged on July 13, 2002 under the title of **Wells Fargo Bank Wisconsin National Association, Milwaukee** (015057)	2,578,155,000

Affiliated mergers—thrift (mergers consummated involving affiliated national banks and savings and loan associations), from July 1 through September 30, 2002

Title and location (charter number)	Total assets
Maine	
Banknorth, National Association, Portland (024096)	21,129,898,000
and Southington Savings Bank, Southington, Connecticut	675,994,000
merged on August 31, 2002 under the title of **Banknorth, National Association, Portland** (024096)	21,916,175,000
Tennessee	
EFS National Bank, Memphis (022404)	885,297,000
and EFS Federal Savings Bank, Cordova, Tennessee	385,000,000
merged on August 26, 2002 under the title of **EFS National Bank, Memphis** (022404)	1,270,000,000

Tables on the Financial Performance of National Banks

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Assets, liabilities, and capital accounts of national banks
September 30, 2001 and September 30, 2002

(Dollar figures in millions)

	September 30, 2001	September 30, 2002	Change September 30, 2001–September 30, 2002 fully consolidated	
	Consolidated foreign and domestic	Consolidated foreign and domestic	Amount	Percent
Number of institutions	**2,169**	**2,092**	**(77)**	**(3.55)**
Total assets	**$3,543,818**	**$3,846,111**	**$302,293**	**8.53**
Cash and balances due from depositories	**196,884**	**211,285**	**14,401**	**7.31**
Noninterest-bearing balances, currency and coin	146,048	157,617	11,569	7.92
Interest bearing balances	50,836	53,668	2,832	5.57
Securities	**526,337**	**641,075**	**114,738**	**21.80**
Held-to-maturity securities, amortized cost	25,785	25,548	(237)	(0.92)
Available-for-sale securities, fair value	500,552	615,527	114,975	22.97
Federal funds sold and securities purchased	**153,896**	**141,591**	**(12,305)**	**(8.00)**
Net loans and leases	**2,191,901**	**2,344,654**	**152,753**	**6.97**
Total loans and leases	2,235,067	2,392,315	157,248	7.04
Loans and leases, gross	2,236,509	2,394,943	158,434	7.08
Less: Unearned income	1,441	2,628	1,186	82.30
Less: Reserve for losses	43,166	47,661	4,495	10.41
Assets held in trading account	**130,552**	**161,125**	**30,573**	**23.42**
Other real estate owned	**1,806**	**1,961**	**155**	**8.59**
Intangible assets	**81,541**	**86,762**	**5,221**	**6.40**
All other assets	**260,901**	**257,657**	**(3,244)**	**(1.24)**
Total liabilities and equity capital	**3,543,818**	**3,846,111**	**302,293**	**8.53**
Deposits in domestic offices	1,908,241	2,114,022	205,781	10.78
Deposits in foreign offices	387,767	376,022	(11,745)	(3.03)
Total deposits	**2,296,007**	**2,490,044**	**194,036**	**8.45**
Noninterest-bearing deposits	450,957	544,018	93,061	20.64
Interest-bearing deposits	1,845,051	1,946,026	100,975	5.47
Federal funds purchased and securities sold	**272,493**	**258,878**	**(13,615)**	**(5.00)**
Other borrowed money	**336,192**	**390,546**	**54,353**	**16.17**
Trading liabilities less revaluation losses	**26,940**	**26,509**	**(431)**	**(1.60)**
Subordinated notes and debentures	**64,897**	**67,581**	**2,684**	**4.14**
All other liabilities	**218,169**	**245,714**	**27,545**	**12.63**
Trading liabilities revaluation losses	60,647	84,774	24,126	39.78
Other	157,521	160,940	3,418	2.17
Total equity capital	**329,119**	**366,841**	**37,721**	**11.46**
Perpetual preferred stock	805	2,703	1,899	236.00
Common stock	13,181	12,704	(477)	(3.62)
Surplus	177,354	196,733	19,379	10.93
Retained earnings and other comprehensive income	144,873	162,318	17,445	12.04
Other equity capital components	(34)	(34)	0	NM

NM indicates calculated percent change is not meaningful.

Quarterly income and expenses of national banks
Third quarter 2001 and third quarter 2002

(Dollar figures in millions)

	Second quarter 2001	Second quarter 2002	Change Second quarter 2001–second quarter 2002 fully consolidated	
	Consolidated foreign and domestic	Consolidated foreign and domestic	Amount	Percent
Number of institutions	**2,169**	**2,092**	**(77)**	**(3.55)**
Net income	**$9,796**	**$15,399**	**$5,604**	**57.21**
Net interest income	**31,411**	**35,374**	**3,963**	**12.62**
Total interest income	55,750	52,171	(3,579)	(6.42)
On loans	42,940	39,941	(2,999)	(6.98)
From lease financing receivables	1,873	1,762	(112)	(5.96)
On balances due from depositories	589	436	(153)	(25.97)
On securities	7,677	8,079	402	5.23
From assets held in trading account	936	949	13	1.34
On federal funds sold and securities repurchased	1,469	666	(802)	(54.62)
Less: Interest expense	24,340	16,798	(7,542)	(30.99)
On deposits	16,646	11,258	(5,388)	(32.37)
Of federal funds purchased and securities sold	2,375	1,253	(1,122)	(47.25)
On demand notes and other borrowed money*	4,400	3,507	(894)	(20.31)
On subordinated notes and debentures	915	780	(134)	(14.69)
Less: Provision for losses	**8,224**	**7,904**	**(321)**	**(3.90)**
Noninterest income	**24,425**	**28,108**	**3,683**	**15.08**
From fiduciary activities	2,063	2,130	68	3.27
Service charges on deposits	4,320	4,935	615	14.23
Trading revenue	1,826	1,833	7	0.38
From interest rate exposures	971	1,083	112	11.55
From foreign exchange exposures	767	631	(136)	(17.68)
From equity security and index exposures	85	(9)	(93)	NM
From commodity and other exposures	36	130	94	NM
Investment banking brokerage fees	1,269	1,040	(229)	(18.07)
Venture capital revenue	(650)	(359)	291	(44.82)
Net servicing fees	2,704	1,771	(933)	(34.52)
Net securitization income	3,262	4,350	1,088	33.36
Insurance commissions and fees	404	523	119	29.52
Net gains on asset sales	1,177	1,947	770	65.44
Sales of loans and leases	729	1,525	796	109.17
Sales of other real estate owned	(8)	(42)	(34)	428.19
Sales of other assets(excluding securities)	456	464	9	1.88
Other noninterest income	8,049	9,938	1,889	23.48
Gains/losses on securities	**585**	**1,201**	**616**	**105.46**
Less: Noninterest expense	**33,003**	**33,740**	**737**	**2.23**
Salaries and employee benefits	12,780	13,848	1,068	8.35
Of premises and fixed assets	3,866	4,013	147	3.79
Other noninterest expense	15,102	14,818	(285)	(1.89)
Less: Taxes on income before extraordinary items	**5,395**	**7,602**	**2,206**	**40.89**
Income/loss from extraordinary items, net of income taxes	**(2)**	**(38)**	**(36)**	**2,398.88**
Memoranda:				
Net operating income	9,414	14,618	5,204	55.28
Income before taxes and extraordinary items	15,193	23,039	7,846	51.65
Income net of taxes before extraordinary items	9,797	15,437	5,640	57.57
Cash dividends declared	7,081	9,352	2,271	32.07
Net charge-offs to loan and lease reserve	6,584	7,698	1,114	16.92
Charge-offs to loan and lease reserve	7,637	8,924	1,287	16.85
Less: Recoveries credited to loan and lease reserve	1,053	1,226	173	16.41

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

Year-to-date income and expenses of national banks
Through September 30, 2001 and through September 30, 2002

(Dollar figures in millions)

	September 30, 2001	September 30, 2002	Change September 30, 2001–September 30, 2002 fully consolidated	
	Consolidated foreign and domestic	Consolidated foreign and domestic	Amount	Percent
Number of institutions	**2,169**	**2,092**	**(77)**	**(3.55)**
Net income	**$31,624**	**$43,213**	**$11,588**	**36.64**
Net interest income	**90,283**	**105,605**	**15,322**	**16.97**
Total interest income	172,193	155,771	(16,421)	(9.54)
On loans	132,917	119,530	(13,387)	(10.07)
From lease financing receivables	5,780	5,459	(321)	(5.55)
On balances due from depositories	2,108	1,384	(724)	(34.33)
On securities	23,043	23,605	562	2.44
From assets held in trading account	2,885	2,620	(264)	(9.17)
On federal funds sold and securities repurchased	4,698	2,149	(2,549)	(54.26)
Less: Interest expense	81,910	50,166	(31,744)	(38.75)
On deposits	55,103	33,671	(21,433)	(38.90)
Of federal funds purchased and securities sold	8,233	3,890	(4,344)	(52.76)
On demand notes and other borrowed money*	15,648	10,190	(5,458)	(34.88)
On subordinated notes and debentures	2,925	2,416	(509)	(17.41)
Less: Provision for losses	**19,465**	**24,013**	**4,549**	**23.37**
Noninterest income	**73,068**	**81,370**	**8,301**	**11.36**
From fiduciary activities	6,463	6,590	127	1.97
Service charges on deposits	12,473	14,420	1,947	15.61
Trading revenue	5,503	5,654	152	2.76
From interest rate exposures	2,567	2,425	(142)	(5.53)
From foreign exchange exposures	2,466	2,368	(98)	(3.98)
From equity security and index exposures	329	513	183	55.70
From commodity and other exposures	170	351	182	107.25
Investment banking brokerage fees	3,578	3,474	(104)	(2.91)
Venture capital revenue	(574)	(166)	408	(71.09)
Net servicing fees	7,858	7,311	(547)	(6.96)
Net securitization income	8,578	11,528	2,949	34.38
Insurance commissions and fees	1,155	1,635	480	41.58
Net gains on asset sales	3,579	3,965	386	10.79
Sales of loans and leases	1,994	3,596	1,601	80.29
Sales of other real estate owned	(17)	(27)	(10)	54.77
Sales of other assets(excluding securities)	1,602	397	(1,206)	(75.24)
Other noninterest income	24,457	26,959	2,502	10.23
Gains/losses on securities	**1,437**	**2,091**	**654**	**45.53**
Less: Noninterest expense	**96,034**	**100,058**	**4,024**	**4.19**
Salaries and employee benefits	37,701	41,241	3,540	9.39
Of premises and fixed assets	11,456	11,800	344	3.00
Other noninterest expense	42,985	44,037	1,052	2.45
Less: Taxes on income before extraordinary items	**17,297**	**21,821**	**4,524**	**26.16**
Income/loss from extraordinary items, net of income taxes	**(368)**	**39**	**407**	**NM**
Memoranda:				
Net operating income	31,034	41,765	10,731	34.58
Income before taxes and extraordinary items	49,290	64,995	15,706	31.86
Income net of taxes before extraordinary items	31,992	43,174	11,181	34.95
Cash dividends declared	20,863	30,943	10,080	48.31
Net charge-offs to loan and lease reserve	16,646	23,693	7,048	42.34
Charge-offs to loan and lease reserve	19,715	27,510	7,795	39.54
Less: Recoveries credited to loan and lease reserve	3,069	3,816	747	24.33

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

Assets of national banks by asset size
September 30, 2002

(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	**2,092**	**966**	**954**	**128**	**44**	**7,933**
Total assets	**$3,846,111**	**$51,373**	**$255,234**	**$395,872**	**$3,143,632**	**$6,932,604**
Cash and balances due from	**211,285**	**3,185**	**12,220**	**22,989**	**172,890**	**377,851**
Securities	**641,075**	**12,690**	**63,199**	**90,064**	**475,122**	**1,292,320**
Federal funds sold and securities purchased	**141,591**	**2,929**	**9,552**	**22,755**	**106,355**	**326,634**
Net loans and leases	**2,344,654**	**30,097**	**157,400**	**233,757**	**1,923,399**	**3,993,694**
Total loans and leases	2,392,315	30,525	159,668	237,876	1,964,247	4,069,196
Loans and leases, gross	2,394,943	30,567	159,861	237,964	1,966,550	4,072,829
Less: Unearned income	2,628	42	194	88	2,304	3,634
Less: Reserve for losses	47,661	428	2,267	4,119	40,847	75,502
Assets held in trading account	**161,125**	**0**	**70**	**474**	**160,581**	**385,105**
Other real estate owned	**1,961**	**76**	**262**	**226**	**1,396**	**3,954**
Intangible assets	**86,762**	**154**	**1,673**	**6,073**	**78,863**	**122,115**
All other assets	**257,657**	**2,240**	**10,858**	**19,534**	**225,025**	**430,931**
Gross loans and leases by type:						
Loans secured by real estate	**1,077,175**	**18,091**	**104,415**	**123,887**	**830,781**	**1,970,709**
1–4 family residential mortgages	526,620	7,852	39,648	51,160	427,960	881,535
Home equity loans	132,839	490	5,061	9,712	117,577	201,250
Multifamily residential mortgages	32,216	442	3,930	4,181	23,663	68,805
Commercial RE loans	248,640	5,481	40,026	41,214	161,919	541,665
Construction RE loans	95,803	1,658	11,047	15,401	67,697	205,853
Farmland loans	13,208	2,168	4,703	1,713	4,624	37,787
RE loans from foreign offices	27,848	0	1	506	27,342	33,815
Commercial and industrial loans	**557,741**	**4,953**	**27,269**	**46,480**	**479,039**	**921,365**
Loans to individuals	**440,558**	**3,853**	**18,215**	**45,318**	**373,172**	**688,201**
Credit cards*	203,497	167	2,601	17,261	183,467	267,659
Other revolving credit plans	33,406	61	356	2,413	30,576	38,376
Installment loans	203,655	3,624	15,257	25,644	159,130	382,166
All other loans and leases	**319,469**	**3,671**	**9,963**	**22,278**	**283,558**	**492,554**
Securities by type:						
U.S. Treasury securities	**16,040**	**616**	**2,464**	**3,785**	**9,177**	**54,813**
Mortgage-backed securities	**400,110**	**3,563**	**23,467**	**49,407**	**323,673**	**695,045**
Pass-through securities	293,992	2,564	14,564	28,144	248,721	456,782
Collateralized mortgage obligations	106,118	1,000	8,904	21,262	74,952	238,262
Other securities	**174,887**	**8,488**	**36,953**	**34,376**	**95,070**	**439,917**
Other U.S. government securities	61,354	5,857	21,264	16,528	17,705	220,454
State and local government securities	46,065	2,077	11,212	8,376	24,401	101,298
Other debt securities	59,076	406	3,233	7,634	47,804	99,892
Equity securities	8,391	148	1,244	1,839	5,159	18,273
Memoranda:						
Agricultural production loans	19,326	3,097	5,575	2,727	7,926	47,669
Pledged securities	305,877	4,843	28,552	38,733	233,749	643,915
Book value of securities	628,028	12,427	61,768	88,136	465,697	1,264,480
Available-for-sale securities	602,480	10,325	52,599	79,702	459,854	1,166,436
Held-to-maturity securities	25,548	2,102	9,169	8,434	5,843	98,044
Market value of securities	641,835	12,753	63,509	90,301	475,273	1,295,204
Available-for-sale securities	615,527	10,588	54,029	81,630	469,279	1,194,276
Held-to-maturity securities	26,308	2,164	9,479	8,670	5,994	100,928

*Prior to March 2001, also included "Other revolving credit plans."

Past-due and nonaccrual loans and leases of national banks by asset size
September 30, 2002

(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	**2,092**	**966**	**954**	**128**	**44**	**7,933**
Loans and leases past due 30–89 days	**$27,356**	**$419**	**$1,701**	**$2,799**	**$22,438**	**$46,542**
Loans secured by real estate	**11,491**	**219**	**933**	**1,139**	**9,200**	**20,336**
1–4 family residential mortgages	7,285	122	458	673	6,032	11,909
Home equity loans	865	3	27	57	778	1,219
Multifamily residential mortgages	118	2	20	19	77	277
Commercial RE loans	1,569	56	282	210	1,021	3,808
Construction RE loans	1,088	16	103	163	807	2,124
Farmland loans	116	20	43	17	36	326
RE loans from foreign offices	450	0	0	0	450	674
Commercial and industrial loans	**4,688**	**81**	**336**	**635**	**3,636**	**8,371**
Loans to individuals	**9,376**	**89**	**368**	**865**	**8,055**	**15,096**
Credit cards	5,205	4	97	352	4,752	7,388
Installment loans and other plans	4,172	85	271	512	3,304	7,708
All other loans and leases	**1,801**	**30**	**64**	**161**	**1,546**	**2,740**
Loans and leases past due 90+ days	**8,953**	**109**	**399**	**741**	**7,703**	**13,943**
Loans secured by real estate	**3,056**	**59**	**214**	**178**	**2,605**	**4,730**
1–4 family residential mortgages	2,433	24	100	118	2,191	3,303
Home equity loans	104	0	3	9	92	176
Multifamily residential mortgages	21	1	3	3	15	56
Commercial RE loans	248	14	59	31	145	651
Construction RE loans	168	9	32	14	113	356
Farmland loans	41	11	18	4	9	134
RE loans from foreign offices	40	0	0	0	40	54
Commercial and industrial loans	**770**	**22**	**78**	**129**	**542**	**1,505**
Loans to individuals	**4,776**	**16**	**88**	**410**	**4,261**	**7,155**
Credit cards	3,713	3	43	242	3,426	4,983
Installment loans and other plans	1,062	13	45	168	836	2,172
All other loans and leases	**351**	**13**	**19**	**24**	**294**	**552**
Nonaccrual loans and leases	**29,304**	**258**	**1,205**	**1,570**	**26,271**	**47,074**
Loans secured by real estate	**7,964**	**134**	**674**	**882**	**6,274**	**13,669**
1–4 family residential mortgages	3,298	40	202	364	2,693	5,276
Home equity loans	332	1	10	29	291	435
Multifamily residential mortgages	136	5	16	13	102	210
Commercial RE loans	2,345	48	337	328	1,632	4,527
Construction RE loans	932	12	62	119	739	1,881
Farmland loans	203	29	47	29	99	459
RE loans from foreign offices	718	0	0	0	718	880
Commercial and industrial loans	**16,240**	**73**	**363**	**526**	**15,278**	**26,214**
Loans to individuals	**1,904**	**15**	**89**	**69**	**1,732**	**2,822**
Credit cards	418	0	50	24	344	750
Installment loans and other plans	1,486	14	38	45	1,388	2,072
All other loans and leases	**3,291**	**36**	**79**	**93**	**3,082**	**4,523**

Liabilities of national banks by asset size
September 30, 2002

(Dollar figures in millions)

		National banks				Memoranda:
	All national banks	Less than $100 million	$100 million to $1 billion	$1 billion to $10 billion	Greater than $10 billion	All commercial banks
Number of institutions reporting	**2,092**	**966**	**954**	**128**	**44**	**7,933**
Total liabilities and equity capital	**3,846,111**	**51,373**	**255,234**	**395,872**	**3,143,632**	**6,932,604**
Deposits in domestic offices	2,114,022	42,996	206,410	260,050	1,604,566	3,928,107
Deposits in foreign offices	376,022	0	423	2,359	373,240	612,973
Total deposits	**2,490,044**	**42,996**	**206,833**	**262,409**	**1,977,805**	**4,541,081**
Noninterest bearing	544,018	6,950	32,244	47,349	457,474	890,406
Interest bearing	1,946,026	36,046	174,589	215,060	1,520,331	3,650,675
Federal funds purchased and securities sold	258,878	481	6,473	36,694	215,230	544,928
Other borrowed funds	**390,546**	**1,330**	**12,771**	**39,837**	**336,608**	**613,128**
Trading liabilities less revaluation losses	**26,509**	**0**	**0**	**21**	**26,488**	**84,941**
Subordinated notes and debentures	**67,581**	**3**	**162**	**3,478**	**63,938**	**92,748**
All other liabilities	**245,714**	**496**	**2,921**	**10,821**	**231,476**	**416,461**
Equity capital	**366,841**	**6,068**	**26,074**	**42,610**	**292,088**	**639,317**
Total deposits by depositor:						
Individuals and corporations	1,941,457	27,094	144,354	209,851	1,560,159	3,531,410
U.S., state, and local governments	108,684	3,637	15,538	17,546	71,963	210,470
Depositories in the U.S.	77,587	702	2,422	3,274	71,189	103,895
Foreign banks and governments	54,873	2	321	983	53,568	115,680
Domestic deposits by depositor:						
Individuals and corporations	1,665,535	27,094	144,238	207,959	1,286,245	3,079,036
U.S., state, and local governments	108,684	3,637	15,538	17,546	71,963	210,470
Depositories in the U.S.	29,335	702	2,376	3,274	22,982	50,766
Foreign banks and governments	3,500	2	60	523	2,916	8,802
Foreign deposits by depositor:						
Individuals and corporations	275,922	0	116	1,892	273,914	452,374
Depositories in the U.S.	48,252	0	46	0	48,207	53,129
Foreign banks and governments	51,373	0	261	460	50,652	106,878
Deposits in domestic offices by type:						
Transaction deposits	**361,985**	**12,992**	**49,870**	**37,185**	**261,938**	**675,580**
Demand deposits	292,379	6,840	28,585	29,381	227,573	510,998
Savings deposits	**1,138,973**	**9,647**	**66,852**	**136,362**	**926,112**	**1,952,037**
Money market deposit accounts	818,298	5,396	39,454	94,440	679,009	1,380,261
Other savings deposits	320,675	4,252	27,399	41,921	247,103	571,776
Time deposits	**613,063**	**20,357**	**89,687**	**86,503**	**416,516**	**1,300,490**
Small time deposits	346,056	13,639	56,953	50,458	225,007	715,837
Large time deposits	267,007	6,719	32,734	36,045	191,509	584,653

Off-balance-sheet items of national banks by asset size
September 30, 2002

(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	**2,092**	**966**	**954**	**128**	**44**	**7,933**
Unused commitments	**$3,838,054**	**$79,055**	**$484,855**	**$365,823**	**$2,908,321**	**$5,264,117**
Home equity lines	165,780	350	4,390	9,328	151,712	235,825
Credit card lines	2,607,546	74,976	456,003	304,141	1,772,426	3,314,233
Commercial RE, construction and land	81,147	954	7,704	12,635	59,855	160,542
All other unused commitments	983,580	2,775	16,757	39,720	924,328	1,553,518
Letters of credit:						
Standby letters of credit	**157,049**	**126**	**1,495**	**5,033**	**150,395**	**263,565**
Financial letters of credit	128,143	83	927	3,776	123,357	219,855
Performance letters of credit	28,907	44	568	1,257	27,038	43,710
Commercial letters of credit	**16,933**	**25**	**419**	**393**	**16,095**	**24,301**
Securities lent	**107,562**	**21**	**70**	**8,741**	**98,730**	**549,058**
Spot foreign exchange contracts	**316,334**	**0**	**0**	**216**	**316,118**	**509,330**
Credit derivatives (notional value)						
Reporting bank is the guarantor	103,318	0	32	0	103,286	270,918
Reporting bank is the beneficiary	121,541	0	50	0	121,491	301,893
Derivative contracts (notional value)	**25,129,592**	**21**	**1,668**	**29,839**	**25,098,064**	**53,185,258**
Futures and forward contracts	6,226,035	14	475	2,235	6,223,310	10,800,270
Interest rate contracts	4,039,285	14	452	1,952	4,036,866	7,043,574
Foreign exchange contracts	2,089,475	0	23	283	2,089,169	3,588,378
All other futures and forwards	97,275	0	0	0	97,275	168,318
Option contracts	5,880,993	7	350	10,250	5,870,386	12,254,356
Interest rate contracts	5,138,577	6	336	9,456	5,128,779	10,432,216
Foreign exchange contracts	558,746	0	0	753	557,993	1,026,702
All other options	183,670	1	14	42	183,614	795,439
Swaps	12,797,705	0	761	17,354	12,779,591	29,557,822
Interest rate contracts	12,234,466	0	747	13,153	12,220,566	28,219,093
Foreign exchange contracts	511,779	0	2	3,881	507,896	1,220,585
All other swaps	51,460	0	11	320	51,128	118,144
Memoranda: Derivatives by purpose						
Contracts held for trading	22,986,174	0	18	8,774	22,977,381	50,215,964
Contracts not held for trading	1,918,559	21	1,568	21,065	1,895,905	2,396,484
Memoranda: Derivatives by position						
Held for trading—positive fair value	439,822	0	0	135	439,687	1,040,808
Held for trading—negative fair value	431,119	0	1	129	430,989	1,021,587
Not for trading—positive fair value	31,118	0	10	454	30,654	41,620
Not for trading—negative fair value	22,021	0	33	78	21,911	29,184

Quarterly income and expenses of national banks by asset size
Third quarter 2002

(Dollar figures in millions)

	National banks					Memoranda:
	All national banks	Less than $100 million	$100 million to $1 billion	$1 billion to $10 billion	Greater than $10 billion	All commercial banks
Number of institutions reporting	**2,092**	**966**	**954**	**128**	**44**	**7,933**
Net income	**$15,399**	**$152**	**$833**	**$2,093**	**$12,322**	**$23,344**
Net interest income	**35,374**	**512**	**2,507**	**3,626**	**28,729**	**59,636**
Total interest income	52,171	765	3,768	5,315	42,323	90,710
On loans	39,941	589	2,907	4,043	32,402	67,193
From lease financing receivables	1,762	3	21	61	1,677	2,561
On balances due from depositories	436	7	15	27	387	881
On securities	8,079	149	764	1,061	6,105	15,427
From assets held in trading account	949	0	1	5	944	2,442
On fed. funds sold & securities repurchased	666	13	45	89	519	1,532
Less: Interest expense	16,798	253	1,262	1,689	13,593	31,074
On deposits	11,258	236	1,094	1,149	8,779	21,087
Of federal funds purchased & securities sold	1,253	2	29	164	1,058	2,657
On demand notes & other borrowed money*	3,507	15	136	335	3,021	6,211
On subordinated notes and debentures	780	0	3	42	736	1,118
Less: Provision for losses	**7,904**	**36**	**190**	**600**	**7,077**	**12,699**
Noninterest income	**28,108**	**220**	**1,157**	**3,827**	**22,904**	**43,624**
From fiduciary activities	2,130	9	149	347	1,625	5,121
Service charges on deposits	4,935	63	306	433	4,133	7,601
Trading revenue	1,833	0	(0)	16	1,817	2,389
From interest rate exposures	1,083	0	2	8	1,073	1,231
From foreign exchange exposures	631	0	0	1	630	1,031
From equity security and index exposures	(9)	0	0	5	(14)	(172)
From commodity and other exposures	130	0	0	0	130	277
Investment banking brokerage fees	1,040	1	17	51	970	2,071
Venture capital revenue	(359)	(0)	(1)	(1)	(357)	(462)
Net servicing fees	1,771	42	76	237	1,415	2,345
Net securitization income	4,350	2	95	483	3,770	5,653
Insurance commissions and fees	523	8	23	47	445	840
Net gains on asset sales	1,947	10	101	825	1,011	2,851
Sales of loans and leases	1,525	10	98	803	614	2,347
Sales of other real estate owned	(42)	0	2	2	(47)	(35)
Sales of other assets(excluding securities)	464	0	1	21	443	540
Other noninterest income	9,938	86	390	1,388	8,074	15,215
Gains/losses on securities	**1,201**	**8**	**31**	**132**	**1,030**	**2,465**
Less: Noninterest expense	**33,740**	**497**	**2,348**	**3,683**	**27,212**	**58,120**
Salaries and employee benefits	13,848	242	1,096	1,354	11,156	24,922
Of premises and fixed assets	4,013	61	293	394	3,265	7,515
Other noninterest expense	14,818	191	940	1,835	11,850	24,209
Less: Taxes on income before extraord. items	**7,602**	**54**	**324**	**1,190**	**6,034**	**11,522**
Income/loss from extraord. items, net of taxes	**39**	**(0)**	**(4)**	**(19)**	**62**	**(3)**
Memoranda:						
Net operating income	14,618	146	809	2,021	11,642	21,713
Income before taxes and extraordinary items	23,039	206	1,157	3,301	18,375	34,906
Income net of taxes before extraordinary items	15,437	152	833	2,111	12,341	23,384
Cash dividends declared	9,352	68	369	1,098	7,818	15,388
Net loan and lease losses	7,698	24	125	800	6,749	11,524
Charge-offs to loan and lease reserve	8,924	32	162	919	7,811	13,188
Less: Recoveries credited to loan & lease resv.	1,226	8	37	119	1,062	1,663

*Includes mortgage indebtedness

Year-to-date income and expenses of national banks by asset size
Through September 30, 2002

(Dollar figures in millions)

		National banks				Memoranda:
	All national banks	Less than $100 million	$100 million to $1 billion	$1 billion to $10 billion	Greater than $10 billion	All commercial banks
Number of institutions reporting	**2,092**	**966**	**954**	**128**	**44**	**7,933**
Net income	**$43,213**	**$429**	**$2,303**	**$5,198**	**$35,282**	**$68,512**
Net interest income	**105,605**	**1,489**	**7,362**	**11,244**	**85,510**	**176,779**
Total interest income	155,771	2,273	11,233	16,416	125,850	269,777
On loans	119,530	1,731	8,622	12,620	96,557	200,136
From lease financing receivables	5,459	9	66	184	5,199	7,845
On balances due from depositories	1,384	21	47	66	1,251	2,736
On securities	23,605	462	2,319	3,157	17,666	45,744
From assets held in trading account	2,620	0	2	16	2,603	6,698
On fed. funds sold & securities repurchased	2,149	38	128	255	1,727	4,706
Less: Interest expense	50,166	784	3,870	5,172	40,339	92,998
On deposits	33,671	734	3,382	3,532	26,023	63,582
Of federal funds purchased & securities sold	3,890	7	89	500	3,293	7,916
On demand notes & other borrowed money*	10,190	43	391	1,034	8,722	18,169
On subordinated notes and debentures	2,416	0	8	107	2,301	3,332
Less: Provision for losses	**24,013**	**98**	**612**	**1,720**	**21,584**	**35,192**
Noninterest income	**81,370**	**628**	**3,279**	**9,803**	**67,659**	**127,642**
From fiduciary activities	6,590	27	467	1,088	5,008	15,702
Service charges on deposits	14,420	177	860	1,231	12,152	22,021
Trading revenue	5,654	0	(1)	43	5,612	8,908
From interest rate exposures	2,425	0	5	18	2,401	4,290
From foreign exchange exposures	2,368	0	0	4	2,365	3,591
From equity security and index exposures	513	0	0	17	495	724
From commodity and other exposures	351	0	0	0	351	275
Investment banking brokerage fees	3,474	3	51	152	3,267	6,754
Venture capital revenue	(166)	(0)	(1)	(1)	(164)	(508)
Net servicing fees	7,311	143	223	906	6,039	9,437
Net securitization income	11,528	6	257	1,035	10,230	14,865
Insurance commissions and fees	1,635	20	59	123	1,432	2,558
Net gains on asset sales	3,965	20	238	1,239	2,469	6,064
Sales of loans and leases	3,596	20	229	1,205	2,142	5,551
Sales of other real estate owned	(27)	(1)	5	3	(34)	(18)
Sales of other assets(excluding securities)	397	1	4	31	362	531
Other noninterest income	26,959	233	1,126	3,987	21,614	41,841
Gains/losses on securities	**2,091**	**14**	**57**	**192**	**1,828**	**4,173**
Less: Noninterest expense	**100,058**	**1,454**	**6,882**	**11,548**	**80,174**	**170,995**
Salaries and employee benefits	41,241	708	3,222	4,055	33,257	74,306
Of premises and fixed assets	11,800	176	856	1,160	9,608	21,743
Other noninterest expense	44,037	562	2,748	6,032	34,696	71,166
Less: Taxes on income before extraord. items	**21,821**	**151**	**898**	**2,754**	**18,018**	**33,892**
Income/loss from extraord. items, net of taxes	**39**	**(0)**	**(4)**	**(19)**	**62**	**(3)**
Memoranda:						
Net operating income	41,765	417	2,263	5,085	33,999	65,688
Income before taxes and extraordinary items	64,995	580	3,205	7,971	53,239	102,407
Income net of taxes before extraordinary items	43,174	429	2,307	5,217	35,220	68,515
Cash dividends declared	30,943	220	1,113	2,313	27,297	49,295
Net loan and lease losses	23,693	62	431	1,841	21,359	33,189
Charge-offs to loan and lease reserve	27,510	88	554	2,195	24,673	38,580
Less: Recoveries credited to loan & lease resv.	3,816	25	123	354	3,314	5,391

*Includes mortgage indebtedness

Quarterly net loan and lease losses of national banks by asset size
Third quarter 2002

(Dollar figures in millions)

		National banks				Memoranda:
	All national banks	Less than $100 million	$100 million to $1 billion	$1 billion to $10 billion	Greater than $10 billion	All commercial banks
Number of institutions reporting	**2,092**	**966**	**954**	**128**	**44**	**7,933**
Net charge-offs to loan and lease reserve	**$7,698**	**$24**	**$125**	**$800**	**$6,749**	**$11,524**
Loans secured by real estate	**469**	**2**	**16**	**62**	**388**	**705**
1–4 family residential mortgages	223	1	8	42	173	310
Home equity loans	64	0	0	3	60	80
Multifamily residential mortgages	10	0	0	5	5	13
Commercial RE loans	78	1	6	7	64	151
Construction RE loans	56	0	2	4	50	112
Farmland loans	3	0	0	1	2	5
RE loans from foreign offices	0	0	0	0	0	0
Commercial and industrial loans	**2,601**	**9**	**45**	**124**	**2,423**	**4,741**
Loans to individuals	**4,167**	**10**	**50**	**596**	**3,511**	**5,446**
Credit cards	3,016	2	14	535	2,465	3,914
Installment loans and other plans	1,151	8	36	61	1,046	1,532
All other loans and leases	**461**	**3**	**14**	**18**	**427**	**632**
Charge-offs to loan and lease reserve	**8,924**	**32**	**162**	**919**	**7,811**	**13,188**
Loans secured by real estate	**566**	**4**	**21**	**88**	**453**	**855**
1–4 family residential mortgages	257	2	9	48	198	361
Home equity loans	74	0	1	4	69	93
Multifamily residential mortgages	10	0	0	5	5	14
Commercial RE loans	103	1	9	17	77	197
Construction RE loans	72	0	2	12	58	133
Farmland loans	5	0	0	2	3	9
RE loans from foreign offices	44	0	0	0	44	47
Commercial and industrial loans	**2,997**	**11**	**54**	**151**	**2,781**	**5,289**
Loans to individuals	**4,817**	**13**	**71**	**657**	**4,075**	**6,289**
Credit cards	3,371	2	21	570	2,778	4,332
Installment loans and other plans	1,446	11	50	88	1,297	1,956
All other loans and leases	**545**	**3**	**16**	**23**	**502**	**755**
Recoveries credited to loan and lease reserve	**1,226**	**8**	**37**	**119**	**1,062**	**1,663**
Loans secured by real estate	**97**	**1**	**5**	**25**	**65**	**150**
1–4 family residential mortgages	34	0	2	6	26	52
Home equity loans	10	0	0	1	8	14
Multifamily residential mortgages	0	0	0	0	0	1
Commercial RE loans	25	0	2	9	13	45
Construction RE loans	16	0	0	8	8	21
Farmland loans	2	0	0	0	1	4
RE loans from foreign offices	9	0	0	0	9	12
Commercial and industrial loans	**396**	**2**	**8**	**27**	**358**	**548**
Loans to individuals	**650**	**3**	**21**	**62**	**564**	**842**
Credit cards	355	0	7	35	313	419
Installment loans and other plans	295	3	14	27	251	424
All other loans and leases	**84**	**1**	**2**	**5**	**75**	**123**

Year-to-date net loan and lease losses of national banks by asset size
Through September 30, 2002

(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	**2,092**	**966**	**954**	**128**	**44**	**7,933**
Net charge-offs to loan and lease reserve	**23,693**	**62**	**431**	**1,841**	**21,359**	**33,189**
Loans secured by real estate	**1,408**	**10**	**55**	**147**	**1,197**	**2,046**
1–4 family residential mortgages	647	4	23	69	552	891
Home equity loans	209	0	1	11	196	252
Multifamily residential mortgages	21	0	1	6	15	31
Commercial RE loans	292	5	24	35	229	518
Construction RE loans	131	1	4	23	104	233
Farmland loans	10	0	1	2	7	19
RE loans from foreign offices	96	0	0	1	95	102
Commercial and industrial loans	**7,841**	**21**	**118**	**355**	**7,347**	**12,490**
Loans to individuals	**13,077**	**27**	**229**	**1,297**	**11,524**	**16,773**
Credit cards	9,857	5	130	1,076	8,645	12,472
Installment loans and other plans	3,220	21	99	221	2,879	4,302
All other loans and leases	**1,368**	**5**	**29**	**43**	**1,291**	**1,880**
Charge-offs to loan and lease reserve	**27,510**	**88**	**554**	**2,195**	**24,673**	**38,580**
Loans secured by real estate	**1,665**	**13**	**69**	**192**	**1,392**	**2,475**
1–4 family residential mortgages	748	5	29	81	633	1,050
Home equity loans	237	0	2	15	220	292
Multifamily residential mortgages	24	0	1	6	17	39
Commercial RE loans	358	6	30	50	273	656
Construction RE loans	165	1	5	35	124	282
Farmland loans	15	1	2	3	9	30
RE loans from foreign offices	117	0	0	1	116	127
Commercial and industrial loans	**9,082**	**28**	**150**	**437**	**8,467**	**14,181**
Loans to individuals	**15,130**	**38**	**298**	**1,509**	**13,285**	**19,649**
Credit cards	10,963	6	154	1,193	9,610	13,981
Installment loans and other plans	4,166	31	144	316	3,675	5,668
All other loans and leases	**1,633**	**9**	**38**	**57**	**1,530**	**2,275**
Recoveries credited to loan and lease reserve	**3,816**	**25**	**123**	**354**	**3,314**	**5,391**
Loans secured by real estate	**257**	**3**	**14**	**45**	**195**	**429**
1–4 family residential mortgages	101	1	6	12	81	159
Home equity loans	28	0	1	4	24	40
Multifamily residential mortgages	3	0	0	1	2	7
Commercial RE loans	66	1	5	15	45	137
Construction RE loans	34	0	1	12	20	50
Farmland loans	4	1	1	1	2	11
RE loans from foreign offices	21	0	0	0	21	25
Commercial and industrial loans	**1,241**	**7**	**31**	**83**	**1,120**	**1,691**
Loans to individuals	**2,052**	**11**	**70**	**212**	**1,760**	**2,876**
Credit cards	1,107	1	24	117	964	1,509
Installment loans and other plans	946	10	45	95	796	1,367
All other loans and leases	**266**	**4**	**9**	**14**	**239**	**394**

Number of national banks by state and asset size
September 30, 2002

	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	2,092	966	954	128	44	7,933
Alabama	21	12	8	1	0	152
Alaska	3	1	0	2	0	6
Arizona	16	6	5	3	2	42
Arkansas	41	13	28	0	0	170
California	80	34	34	9	3	286
Colorado	48	23	22	2	1	171
Connecticut	8	1	7	0	0	25
Delaware	14	3	6	2	3	30
District of Columbia	4	2	2	0	0	4
Florida	72	21	44	7	0	260
Georgia	63	29	31	3	0	328
Hawaii	1	0	1	0	0	7
Idaho	1	0	1	0	0	17
Illinois	177	71	94	8	4	679
Indiana	31	8	16	6	1	153
Iowa	50	27	21	2	0	413
Kansas	105	75	27	3	0	367
Kentucky	51	23	25	3	0	222
Louisiana	16	6	8	1	1	142
Maine	6	1	4	0	1	15
Maryland	11	3	8	0	0	72
Massachusetts	13	5	7	1	0	40
Michigan	27	10	16	0	1	160
Minnesota	121	77	40	2	2	466
Mississippi	20	8	10	2	0	98
Missouri	47	24	19	3	1	350
Montana	16	13	2	1	0	80
Nebraska	75	51	22	2	0	270
Nevada	7	1	3	3	0	34
New Hampshire	5	2	2	0	1	14
New Jersey	23	2	14	7	0	82
New Mexico	15	6	6	3	0	52
New York	56	10	38	7	1	136
North Carolina	7	0	5	0	2	72
North Dakota	15	6	6	3	0	104
Ohio	87	36	37	7	7	201
Oklahoma	93	52	37	4	0	274
Oregon	3	0	2	0	1	34
Pennsylvania	80	21	48	8	3	174
Rhode Island	4	2	0	1	1	7
South Carolina	26	12	13	1	0	78
South Dakota	19	8	8	2	1	93
Tennessee	28	6	18	1	3	191
Texas	333	198	124	10	1	672
Utah	7	2	3	0	2	56
Vermont	8	2	6	0	0	15
Virginia	35	6	26	3	0	129
Washington	15	11	4	0	0	80
West Virginia	21	9	10	2	0	70
Wisconsin	46	17	26	2	1	275
Wyoming	21	10	10	1	0	47
U.S. territories	0	0	0	0	0	18

Total assets of national banks by state and asset size
September 30, 2002

(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
All institutions	$3,846,111	$51,373	$255,234	$395,872	$3,143,632	$6,932,604
Alabama	4,037	751	2,059	1,227	0	197,547
Alaska	5,604	63	0	5,541	0	6,781
Arizona	43,695	181	1,945	5,544	36,025	46,374
Arkansas	8,510	832	7,678	0	0	31,265
California	246,522	1,872	10,656	19,890	214,104	402,696
Colorado	26,200	1,102	5,216	2,246	17,636	48,021
Connecticut	1,587	90	1,496	0	0	3,663
Delaware	104,284	158	1,279	4,760	98,087	147,370
District of Columbia	473	103	370	0	0	473
Florida	29,586	1,457	11,607	16,522	0	69,197
Georgia	19,300	1,539	6,271	11,489	0	176,988
Hawaii	371	0	371	0	0	22,975
Idaho	266	0	266	0	0	3,220
Illinois	351,093	3,806	24,398	21,340	301,550	497,247
Indiana	64,712	443	6,645	19,159	38,465	103,670
Iowa	16,274	1,449	5,497	9,328	0	48,136
Kansas	16,398	3,806	7,924	4,669	0	38,027
Kentucky	24,480	1,538	5,088	17,854	0	52,263
Louisiana	25,474	334	1,586	6,981	16,573	43,561
Maine	24,687	18	2,139	0	22,530	26,864
Maryland	2,601	202	2,399	0	0	50,890
Massachusetts	3,657	306	1,731	1,620	0	122,281
Michigan	52,426	445	4,621	0	47,360	154,138
Minnesota	80,957	4,077	8,932	3,510	64,439	105,659
Mississippi	10,641	438	2,226	7,977	0	37,098
Missouri	27,109	1,276	4,938	9,889	11,007	72,101
Montana	2,693	590	536	1,567	0	13,456
Nebraska	16,547	2,348	5,160	9,039	0	31,364
Nevada	23,611	46	1,037	22,527	0	38,144
New Hampshire	15,631	66	422	0	15,143	18,180
New Jersey	35,949	148	4,305	31,496	0	80,699
New Mexico	11,060	376	2,114	8,570	0	15,778
New York	512,628	703	12,335	18,182	481,408	1,458,734
North Carolina	889,531	0	1,591	0	887,940	1,000,148
North Dakota	12,011	272	1,816	9,924	0	18,544
Ohio	450,656	1,936	11,005	18,973	418,742	536,894
Oklahoma	27,059	2,675	7,673	16,711	0	46,194
Oregon	11,205	0	445	0	10,760	20,080
Pennsylvania	133,577	1,307	15,226	16,284	100,760	176,634
Rhode Island	182,851	31	0	7,337	175,483	194,535
South Carolina	6,235	636	3,257	2,342	0	28,203
South Dakota	61,753	248	2,944	13,536	45,026	71,014
Tennessee	83,456	456	5,845	1,240	75,914	107,088
Texas	90,901	10,243	30,857	26,186	23,614	151,229
Utah	31,908	70	789	0	31,048	133,157
Vermont	1,411	113	1,298	0	0	6,087
Virginia	19,907	266	7,494	12,147	0	82,606
Washington	1,881	611	1,271	0	0	23,663
West Virginia	6,733	521	2,149	4,063	0	18,998
Wisconsin	21,345	980	6,533	3,814	10,018	79,861
Wyoming	4,628	446	1,791	2,391	0	7,146
U.S. territories	0	0	0	0	0	65,661

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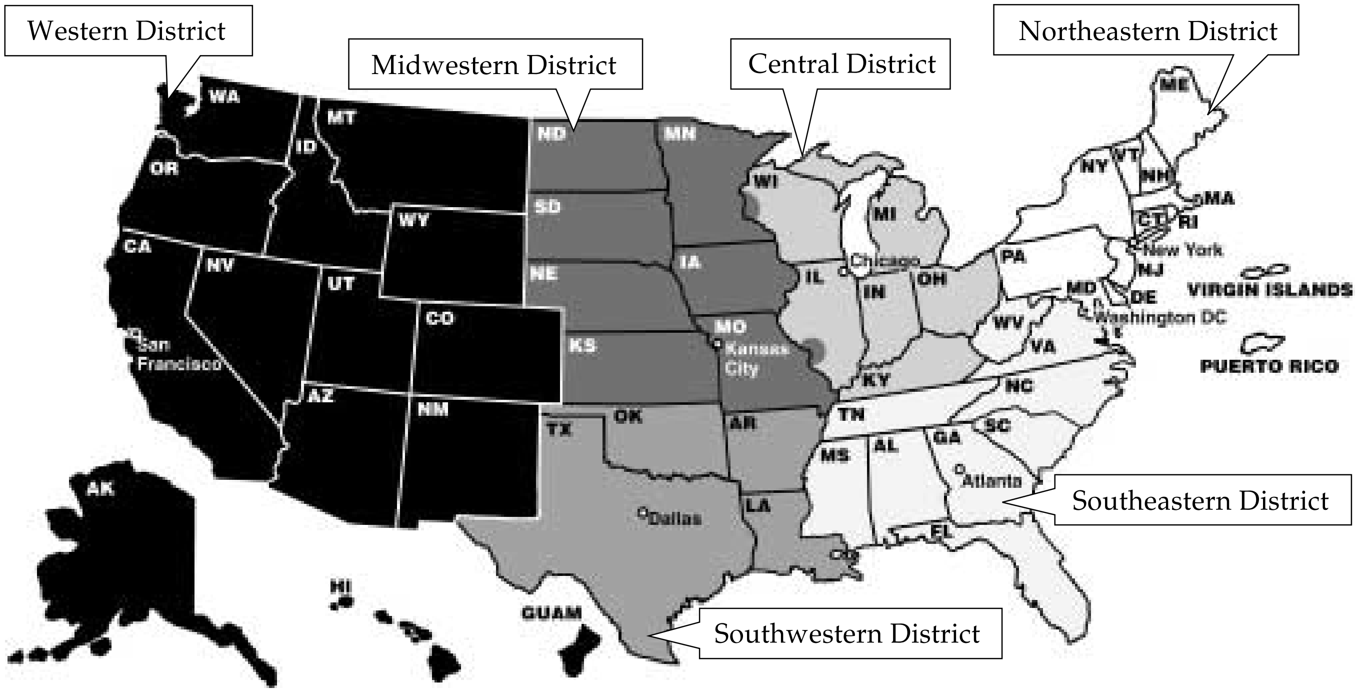

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